

Stat. 196. Executive Document No. 98, also referred to in text, contained a report by a board of engineers created by act Oct. 1, 1888, ch. 1057, 25 Stat. 498.

§ 686. Construction of restraining works in conjunction with State.

The Secretary of the Army, in expending appropriations in the preparation for and construction of works for the restraining or impounding of mining débris in the State of California, is authorized to enter into an agreement that the contractor shall look solely to the State of California for one-half of such expense, to be paid out of said State's appropriation, and the United States shall in no wise be liable for said one-half.

The Secretary of the Army, in carrying out the provisions of any Act of Congress, providing for the restraining or impounding of mining débris in California, may, in his discretion, when in his judgment the aggregate of appropriations already made by said State and Congress and available therefor are sufficient to complete the same, undertake the works necessary thereto by hired labor and by purchase of supplies and materials therefor, and may accept payments on account thereof as the work progresses under and according to the provisions of the acts of the legislature of said State for such purposes. (July 1, 1898, ch. 546, 30 Stat. 631; Mar. 3, 1899, ch. 425, § 1, 30 Stat. 1148.)

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was 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 Section 205 (a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641.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 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

Section is from the Rivers and Harbors Appropriation Act of 1899.

As originally enacted the first paragraph read as follows: "The provisions of an Act of Congress, entitled 'An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-nine, and for other purposes,' approved July first, eighteen hundred and ninety-eight, authorizing the Secretary of War, in expending certain specified appropriations in the preparation for and construction of certain works for the restraining or impounding of mining débris in the State of California, to enter into a contract or contracts wherein the contractor or contractors shall look solely to that State for one-half of such expense, and that the United States shall in no wise be liable for said one-half, are hereby extended to any appropriations, when made, that may hereafter be made for said purposes."

Act July 1, 1898 authorized the Secretary of War, in contracting for the construction of certain proposed works, to enter into an agreement that the contractor should look solely to California for half of the expenses.

§ 687. Use of State dredge and appliances in river and harbor improvements.

The Secretary of the Army is authorized to accept from the State of California the use of any dredger, or appliances owned or controlled by said State, conformably to any offer thereof by the said State; and the Secretary of the Army is authorized to use any such dredger or appliances in any river or harbor improvement that may be prosecuted therein by the United States, either on the part of the United States alone or conjointly with said State; *Provided*

That nothing shall be paid to the State of California for the use of said dredger, and that nothing herein contained shall create any liability against the United States. (Mar. 3, 1899, ch. 425, § 1, 30 Stat. 1148.)

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was 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 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

Section is from the Rivers and Harbors Appropriation Act of 1899.

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§ 701. Flood control generally.

Laws applicable to works of improvement relating to flood control.—All the provisions of existing law relating to examinations and surveys and to works of improvement of rivers and harbors shall apply, so far as applicable to examinations and surveys and to works of improvement relating to flood control. And all expenditures of funds appropriated for works and projects relating to flood control shall be made in accordance with and subject to the law governing the disbursement and expenditure of funds appropriated for the improvement of rivers and harbors.

Examinations and surveys; details from Government departments; reports.—All examinations and surveys of projects relating to flood control shall include a comprehensive study of the watershed or watersheds, and the report thereon in addition to any other matter upon which a report is required shall give such data as it may be practicable to secure in regard to (a) the extent and character of the area to be affected by the proposed improvement; (b) the probable effect upon any navigable water or waterway; (c) the possible economical development and utilization of water power; and (d) such other uses as may be properly related to or coordinated with the project. And the heads of the several departments of the Government may, in their discretion, and shall upon the request of the Secretary of the Army, detail representatives from their respective departments to assist the Engineers of the Army in the study and examination of such watersheds, to the end that duplication of work may be avoided and the various services of the Government economically coordinated therein: *Provided*, That all reports on preliminary examinations hereafter authorized, to-

gether with the report of the Board of Engineers for Rivers and Harbors thereon and the separate report of the representative of any other department, shall be submitted to the Secretary of the Army by the Chief of Engineers, with his recommendations, and shall be transmitted by the Secretary of the Army to the House of Representatives, and are ordered to be printed when so made.

Reports by Board of Engineers for Rivers and Harbors.—In the consideration of all works and projects relating to flood control which may be submitted to the Board of Engineers for Rivers and Harbors for consideration and recommendation, said board shall, in addition to any other matters upon which it may be required to report, state its opinion as to (a) what Federal interest, if any, is involved in the proposed improvement; (b) what share of the expense, if any, should be borne by the United States; and (c) the advisability of adopting the project.

Aiding Committee on Public Works.—All examinations and reports which may now be made by the Board of Engineers for Rivers and Harbors upon request of the Committee on Public Works relating to works or projects of navigation shall in like manner be made upon request of the Committee on Public Works on all works and projects relating to flood control. (Mar. 1, 1917, ch. 144, § 3, 39 Stat. 950; Aug. 2, 1946, ch. 753, title I, § 121, 60 Stat. 822.)

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was 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 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

Sections 1 and 2 of act Mar. 1, 1917, are set forth as sections 702 and 703 of this title. Section 4 was incorporated in former section 643, of this title and is now covered by section 702h of this title.

REORGANIZATION OF CONGRESSIONAL COMMITTEES

Under act Aug. 2, 1946, matters relating to flood control are referred to the Committee on Public Works of the House of Representatives, in lieu of former Committee on Rivers and Harbors and Committee on Flood Control.

§ 701-1. Same; declaration of policy.

In connection with the exercise of jurisdiction over the rivers of the Nation through the construction of works of improvement, for navigation or flood control, as herein authorized, it is declared to be the policy of the Congress to recognize the interests and rights of the States in determining the development of the watersheds within their borders and likewise their interests and rights in water utilization and control, as herein authorized to preserve and protect to the fullest possible extent established and potential uses, for all purposes, of the waters of the Nation's rivers; to facilitate the consideration of projects on a basis of comprehensive and coordinated development; and to limit the authorization and construction of navigation works to those in which a substantial benefit to navigation will be realized therefrom and which can be operated consistently with appropriate and economic use of the waters of such rivers by other users.

