

gauging waters of the Mississippi River and its tributaries, as provided in this section, should accompany the annual report of the Chief of Engineers.

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 Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641.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.

APPROPRIATIONS

Section 2 of act June 26, 1934, ch. 756, 48 Stat. 1225, which was classified to section 725a of former Title 31, Money and Finance, repealed the permanent appropriation under the title "Gauging waters of the Mississippi and its tributaries (fiscal year) (8-961.54)" effective July 1, 1935, and provided that such portions of any Acts as make permanent appropriations to be expended under such account are amended so as to authorize, in lieu thereof, annual appropriations from the general fund of the Treasury in identical terms and in such amounts as now provided by the laws providing such permanent appropriations.

§ 5. Abolition of tolls on Government canals, canalized rivers, etc.; expense of operation, repairs to and reconstruction of canals, etc.; Panama Canal excepted; levies by non-Federal interest

(a) No tolls or operating charges whatever shall be levied upon or collected from any vessel, dredge, or other water craft for passing through any lock, canal, canalized river, or other work for the use and benefit of navigation, now belonging to the United States or that may be hereafter acquired or constructed; and for the purpose of preserving and continuing the use and navigation of said canals and other public works without interruption, the Secretary of the Army, upon the recommendation of the Chief of Engineers, United States Army, is authorized to draw his warrant or requisition, from time to time, upon the Secretary of the Treasury to pay the actual expenses of operating, maintaining, and keeping said works in repair, which warrants or requisitions shall be paid by the Secretary of the Treasury out of any money in the Treasury not otherwise appropriated: *Provided*, That whenever, in the judgment of the Secretary of the Army, the condition of any of the aforesaid works is such that its entire reconstruction is absolutely essential to its efficient and economical maintenance and operation as herein provided for, the reconstruction thereof may include such modifications in plan and location as may be necessary to provide adequate facilities for existing navigation: *Provided further*, That the modifications are necessary to make the reconstructed work conform to similar works previously authorized by Congress and forming a part of the same improvement, and that such modifications shall be considered and approved by the Board of Engineers for Rivers and Harbors and be recommended by the Chief of Engineers before the work of reconstruction is commenced: *And provided further*, That nothing contained in this section shall be held to apply to the Panama Canal.

(b) No taxes, tolls, operating charges, fees, or any other impositions whatever shall be levied upon or collected from any vessel or other water craft, or from its passengers or crew, by any non-Federal interest, if the vessel or water craft is operating on any navigable waters subject to the authority of the United States, or under the right to freedom of navigation on those waters, except for—

(1) fees charged under section 2236 of this title;

(2) reasonable fees charged on a fair and equitable basis that—

(A) are used solely to pay the cost of a service to the vessel or water craft;

(B) enhance the safety and efficiency of interstate and foreign commerce; and

(C) do not impose more than a small burden on interstate or foreign commerce; or

(3) property taxes on vessels or watercraft, other than vessels or watercraft that are primarily engaged in foreign commerce if those taxes are permissible under the United States Constitution.

(July 5, 1884, ch. 229, § 4, 23 Stat. 147; Mar. 3, 1909, ch. 264, § 6, 35 Stat. 818; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501; Aug. 30, 1954, ch. 1076, § 1(15), 68 Stat. 967; Pub. L. 107-295, title IV, § 445, Nov. 25, 2002, 116 Stat. 2133; Pub. L. 108-176, title VIII, § 829(a), Dec. 12, 2003, 117 Stat. 2597.)

CODIFICATION

Section is from act July 5, 1884, popularly known as the "Rivers and Harbors Appropriation Act of 1884".

The section, as originally enacted, was as follows:

"No tolls or operating charges whatsoever shall be levied or collected upon any vessel or vessels, dredges, or other passing water-craft through any canal or other work for the improvement of navigation belonging to the United States; and for the purpose of preserving and continuing the use and navigation of said canals, rivers, and other public works without interruption, the Secretary of War, upon the application of the chief engineer in charge of said works, is hereby authorized to draw his warrant or requisition from time to time upon the Secretary of the Treasury to pay the actual expenses of operating and keeping said works in repair, which warrants or requisitions shall be paid by the Secretary of the Treasury, out of any money in the Treasury not otherwise appropriated: *Provided, however*, That an itemized statement of said expenses shall accompany the annual report of the chief of engineers."

It was amended by act March 3, 1909, to read substantially as set forth above.

AMENDMENTS

2003—Subsec. (b)(3). Pub. L. 108-176 added par. (3).

2002—Pub. L. 107-295 designated existing provisions as subsec. (a) and added subsec. (b).

1954—Act Aug. 30, 1954, repealed last proviso requiring that an itemized statement of expenses incurred in operating, maintaining, keeping in repair, and reconstructing locks, canals, etc., other than the Panama Canal, as provided in this section, should accompany the annual report of the Chief of Engineers.

