

stituted for “commissioner” pursuant to Pub. L. 90–578. See chapter 43 (§631 et seq.) of Title 28.

#### TRANSFER OF FUNCTIONS

Section 6(g)(2) of Pub. L. 89–670 transferred functions, powers, and duties of Secretary of the Army [formerly War] and other officers and offices of Department of the Army [formerly War] relating to drawbridge operating regulations under this section to Secretary of Transportation. Pub. L. 97–449 amended this section to reflect transfer made by section 6(g)(2) of Pub. L. 89–670, and repealed section 6(g)(2).

#### § 500. Deflection of current; liability to riparian owners

Whenever complaint shall be made to the Secretary of the Army that by reason of the placing in any navigable waters of the United States of any bridge pier or abutment, the current of such waters has been so deflected from its natural course as to cause by producing caving of banks or otherwise serious damage or danger to property, it shall be his duty to make inquiry, and if it shall be ascertained that the complaint is well founded, he shall cause the owners or persons operating such bridge to repair such damage or prevent such danger to property by such means as he shall indicate and within such time as he may name, and in default thereof the owners or persons operating such bridge shall be liable in any court of competent jurisdiction to the persons injured in a sum double the amount of said injury: *Provided, however,* That nothing herein contained shall be construed so as to affect any rights of action which may have existed prior to August 11, 1888.

(Aug. 11, 1888, ch. 860, §2, 25 Stat. 423; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

#### CODIFICATION

Section was from the River and Harbor Appropriation Act of 1888.

#### CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted “Title 10, Armed Forces” which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

#### TRANSFER OF FUNCTIONS

Functions, powers, and duties of Secretary of the Army and other offices and officers of Department of the Army under sections 491 to 494 and 495 to 498 of this title to extent that they relate generally to location and clearances of bridges and causeways in navigable waters of United States transferred to and vested in Secretary of Transportation by Pub. L. 89–670, §6(g)(6)(B), Oct. 15, 1966, 80 Stat. 931. Pub. L. 97–449 amended sections 491 to 494 and 495 to 498 of this title to reflect transfer made by section 6(g)(6)(B) of Pub. L. 89–670, and repealed section 6(g)(6)(B).

#### § 501. Omitted

#### CODIFICATION

Section, R.S. §5250, gave assent of Congress to construction of bridges across the Maquoketa River in Iowa.

#### § 502. Alteration, removal, or repair of bridge or accessory obstructions to navigation

##### (a) Criminal penalties for violation; alteration or removal requirements; notice and hearing; specification of changes; time for compliance; notice to United States attorney; misdemeanor; fine; new offenses

Whenever the Secretary of Transportation shall have good reason to believe that any railroad or other bridge over any of the navigable waterways of the United States is an unreasonable obstruction to the free navigation of such waters on account of insufficient height, width of span, or otherwise, or where there is difficulty in passing the draw opening or the draw span of such bridge by rafts, steamboats, or other water craft, it shall be the duty of the said Secretary, first giving the parties reasonable opportunity to be heard, to give notice to the persons or corporations owning or controlling such bridge so to alter the same as to render navigation through or under it reasonably free, easy, and unobstructed; and in giving such notice he shall specify the changes that are required to be made, and shall prescribe in each case a reasonable time in which to make them. If at the end of such time the alteration has not been made, the Secretary of Transportation shall forthwith notify the United States attorney for the district in which such bridge is situated, to the end that the criminal proceedings hereinafter in this section mentioned may be taken. If the persons, corporation, or association owning or controlling any railroad or other bridge shall, after receiving notice to that effect, as hereinbefore required, from the Secretary of Transportation and within the time prescribed by him willfully fail or refuse to remove the same or to comply with the lawful order of the Secretary of the Army in the premises, such persons, corporation, or association shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine not exceeding \$5,000, and every month such persons, corporation, or association shall remain in default in respect to the removal or alteration of such bridge shall be deemed a new offense, and subject the persons, corporation, or association so offending to the penalties above prescribed.

##### (b) Proper repair requirement

No owner or operator of any bridge, drawbridge, or causeway shall endanger, unreasonably obstruct, or make hazardous the free navigation of any navigable water of the United States by reason of the failure to keep the bridge, drawbridge, or causeway and any accessory works in proper repair.

##### (c) Civil penalties for violation; separate offenses; notice and hearing; assessment, collection, and remission; civil actions

Whoever violates any provision of this section, or any order issued under this section, shall be liable to a civil penalty of not more than \$5,000 for a violation occurring in 2004; \$10,000 for a violation occurring in 2005; \$15,000 for a violation occurring in 2006; \$20,000 for a violation occurring in 2007; and \$25,000 for a violation occurring in 2008 and any year thereafter. Each day a violation continues shall be deemed a separate of-

fense. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of Transportation may assess and collect any civil penalty incurred under this subsection and, in his discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.

(Mar. 3, 1899, ch. 425, §18, 30 Stat. 1153; Mar. 3, 1911, ch. 231, §291, 36 Stat. 1167; Jan. 31, 1928, ch. 14, §1, 45 Stat. 54; June 25, 1948, ch. 646, §§1, 39, 62 Stat. 909, 992; Pub. L. 97-322, title I, §108(b), Oct. 15, 1982, 96 Stat. 1583; Pub. L. 108-293, title VI, §601(c), Aug. 9, 2004, 118 Stat. 1050.)

#### CODIFICATION

Section is from act Mar. 3, 1899, popularly known as the "Rivers and Harbors Appropriation Act of 1899".