In conformity with this policy:

(a) Plans, proposals, and reports of Chief of Engineers, submitted to Congress.

Plans, proposals, or reports of the Chief of Engineers, Department of the Army, for any works of improvement for navigation or flood control not heretofore or herein authorized, shall be submitted to the Congress only upon compliance with the provisions of this paragraph. Investigations which form the basis of any such plans, proposals, or reports shall be conducted in such a manner as to give to the affected State or States, during the course of the investigations, information developed by the investigations and also opportunity for consultation regarding plans and proposals, and, to the extent deemed practicable by the Chief of Engineers, opportunity to cooperate in the investigations. If such investigations in whole or part are concerned with the use or control of waters arising west of the ninety-seventh meridian, the Chief of Engineers shall give to the Secretary of the Interior, during the course of the investigations, information developed by the investigations and also opportunity for consultation regarding plans and proposals, and to the extent deemed practicable by the Chief of Engineers, opportunity to cooperate in the investigations. The relations of the Chief of Engineers with any State under this paragraph shall be with the Governor of the State or such official or agency of the State as the Governor may designate. The term "affected State or States" shall include those in which the works or any part thereof are proposed to be located; those which in whole or part are both within the drainage basin involved and situated in a State lying wholly or in part west of the ninety-eighth meridian; and such of those which are east of the ninety-eighth meridian as, in the judgment of the Chief of Engineers, will be substantially affected. Such plans, proposals, or reports and related investigations shall be made to the end, among other things, of facilitating the coordination of plans for the construction and operation of the proposed works with other plans involving the waters which would be used or controlled by such proposed works. Each report submitting any such plans or proposals to the Congress shall set out therein, among other things, the relationship between the plans for construction and operation of the proposed works and the plans, if any, submitted by the affected States and by the Secretary of the Interior. The Chief of Engineers shall transmit a copy of his proposed report to each affected State, and, in case the plans or proposals covered by the report are concerned with the use or control of waters which rise in whole or in part west of the ninety-seventh meridian, to the Secretary of the Interior. Within ninety days from the date of receipt of said proposed report, the written views and recommendations of each affected State and of the Secretary of the Interior may be submitted to the Chief of Engineers. The Secretary of the Army shall transmit to the Congress, with such comments and recommendations as he deems appropriate, the proposed report together with the submitted views and recommendations of affected States and of the Secretary of the Interior. The Secretary of the Army may prepare and make said

transmittal any time following said ninety-day period. The letter of transmittal and its attachments shall be printed as a House or Senate document.

(b) Use of waters for navigation.

The use for navigation, in connection with the operation and maintenance of such works herein authorized for construction, of waters arising in States lying wholly or partly west of the ninety-eighth meridian shall be only such use as does not conflict with any beneficial consumptive use, present or future, in States lying wholly or partly west of the ninety-eighth meridian, of such waters for domestic, municipal, stock water, irrigation, mining, or industrial purposes.

(c) Irrigation works.

The Secretary of the Interior, in making investigations of and reports on works for irrigation and purposes incidental thereto shall, in relation to an affected State or States (as defined in paragraph (a) of this section), and to the Secretary of the Army, be subject to the same provisions regarding investigations, plans, proposals, and reports as prescribed in paragraph (a) of this section for the Chief of Engineers and the Secretary of the Army. In the event a submission of views and recommendations, made by an affected State or by the Secretary of the Army pursuant to said provisions, sets forth objections to the plans or proposals covered by the report of the Secretary of the Interior, the proposed works shall not be deemed authorized except upon approval by an Act of Congress; and section 485h of Title 43 and section 590z-1 of Title 16 are amended accordingly. (Dec. 22, 1944, ch. 665, § 1, 58 Stat. 887.)

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was 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 3011-3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

APPLICABILITY OF SECTION TO PROJECTS AUTHORIZED BY FLOOD CONTROL ACT OF 1954

Section 202 of act Sept. 3, 1954, ch. 1264, title II, 68 Stat. 1256, provided in part that: "The provisions of section 1 of the Act of December 22, 1944 (Public, Numbered 534, Seventy-eighth Congress [this section], second session), shall govern with respect to projects authorized in this Act, and the procedures therein set forth with respect to plans, proposals, or reports for works of improvement or navigation or flood control and for irrigation and purposes incidental thereto shall apply as if herein [Flood Control Act of 1954] set forth in full." Similar provisions with respect to the Flood Control Act of 1950 were contained in section 202 of act May 17, 1950, ch. 183, title II, 64 Stat. 170.

GLENDON UNIT, WYOMING, MISSOURI RIVER BASIN PROJECT

Joint Res. July 16, 1954, ch. 532, § 2, 68 Stat. 486, provided, with respect to the Glendon unit (dam and reservoir), Missouri River Basin Project, at the Glendon site on the North Platte River in Wyoming, for waiver of the provisions of subsec. (c) of this section. Section 1 of the Joint Resolution provided for the construction and operation of such unit by the Secretary of the Interior.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of Title 43, Public Lands.

CROSS REFERENCES

Soil conservation, watershed protection, and flood prevention, generally, see chapter 18 of Title 16, Conservation.

§ 701a. Same; declaration of policy.

It is recognized that destructive floods upon the rivers of the United States, upsetting orderly processes and causing loss of life and property, including the erosion of lands, and impairing and obstructing navigation, highways, railroads, and other channels of commerce between the States, constitute a menace to national welfare; that it is the sense of Congress that flood control on navigable waters or their tributaries is a proper activity of the Federal Government in cooperation with States, their political subdivisions, and localities thereof; that investigations and improvements of rivers and other waterways, including watersheds thereof, for flood-control purposes are in the interest of the general welfare; that the Federal Government should improve or participate in the improvement of navigable waters or their tributaries, including watersheds thereof, for flood-control purposes if the benefits to whomsoever they may accrue are in excess of the estimated costs, and if the lives and social security of people are otherwise adversely affected. (June 22, 1936, ch. 688, § 1, 49 Stat. 1570.)

