

§ 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 Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641.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 L. 89-670, and repealed section 6(g)(6)(B).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 the department in which the Coast Guard is operating 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 the department in which the Coast Guard is operating 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 the department in which the Coast Guard is operating 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 offense. 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 the department in which the Coast Guard is operating 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