The words "or from the existing circuit courts," which followed "district courts" in the proviso were superseded by the abolition of the circuit courts and the transfer of their jurisdiction to the district courts, by act Mar. 3, 1911.

#### PRIOR PROVISIONS

This section superseded act Aug. 11, 1888, ch. 860, §§9, 10, 25 Stat. 424, as amended by act Sept. 19, 1890, ch. 907, §§4, 5, 26 Stat. 453, which required the Secretary of War to provide against obstructions to navigation by bridges, and prescribed a punishment on the owner's default in making the required alterations.

The Secretary of War was authorized to make the required changes in bridges obstructing navigation on the owner's failure to do so, and the Attorney General was required to institute proceedings against the owner for the recovery of the cost of such changes, by act July 5, 1884, ch. 229, §8, 23 Stat. 148.

#### AMENDMENTS

2004—Subsec. (c). Pub. L. 108-293 substituted "\$5,000 for a violation occurring in 2004; \$10,000 for a violation occurring in 2005; \$15,000 for a violation occurring in 2006; \$20,000 for a violation occurring in 2007; and \$25,000 for a violation occurring in 2008 and any year thereafter" for "\$1,000".

1982—Subsec. (a). Pub. L. 97-322 designated existing provisions as subsec. (a), substituted "Secretary of Transportation" for "Secretary of War" wherever appearing, and struck out "recommended by the Chief of Engineers" after "specify the charges".

Subsecs. (b), (c). Pub. L. 97-322 added subsecs. (b) and (c).

1948—Act June 25, 1948, §39, repealed proviso at end relating to appeals. See sections 1252 and 1253 of title 28.

#### CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, substituted "United States attorney" for "district attorney of the United States". See section 541 of Title 28, Judiciary and Judicial Procedure, and Historical and Revision Notes thereunder.

#### EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act June 25, 1948 effective Sept. 1, 1948, see section 38 of act June 25, 1948, set out as an Effective Date note preceding section 1 of Title 28, Judiciary and Judicial Procedure.

#### LIMITATION ON APPLICATION

Section as not applicable to bridges constructed under sections 491 to 494 and 495 to 498 of this title, see section 494 of this title.

#### § 503 to 507. Repealed. Pub. L. 100-17, title I, § 135(d), Apr. 2, 1987, 101 Stat. 174

Section 503, act Aug. 21, 1935, ch. 597, §1, 49 Stat. 670, provided that, on and after Aug. 21, 1935, tolls over any bridge over any of the navigable waters of the United States, if such bridge is used for travel or transportation in interstate or foreign commerce, be just and reasonable and specified bridges to which sections 503 to 507 of this title not apply.

Section 504, acts Aug. 21, 1935, ch. 597, §2, 49 Stat. 671; Jan. 12, 1983, Pub. L. 97-449, §2(d)(1), 96 Stat. 2440, authorized Secretary of Transportation to determine reasonableness of any toll charged for passage or transit over any bridge to which sections 503 to 507 of this title applied and to prescribe an order establishing a reasonable toll, which order was to take effect thirty days after issuance.

Section 505, acts Aug. 21, 1935, ch. 597, §3, 49 Stat. 671; June 25, 1948, ch. 646, §32(a), 62 Stat. 991; May 24, 1949, ch. 139, §127, 63 Stat. 107; Jan. 12, 1983, Pub. L. 97-449, §2(d)(1), 96 Stat. 2440, provided for judicial review of orders of the Secretary of Transportation prescribing reasonable tolls.

Section 506, acts Aug. 21, 1935, ch. 597, §4, 49 Stat. 671; Oct. 15, 1970, Pub. L. 91-452, title II, §235, 84 Stat. 930; Jan. 12, 1983, Pub. L. 97-449, §2(d)(1), 96 Stat. 2440, authorized Secretary of Transportation to hold hearings in determining reasonableness of tolls, to require attendance of witnesses, and to punish witnesses for failure to attend such hearings.

Section 507, act Aug. 21, 1935, ch. 597, §5, 49 Stat. 672, related to punishment for failure to obey an order prescribing toll.

#### § 508. Amount of tolls

Tolls for passage or transit over any bridge constructed under the authority of the Act of March 23, 1906, commonly known as the "Bridge Act of 1906", the General Bridge Act of 1946 [33 U.S.C. 525 et seq.], and the International Bridge Act of 1972 [33 U.S.C. 535 et seq.] shall be just and reasonable.

(Pub. L. 100-17, title I, §135(i), Apr. 2, 1987, 101 Stat. 174.)

#### REFERENCES IN TEXT

Act of March 23, 1906, commonly known as the "Bridge Act of 1906", referred to in text, is act Mar. 23, 1906, ch. 1130, 34 Stat. 84, as amended, which enacted sections 491 to 494 and 495 to 498 of this title. For complete classification of this Act of the Code, see Short Title note set out under section 491 of this title and Tables.

The General Bridge Act of 1946, referred to in text, is title V of act Aug. 2, 1946, ch. 753, 60 Stat. 847, as amended, which is classified generally to subchapter III (§525 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 525 of this title and Tables.

The International Bridge Act of 1972, referred to in text, is Pub. L. 92-434, Sept. 26, 1972, 86 Stat. 731, as amended, which is classified principally to subchapter IV (§535 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 535 of this title and Tables.

## SUBCHAPTER II—ALTERATION OF BRIDGES

### § 511. Definitions

When used in this subchapter, unless the context indicates otherwise—