CROSS REFERENCES

Soil conservation, watershed protection, and flood prevention, generally, see chapter 18 of Title 16, Conservation.

§ 701a-1. Same; definition of "flood control"; jurisdiction of Federal investigations.

The words "flood control" as used in section 701a of this title, shall be construed to include channel and major drainage improvements, and Federal investigations and improvements of rivers and other waterways for flood control and allied purposes shall be under the jurisdiction of and shall be prosecuted by the Department of the Army under the direction of the Secretary of the Army and supervision of the Chief of Engineers, and Federal investigations of watersheds and measures for run-off and water-flow retardation and soil-erosion prevention on watersheds shall be under the jurisdiction of and shall be prosecuted by the Department of Agriculture under the direction of the Secretary of Agriculture, except as otherwise provided by Act of Congress. (Dec. 22, 1944, ch. 665, § 2, 58 Stat. 889.)

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was 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 3011-3013 continued the military Department of the Army under the Administrative supervision of a Secretary of the Army.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of Title 43, Public Lands.

§ 701b. Same; supervision of Secretary of the Army; reclamation projects unaffected.

Federal investigations and improvements of rivers and other waterways for flood control and allied purposes shall be under the jurisdiction of and

shall be prosecuted by the Department of the Army under the direction of the Secretary of the Army and supervision of the Chief of Engineers, except as otherwise provided by Act of Congress; and in his reports upon examinations and surveys, the Secretary of the Army shall be guided as to flood-control measures by the principles set forth in section 701a of this title in the determination of the Federal interests involved: *Provided*, That the foregoing grant of authority shall not interfere with investigations and river improvements incident to reclamation projects that may now be in progress or may be hereafter undertaken by the Bureau of Reclamation of the Interior Department pursuant to any general or specific authorization of law. (June 22, 1936, ch. 688, § 2, 49 Stat. 1570; June 28, 1938, ch. 795, § 1, 52 Stat. 1215; Aug. 18, 1941, ch. 377, § 1, 55 Stat. 638; Aug. 4, 1954, ch. 656, § 7, 68 Stat. 668.)

CODIFICATION

The Department of War was designated the Department of the Army, and the title of the Secretary of War was 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 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

AMENDMENTS

1954—Act Aug. 4, 1954, repealed provisions conferring authority on the Department of Agriculture under the direction of the Secretary of Agriculture to make preliminary examinations and surveys and to prosecute works of improvement for runoff and waterflow retardation and soil erosion prevention on the watersheds of rivers and other waterways.

1941—Act Aug. 18, 1941, reenacted without change portion of section preceding semicolon.

1938—Act June 28, 1938, reenacted without change portion of section preceding semicolon.

CROSS REFERENCES

River, harbor, and other waterways, supervision of, see section 540 of this title.

§ 701b-1. Transfer of jurisdiction in certain cases to Department of Agriculture.

In order to effectuate the policy declared in sections 701a and 701b of this title, and to correlate the program for the improvement of rivers and other waterways by the Department of the Army with the program for the improvement of watersheds by the Department of Agriculture, works of improvement for measures of run-off and water-flow retardation and soil-erosion prevention on the watersheds of waterways, for which works of improvement for the benefit of navigation and the control of destructive floodwaters and other provisions have been adopted and authorized to be prosecuted under the direction of the Secretary of the Army and supervision of the Chief of Engineers, are authorized to be prosecuted by the Department of Agriculture under the direction of the Secretary of Agriculture and in accordance with plans approved by him. The Secretary of Agriculture is authorized in his discretion to undertake such emergency measures for run-off retardation and soil-erosion prevention as may be needed to safeguard lives and property from floods and the products of erosion on any watershed whenever fire or any other natural element or force has

caused a sudden impairment of that watershed: *Provided*, That not to exceed \$300,000 out of any funds heretofore or hereafter appropriated for the prosecution by the Secretary of Agriculture of works of improvement or measures for run-off and water-flow retardation and soil-erosion prevention on watersheds may be expended during any one fiscal year for such emergency measures. For prosecuting said work and measures there is authorized to be appropriated the sum of \$10,000,000 to be expended at the rate of \$2,000,000 per annum during the five-year period ending June 30, 1944: *Provided*, That such works and measures which are herein authorized to be prosecuted by the Department of Agriculture may be carried out on the watersheds of the Rio Grande and Pecos Rivers subject to the proviso in section 701b of this title. (June 28, 1938, ch. 795, § 7, 52 Stat. 1225; Dec. 22, 1944, ch. 665, § 15, 58 Stat. 907; May 17, 1950, ch. 188, title II, § 216, 64 Stat. 184.)

CODIFICATION

The Department of War was designated the Department of the Army, and the title of the Secretary of War was 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 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

AMENDMENTS

1950—Act May 17, 1950, in second sentence, increased from \$100,000 to \$300,000 the limitation on the amount that may be expended in any locality in any one year.

1944—Act Dec. 22, 1944, added provisions authorizing Secretary of Agriculture to undertake emergency work and limiting amount of annual expenditures for such work.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of Title 43, Public Lands.

CROSS REFERENCES

Additional appropriation, see note under section 701f-1 of this title.

§ 701b-2. Same; cooperation by Secretaries of the Army and Agriculture; expenditures.