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.

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-176, title VIII, §829(b), Dec. 12, 2003, 117 Stat. 2597, provided that: "The amendment made by subsection (a) [amending this section] is effective on and after November 25, 2002."

TERMINATION OF BOARD OF ENGINEERS FOR RIVERS AND HARBORS AND REASSIGNMENT OF DUTIES AND RESPONSIBILITIES

For termination of Board of Engineers for Rivers and Harbors 180 days after Oct. 31, 1992, and reassignment of duties and responsibilities by Secretary of Army, see section 223 of Pub. L. 102-580, set out as a note under section 541 of this title.

APPROPRIATIONS

Section 2 of act June 26, 1934, ch. 756, 48 Stat. 1225, which was classified to section 725a of former Title 31, Money and Finance, repealed the permanent appropriation under the title "Operating and care of canals and other works of navigation (8x881)" effective July 1, 1935, and provided that such portions of any Acts as make permanent appropriations to be expended under such account are amended so as to authorize, in lieu thereof, annual appropriations from the general fund of the Treasury in identical terms and in such amounts as now provided by the laws providing such permanent appropriations.

§ 6. Free passage to harbor of Michigan City, Indiana

The passage of vessels to and from the harbor of Michigan City, in Indiana, shall be free and not subject to toll or charge.

(R.S. § 5247.)

CODIFICATION

R.S. § 5247 derived from acts June 23, 1866, ch. 138, § 1, 14 Stat. 73; Mar. 2, 1867, ch. 144, § 2, 14 Stat. 421.

§ 7. Use of Government iron pier in Delaware Bay

The Government iron pier in Delaware Bay near Lewes, Delaware, shall be open to public use under regulations to be prescribed by the Secretary of the Army.

(July 27, 1916, ch. 260, § 1, 39 Stat. 394; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

CODIFICATION

Section is from act July 27, 1916, popularly known as the "Rivers and Harbors Appropriation Act of 1916".

A further provision of act July 27, 1916, repealed act Mar. 3, 1891, ch. 542, 26 Stat. 969, which authorized a transfer of the iron pier to the Treasury Department.

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.

§ 8. Toll free rivers in Alabama

The Tennessee, Coosa, Cahawba, and Black Warrior Rivers, within the State of Alabama, shall be forever free from toll for all property belonging to the United States, and for all per-

sons in their service, and for all citizens of the United States, except as to such tolls as may be allowed by Act of Congress.

(R.S. § 5244.)

CODIFICATION

R.S. § 5244 derived from act May 23, 1828, ch. 75, § 7, 4 Stat. 290.

Another R.S. 5244 is classified to section 43 of Title 12, Banks and Banking.

§ 9. Des Moines River as toll free

The Des Moines River shall forever remain free from any toll, or other charge whatever, for any property of the United States, or persons in their service, passing along the same.

(R.S. § 5246.)

CODIFICATION

R.S. § 5246 derived from acts Aug. 8, 1846, ch. 103, § 3, 9 Stat. 78; Jan. 20, 1870, ch. 7, 16 Stat. 61.

§ 10. Waters in Louisiana Purchase as public highways

All the navigable rivers and waters in the former Territories of Orleans and Louisiana shall be and forever remain public highways.

(R.S. § 5251.)

CODIFICATION

R.S. § 5251 derived from act Mar. 3, 1811, ch. 46, § 12, 2 Stat. 606.

§ 11. Authority for compact between Middle Northwest States as to jurisdiction of offenses committed on boundary waters

The consent of the Congress is given to the States of North Dakota, South Dakota, Minnesota, Wisconsin, Iowa, and Nebraska, or any two or more of them, by such agreement or compact as they may deem desirable or necessary, or as may be evidenced by legislative acts enacted by any two or more of said States, not in conflict with the Constitution of the United States or any law thereof, to determine and settle the jurisdiction to be exercised by said States, respectively, over offenses arising out of the violation of the laws of any of said States upon any of the waters forming the boundary lines between any two or more of said States, or waters through which such boundary line extends, and that the consent of the Congress be, and the same is, given to the concurrent jurisdiction agreed to by the States of Minnesota and South Dakota, as evidenced by the act of the Legislature of the State of Minnesota approved April 20, 1917, and the act of the Legislature of the State of South Dakota approved February 13, 1917.

(Mar. 4, 1921, ch. 176, 41 Stat. 1447.)

CODIFICATION

This section is from a resolution entitled a "Joint Resolution giving consent of the Congress of the United States to the States of North Dakota, South Dakota, Minnesota, Wisconsin, Iowa, and Nebraska, or any two or more of said States, to agree upon the jurisdiction to be exercised by said States over boundary waters between any two or more of said States".