In carrying out the purposes of sections 701a, 701b, 701c, 701d—701f and 701h of this title, as amended and supplemented, the Secretary of the Army and the Secretary of Agriculture are authorized to cooperate with institutions, organizations, and individuals, and to utilize the services of Federal, State, and other public agencies, and to pay by check to the cooperating public agency, either in advance or upon the furnishing or performance of said services, all or part of the estimated or actual cost thereof; and to make expenditures for personal services and rent in the District of Columbia and elsewhere, for purchase of reference and law books and periodicals, for printing and binding, for the purchase, exchange, operation, and maintenance of motor-propelled passenger-carrying vehicles and motorboats for official use, and for other necessary expenses. The provisions of this section shall be applicable to any funds heretofore appropriated for the prosecution by the Secretary of Agriculture of works of improvement for measures of run-off and

water-flow retardation and soil-erosion prevention upon watersheds. (June 28, 1938, ch. 795, § 5, 52 Stat. 1223; Aug. 18, 1941, ch. 377, § 8, 55 Stat. 650.)

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was 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 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

AMENDMENTS

1941—Act Aug. 18, 1941, changed the reference near the beginning of this section, and added the last sentence to the section.

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F. R. 3219, 67 Stat. 633, set out as a note under section 511 of Title 5, Executive Departments and Government Officers and Employees.

§ 701b-3. Examinations and surveys; availability of appropriations.

Funds heretofore or hereafter appropriated for construction and maintenance of flood-control works by the Department of the Army shall be available for expenditure by the Department of the Army in making examinations and surveys for flood control heretofore or hereafter authorized, or in preparing reports in review thereof as authorized by law, in addition to funds heretofore authorized to be expended for such purposes by the Department of the Army. (Aug. 11, 1939, ch. 699, § 2, 53 Stat. 1414.)

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was 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 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

CROSS REFERENCES

Discontinuance of preliminary examination reports, see section 701b-8a of this title.

§ 701b-4. Same; administration of surveys; number authorized; reports.

The surveys authorized to be performed under the direction of the Secretary of the Army as well as all duties performed by the Chief of Engineers under the direction of the Secretary of the Army shall be functions of the Engineer Corps, United States Army, and its head, to be administered under the direction of the Secretary of the Army and the supervision of the Chief of Engineers except as otherwise specifically provided by Congress: *Provided*, That the power and authority conferred by sections 701b, 701b-1, 701b-2, 701c-1, 701f-1, 701i, 701j, 702a-1½, 702a-11, and 706 of this title, and previously conferred, upon the Federal Power Commission shall remain in full force and effect: *Provided*, That no preliminary examination, survey, project, or estimate for new works other than those designated in

sections 558b-1, 701b-3, 701b-4, 701c-1, 701g, and 707 of this title or some prior Act or joint resolution shall be made: *Provided further*, That after the regular or formal reports made as required by law on any examination, survey, project, or work under way or proposed, are submitted, no supplemental or additional report or estimate shall be made unless authorized by law. (Aug. 11, 1939, ch. 699, § 6, 53 Stat. 1415.)

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was 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 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

TRANSFER OF FUNCTIONS

All executive and administrative functions of the Federal Power Commission were, with certain reservations, transferred to the Chairman of such Commission, with authority vested in him to authorize their performance by any officer, employee, or administrative unit under his jurisdiction, by 1950 Reorg. Plan No. 9, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3175, 64 Stat. 1265, set out in note under section 792 of Title 16, Conservation.

CROSS REFERENCES

Discontinuance of preliminary examination reports, see section 701b-8a of this title.

§ 701b-5. Same; appropriations subject to priority restrictions.

CODIFICATION

Section, act Mar. 31, 1945, ch. 45, § 1, 59 Stat. 41, was from the War Department Civil Appropriation Act, 1946, and was not repeated in subsequent appropriation acts. Similar provisions were contained in acts June 26, 1944, ch. 275, § 1, 58 Stat. 329; June 2, 1943, ch. 115, § 1, 57 Stat. 96.

§ 701b-6. Same; examinations and surveys by Secretary of Agriculture.

That, in order to further the declaration of policy and principles declared in sections 701a and 701b of this title, and to supplement the preliminary examinations and surveys which the Secretary of the Army has heretofore been, or is hereafter, authorized and directed to make of waterways with a view to the control of their floods, the Secretary of Agriculture be, and he is, authorized and directed to cause preliminary examinations and surveys to be made for run-off and water-flow retardation and soil-erosion prevention on the watersheds of said waterways, the costs thereof to be paid from appropriations heretofore or hereafter made for such purposes. (Aug. 28, 1937, ch. 877, § 3, 50 Stat. 877; Jan. 19, 1948, ch. 2, § 1, 62 Stat. 4.)

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was 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 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

AMENDMENTS

1948—Act Jan. 19, 1948, inserted "or is hereafter" following "heretofore been" to make section applicable to future preliminary surveys and examinations.

CROSS REFERENCES

Discontinuance of preliminary examination reports, see section 701b-8a of this title.

§ 701b-7. Same; supplemental reports to Senate and House Public Works Committee.

After the Secretary of Agriculture has submitted to Congress a regular or formal report made on any examination or survey, pursuant to sections 701a, 701b, 701c, 701d—701f, and 701h of this title as supplemented, a supplemental, additional, or review report or estimate may be made if authorized by law or by resolution of the Committee on Public Works of the House of Representatives or the Committee on Public Works of the Senate. (Jan. 19, 1948, ch. 2, § 2, 62 Stat. 4.)

CROSS REFERENCES

Discontinuance of preliminary examination reports, see section 701b-8a of this title.

§ 701b-8. Same; submission of report by Chief of Engineers.

It is declared to be the policy of the Congress that the following provisions shall be observed:

No project or any modification not authorized, of a project for flood control or rivers and harbors, shall be authorized by the Congress unless a report for such project or modification has been previously submitted by the Chief of Engineers, United States Army, in conformity with existing law. (Sept. 3, 1954, ch. 1264, title II, § 202, 68 Stat. 1256.)

CODIFICATION

Section comprises last two paragraphs of section 202 of act Sept. 3, 1954. First paragraph of section 202 is set out as a note under section 701-1 of this title.

SIMILAR PROVISIONS

Similar provisions were contained in the following prior acts:

1950—May 17, 1950, ch. 188, title II, § 202, 64 Stat. 170.
1948—June 30, 1948, ch. 771, title II, § 202, 62 Stat. 1175.
1946—July 24, 1946, ch. 596, § 2, 60 Stat. 641.

CROSS REFERENCES

Discontinuance of preliminary examination reports, see section 701b-8a of this title.

§ 701b-8a. Same; discontinuance of preliminary examination reports.

For preliminary examinations and surveys authorized in previous river and harbor and flood control Acts, the Secretary of the Army is directed to cause investigations and reports for flood control and allied purposes, to be prepared under the supervision of the Chief of Engineers in the form of survey reports, and that preliminary examination reports shall no longer be required to be prepared. (Pub. L. 85-500, title II, § 208, July 3, 1958, 72 Stat. 319.)

REFERENCES IN TEXT

Previous river and harbor and flood-control Acts, referred to in text, means those acts prior to the River and Harbor Act of 1958 and the Flood Control Act of 1958, titles I and II of Pub. L. 85-500.

§ 701b-9. Availability of appropriations for expenses incident to operation of power boats or vessels; expenses defused; certification of expenditures.

Hereafter no appropriation under the Corps of Engineers shall be available for any expenses incident to operating any power-driven boat or vessel on other than Government business, and that Government business shall be construed to include trans-

portation, lodging, and subsistence on inspection trips of Federal and State officials, having a public interest in authorized or proposed improvements for river and harbor and flood control, and any expenses incurred therefor shall be chargeable to river and harbor and flood control appropriations heretofore or hereafter made under rules and regulations to be prescribed by the Chief of Engineers: *Provided*, That such expenditures shall be certified by the Division Engineer as necessary and proper expenditures. (July 31, 1947, ch. 411, § 1, 61 Stat. 688.)

CODIFICATION

Section is also set out as section 576 of this title.

§ 701b-10. Revolving fund; establishment; availability; reimbursement; transfer of funds; limitation.

There is established a revolving fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of the plant and equipment of the Corps of Engineers used in civil works functions, including acquisition of plant and equipment, maintenance, repair, and purchase, operation, and maintenance of not to exceed four aircraft at any one time, temporary financing of services finally chargeable to appropriations for civil works functions, and the furnishing of facilities and services for military functions of the Department of the Army and other Government agencies and private persons, as authorized by law, \$100; and in addition, the Secretary of the Army is authorized to provide capital for the fund by capitalizing the present inventories, plant and equipment of the civil works functions of the Corps of Engineers. The fund shall be credited with reimbursements or advances for the cost of equipment, facilities, and services furnished, at rates which shall include charges for overhead and related expenses, depreciation of plant and equipment, and accrued leave: *Provided*, That on July 1, 1953, (1) the fund shall assume the assets, liabilities, and obligations of the Plant accounts, as carried on the records of the Corps of Engineers as of June 30, 1953, under the appropriations for "Maintenance and improvement of existing river and harbor works", "Flood control, general", and "Flood control, Mississippi River and tributaries", and (2) there shall be transferred from said appropriations to the fund amounts equivalent to the unexpended cash balances of the Plant accounts on June 30, 1953: *Provided further*, That the total capital of said fund shall not exceed \$140,000,000. (July 27, 1953, ch. 245, § 101, 67 Stat. 199.)

CODIFICATION

Section is also set out as section 576 of this title.

§ 701c. Rights-of-way, easements, etc.; acquisition by local authorities; maintenance and operation; protection of United States from liability for damages; requisites to run-off and water-flow retardation and soil erosion prevention assistance.

After June 22, 1936, no money appropriated under authority of section 701f of this title shall be expended on the construction of any project until States, political subdivisions thereof, or other responsible local agencies have given assurances satisfactory to the Secretary of the Army that they will (a) provide without cost to the United States all lands, easements, and rights-of-way necessary for

the construction of the project, except as otherwise provided herein; (b) hold and save the United States free from damages due to the construction works; (c) maintain and operate all the works after completion in accordance with regulations prescribed by the Secretary of the Army: *Provided*, That the construction of any dam authorized by section 5 of the Act of June 22, 1936, ch. 688, 49 Stat. 1572, may be undertaken without delay when the dam site has been acquired and the assurances prescribed herein have been furnished, without awaiting the acquisition of the easements and rights-of-way required for the reservoir area: *And provided further*, That whenever expenditures for lands, easements, and rights-of-way by States, political subdivisions thereof, or responsible local agencies for any individual project or useful part thereof shall have exceeded the present estimated construction cost therefor, the local agency concerned may be reimbursed one-half of its excess expenditures over said estimated construction cost: *And provided further*, That when benefits of any project or useful part thereof accrue to lands and property outside of the State in which said project or part thereof is located, the Secretary of the Army with the consent of the State wherein the same are located may acquire the necessary lands, easements, and rights-of-way for said project or part thereof after he has received from the States, political subdivisions thereof, or responsible local agencies benefited the present estimated cost of said lands, easements, and rights-of-way, less one-half the amount by which the estimated cost of these lands, easements, and rights-of-way exceeds the estimated construction cost corresponding thereto: *And provided further*, That the Secretary of the Army shall determine the proportion of the present estimated cost of said lands, easements, and rights-of-way that each State, political subdivision thereof, or responsible local agency should contribute in consideration for the benefits to be received by such agencies: *And provided further*, That whenever not less than 75 per centum of the benefits as estimated by the Secretary of the Army of any project or useful part thereof accrue to lands and property outside of the State in which said project or part thereof is located, provision (c) of this section shall not apply thereto; nothing herein shall impair or abridge the powers now existing in the Department of the Army with respect to navigable streams: *And provided further*, That nothing herein shall be construed to interfere with the completion of any reservoir or flood control work authorized by the Congress and now under way.

(d) As a condition to the extending of any benefits, in prosecuting measures for run-off and water-flow retardation and soil erosion prevention authorized by Act of Congress pursuant to the policy declared in section 701a of this title, to any lands not owned or controlled by the United States or any of its agencies, the Secretary of Agriculture may, insofar as he may deem necessary for the purposes of such Act, require—

(1) The enactment and reasonable safeguards for the enforcement of State and local laws imposing suitable permanent restrictions on the use of such lands and otherwise providing for run-off

and waterflow retardation and soil-erosion prevention:

(2) Agreements or covenants as to the permanent use of such lands; and

(3) Contributions in money, services, materials, or otherwise to any operations conferring such benefits.

(June 22, 1936, ch. 688, § 3, 49 Stat. 1571; Aug. 28, 1937, ch. 877, § 4, 50 Stat. 877.)

REFERENCES IN TEXT

Section 5 of act June 22, 1936, referred to in first proviso in the text, set out in part in section 701h of this title, also enumerated the improvement projects adopted and authorized to be prosecuted for the benefit of navigation and the control of flood waters.

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was 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 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

AMENDMENTS

1937—Act Aug. 28, 1937, added paragraph, relating to run-off and water-flow retardation and soil erosion prevention assistance, as subsec. (d), which designation has been omitted for purposes of codification and clarity.

APPLICATION OF SECTION

Act June 28, 1938, ch. 795, § 2, 52 Stat. 1215, provided that this section, as theretofore amended and therein further modified, should apply to all flood control projects, except as otherwise specifically provided by law. For modification of this section by that act, see section 701c-1 of this title.

APPLICABILITY OF SECTION TO FLOOD CONTROL WORKS AUTHORIZED BY FLOOD CONTROL ACT OF 1954

Section 201 of act Sept. 3, 1954, ch. 1264, title II, 68 Stat. 1256, provided: "That section 3 of the Act approved June 22, 1936 (Public. Numbered 738, Seventy-fourth Congress) [this section], as amended by section 2 of the Act approved June 28, 1938 (Public. Numbered 761, Seventy-fifth Congress) [section 701c-1 of this title], shall apply to all works authorized in this title except that for any channel improvement or channel rectification project, provisions (a), (b), and (c) of section 3 of said Act of June 22, 1936 [this section], shall apply thereto, and except as otherwise provided by law: *Provided*, That the authorization for any flood-control project herein adopted requiring local cooperation shall expire five years from the date on which local interests are notified in writing by the Department of the Army of the requirements of local cooperation, unless said interests shall within said time furnish assurances satisfactory to the Secretary of the Army that the required cooperation will be furnished."

Similar provisions were contained in the following prior acts:

1950—May 17, 1950, ch. 188, title II, § 201, 64 Stat. 170.

1948—June 30, 1948, ch. 771, title II, § 201, 62 Stat. 1175.

1946—July 24, 1946, ch. 596, § 2, 60 Stat. 641.

1944—Dec. 22, 1944, ch. 665, § 3, 58 Stat. 889.

1941—Aug. 18, 1941, ch. 377, § 2, 55 Stat. 638.

MUSKINGUM RIVER VALLEY

Provisions of act June 28, 1938, ch. 795, § 2, 52 Stat. 1215, referred to above, were extended to the Muskingum River Valley dams and reservoirs by section 4 of act Aug. 11, 1939, ch. 699, 53 Stat. 1414.

§ 701c-1. Acquisition of titles for certain projects and to lands, easements, rights-of-way; reimbursement of local agencies.

In case of any dam and reservoir project, or channel improvement or channel rectification proj-

ect for flood control, authorized in sections 701b, 701b-1, 701b-2, 701c-1, 701f-1, 701i, 701j, 702a-1½, 702a-11, and 706 of this title or by sections 701a, 701b, 701c, 701d—701f, and 701h of this title, and sections 702a, 702a-1, 702a-2 to 702a-12, 702b—702d, 702e—702m, and 704 of this title, title to all lands, easements, and rights-of-way for such project shall be acquired by the United States or by States, political subdivisions thereof or other responsible local agencies and conveyed to the United States, and provisions of clauses (a)—(c) of section 701c of this title shall not apply thereto. Notwithstanding any restrictions, limitations, or requirement of prior consent provided by any other Act, the Secretary of the Army is authorized and directed to acquire in the name of the United States title to all lands, easements, and rights-of-way necessary for any dam and reservoir project or channel improvement or channel rectification project for flood control, with funds heretofore or hereafter appropriated or made available for such projects, and States, political subdivisions thereof, or other responsible local agencies, shall be granted and reimbursed, from such funds, sums equivalent to actual expenditures deemed reasonable by the Secretary of the Army and the Chief of Engineers and made by them in acquiring lands, easements, and rights-of-way for any dam and reservoir project, or any channel improvement or channel rectification project for flood control heretofore or herein authorized: *Provided*, That no reimbursement shall be made for any indirect or speculative damages: *Provided further*, That lands, easements, and rights-of-way shall include lands on which dams, reservoirs, channel improvements, and channel rectifications are located; lands or flowage rights in reservoirs and highway, railway, and utility relocation: *Provided further*, That in all cases of the acquisition hereunder by the United States from the Los Angeles County Flood Control District or the Muskingum Watershed Conservancy District of lands, easements, or rights-of-way, wherein the written opinion of the Attorney General in favor of the validity of the title to such lands, easements, or rights-of-way is or may be required or authorized by law, the Attorney General may, in his discretion, base such opinion upon a certificate of title of the district from which said lands, easements, or rights-of-way are to be acquired accompanied by an agreement, duly executed by the district in conformity with the constitutions and laws of the State where the district in question is situated to indemnify the United States against all claims, liabilities, loss, expenses, and attorneys' fees of whatsoever kind or nature, resulting from or arising out of any defect or defects whatsoever in the title to any such lands, easements, or rights-of-way so conveyed to the United States, including all just compensation, costs, and expenses which may be incurred in any condemnation proceeding deemed necessary and instituted by the United States in order to perfect title to any such lands, easements, or rights-of-way. (June 28, 1938, ch. 795, § 2, 52 Stat. 1215; Aug. 11, 1939 ch. 699, § 5, 53 Stat. 1415.)

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was 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 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

Section comprises last paragraph of section 2 of act June 28, 1938. First paragraph of such section 2 is referred to in note under section 701c of this title.

AMENDMENTS

1939—Act Aug. 11, 1939, added last proviso.

§ 701c-2. Acquisition and sale of land.

The provisions of sections 593—595 of this title relating to river and harbor improvements are made applicable to works of flood control heretofore or hereafter authorized. (Aug. 18, 1941, ch. 377, § 6, 55 Stat. 650; Oct. 31, 1951, ch. 654, § 3 (6), 65 Stat. 708.)

AMENDMENTS

1951—Act Oct. 31, 1951, struck out "558a and" in the reference to other sections.

§ 701c-3. Same; lease receipts; payment of portion to States.

75 per centum of all moneys received and deposited in the Treasury of the United States during any fiscal year on account of the leasing of lands acquired by the United States for flood control, navigation, and allied purposes, including the development of hydroelectric power, shall be paid at the end of such year by the Secretary of the Treasury to the State in which such property is situated, to be expended as the State legislature may prescribe for the benefit of public schools and public roads of the county, or counties, in which such property is situated, or for defraying any of the expenses of county government in such county or counties, including public obligations of levee and drainage districts for flood control and drainage improvements: *Provided*, That when such property is situated in more than one State or county, the distributive share to each from the proceeds of such property shall be proportional to its area therein. (Aug. 18, 1941, ch. 377, § 7, 55 Stat. 650; July 24, 1946, ch. 596, § 5, 60 Stat. 642; June 16, 1953, ch. 114, 67 Stat. 61; Sept. 3, 1954, ch. 1264, title II, § 206, 68 Stat. 1266.)

AMENDMENTS

1954—Act Sept. 3, 1954, extended the 75 percent rental provision so as also to include moneys received and deposited with respect to the leasing of lands acquired for navigation and allied purposes.

1953—Act June 16, 1953, inserted ", or for defraying . . . and drainage improvements" after "situated".

1946—Act July 24, 1946, increased the percentage return to the States from 25 percent to 75 percent.

§ 701d. Compacts between States; consent of Congress.

The consent of Congress is given to any two or more States to enter into compacts or agreements in connection with any project or operation authorized by sections 5—7 of the Act of June 22, 1936, ch. 688, 49 Stat. 1572—1596, for flood control or the prevention of damage to life or property by reason of floods upon any stream or streams and their tributaries which lie in two or more such States, for the purpose of providing, in such manner and such proportion as may be agreed upon by such States and approved by the Secretary of the Army, funds for construction and maintenance, for the

payment of damages, and for the purchase of rights-of-way, lands, and easements in connection with such project or operation. No such compact or agreement shall become effective without the further consent or ratification of Congress, except a compact or agreement which provides that all money to be expended pursuant thereto and all work to be performed thereunder shall be expended and performed by the Department of the Army, with the exception of such reasonable sums as may be reserved by the States entering into the compact or agreement for the purpose of collecting taxes and maintaining the necessary State organizations for carrying out the compact or agreement. (June 22, 1936, ch. 688, § 4, 49 Stat. 1571.)

REFERENCES IN TEXT

Sections 5—7 of the act of June 22, 1936, referred to in text, enumerated the improvement projects adopted and authorized to be prosecuted for the benefit of navigation and the control of flood waters, authorized preliminary examinations and surveys for flood control at named localities, and authorized surveys of flood control operations at named localities with opportunities for power development. See, also, notes to section 701f of this title. Part of section 5 of act June 22, 1936, as added by act July 19, 1937, ch. 511, § 1, 50 Stat. 518, is set out as section 701h of this title.

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was 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 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

§ 701e. Effect of act June 22, 1936, on provisions for Mississippi River and other projects.

Nothing in sections 701a, 701b, 701c, 701d—701f, and 701h of this title and sections 5—7 of the Act of June 22, 1936, ch. 688, 49 Stat. 1572—1596, shall be construed as repealing or amending any provision of sections 702a, 702b—702d, 702e—702g, 702h—702j, 702k, 702l, 702m and 704 of this title. The authority conferred by sections 701a, 701b, 701c, 701d—701f, and 701h of this title and sections 5—7 of Act June 22, 1936, ch. 688, 49 Stat. 1572—1596, and any funds appropriated pursuant thereto for expenditure are supplemental to all other authority and appropriations relating to the departments or agencies concerned, and nothing in said sections shall be construed to limit or retard any department or agency in carrying out similar and related activities heretofore or hereafter authorized, or to limit the exercise of powers conferred on any department or agency by other provisions of law in carrying out similar and related activities. (June 22, 1936, ch. 688, § 8, 49 Stat. 1596.)

REFERENCES IN TEXT

For provisions of sections 5—7 of act June 22, 1936, referred to in text, see note under section 701d of this title.

§ 701f. Appropriations.

The sum of \$310,000,000 is authorized to be appropriated for carrying out the improvements authorized by section 5 of the Act of June 22, 1936, ch.

688, 49 Stat. 1572, and the sum of \$10,000,000 is authorized to be appropriated and expended in equal amounts by the Departments of the Army and Agriculture for carrying out any examinations and surveys provided for in sections 6 and 7 of the said Act and other Acts of Congress. (June 22, 1936, ch. 688, § 9, 49 Stat. 1596.)

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was 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 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

The first proviso, relating to a limitation upon the amount of expenditure during the fiscal year 1937, was deleted as executed and obsolete. The second proviso, relating to payment from funds available to the Works Progress Administration, was also omitted as executed and obsolete. The Works Progress Administration was renamed the Work Projects Administration by 1939 Reorg. Plan No. 1, § 306, eff. July 1, 1939, 5 U. S. C. § 133t note. Liquidation was ordered by President's letter of December 4, 1942, and appropriations for it authorized by act July 12, 1943, ch. 229, title I, 57 Stat. 540.

ADOPTION OF IMPROVEMENTS

Works of improvement adopted and authorized to be prosecuted are listed in section 5 of act June 22, 1936, ch. 688, § 5, 49 Stat. 1596, referred to in this section, as amended or supplemented by acts Aug. 28, 1937, ch. 877, § 1, 50 Stat. 876; June 28, 1938, ch. 795, § 4, 52 Stat. 1216; Aug. 11, 1939, ch. 699, § 4, 53 Stat. 1414; Aug. 18, 1941, ch. 377, § 3, 55 Stat. 639; Dec. 22, 1944, ch. 665, § 10, 58 Stat. 891; July 24, 1946, ch. 596, § 10, 60 Stat. 643.

AUTHORIZATION OF EXAMINATIONS AND SURVEYS

Localities at which preliminary examinations and surveys are authorized to be made are listed in acts June 22, 1936, ch. 688, § 6, 49 Stat. 1592; Aug. 28, 1937, ch. 877, § 5, 50 Stat. 877; and June 28, 1938, ch. 795, § 6, 52 Stat. 1223; Aug. 11, 1939, ch. 699, § 6, 53 Stat. 1415; Aug. 18, 1941, ch. 377, § 4, 55 Stat. 648; Dec. 22, 1944, ch. 665, § 11, 58 Stat. 903; July 24, 1946, ch. 596, § 11, 60 Stat. 651.

CONTINUANCE OF EXAMINATIONS AND SURVEYS

Localities at which the continuance of examinations and surveys already undertaken is authorized are listed in act June 22, 1936, ch. 688, § 7, 49 Stat. 1596.

§ 701f-1. Same; additional authorization.

The sum of \$375,000,000 is authorized to be appropriated for carrying out the improvements in sections 701b, 701b-1, 701b-2, 701c-1, 701f-1, 701j, 702a-1½, 702a-11, and 706 of this title over the five-year period ending June 30, 1944, and the sum of \$10,000,000 additional is authorized to be appropriated and expended in equal amounts by the Departments of the Army and Agriculture for carrying out any examinations and surveys provided for in said sections and any other Acts of Congress, to be prosecuted by said Departments. The sum of \$1,500,000 additional is authorized to be appropriated and expended by the Federal Power Commission for carrying out any examinations and surveys provided for in said sections or any other Acts of Congress, to be prosecuted by the said Federal Power Commission. (June 28, 1938, ch. 795, § 9, 52 Stat. 1226.)

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of

¹ So in original. Probably should read "in."

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 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

ADDITIONAL AUTHORIZATION

Sections 15 and 17 of act July 24, 1946, ch. 596, 60 Stat. 653 provided:

"Sec. 15. That the sum of \$772,000,000 is hereby authorized to be appropriated for carrying out improvements by the War Department, the sum of \$10,000,000 additional is authorized to be appropriated and expended in equal amounts by the Departments of War and Agriculture for carrying out any examination or survey provided for in this Act and any other Acts of Congress to be prosecuted by said Departments.

"Sec. 17. That the \$5,000,000 authorized to be appropriated in section 10 of the Flood Control Act approved August 18, 1941 [set out as a note under this section], is reauthorized to be appropriated, and the sum of \$20,000,000 additional is authorized to be appropriated, for expenditure by the Department of Agriculture for the prosecution of the works of improvement authorized to be carried out by that Department by the Flood Control Act of December 22, 1944 [act Dec. 22, 1944, ch. 665, 58 Stat. 887]."

Act Aug. 18, 1941, ch. 377, § 10, 55 Stat. 651, provided as follows: "Sec. 10. That the sum of \$275,000,000 is hereby authorized to be appropriated for carrying out the improvements herein, the sum of \$10,000,000 additional is authorized to be appropriated and expended in equal amounts by the Departments of War and Agriculture for carrying out any examinations and surveys provided for in this Act and any other Acts of Congress to be prosecuted by said departments. There is also hereby authorized to be appropriated for expenditure by the Department of Agriculture in carrying on works of improvement of the character specified in section 7 of the Flood Control Act of June 28, 1938 (section 701b-1 of this title), and which the Department is not otherwise authorized to undertake, such additional sums, not to exceed \$5,000,000, as may be necessary for that purpose. All appropriations necessary for operation and maintenance of flood-control works authorized by law to be operated and maintained by the United States are hereby authorized."

§ 701f-2. Same; funds for specific and authorized projects merged with and accounted for under regular annual appropriation.

Funds hereafter appropriated for a specific and heretofore authorized project for a river harbor, or flood-control works shall be merged with and be accounted for under the regular annual appropriation title applicable to such item. (May 17, 1950, ch. 188, title II, § 207, 64 Stat. 182.)

§ 701f-3. Same; expenditure in watersheds of funds appropriated for flood prevention purposes.

Hereafter the funds appropriated for flood prevention purposes may be expended in watersheds heretofore authorized by section 13 of the Flood Control Act of December 22, 1944, as amended, for necessary measures for the prevention of erosion, floodwater, and sediment damages, including gully control, floodwater detention, and floodway structures, in areas other than those over which the Department of the Army has jurisdiction and responsibility. (May 23, 1955, ch. 43, title I, § 101, 69 Stat. 54.)

REFERENCES IN TEXT

Section 13 of the Flood Control Act of December 22, 1944, referred to in text, was not codified. Such section 13 authorized the following works of improvement for run-off and waterflow retardation, and soil erosion prevention: Los Angeles River Basin; Santa Ynez River Watershed; Trinity River Basin (Texas); Little Tallahatchie River Watershed; Yazoo River Watershed; Cossa River Water-

shed (above Rome, Georgia); Little Sioux River Watershed; Potomac River Watershed; Buffalo Creek Watershed (New York); Colorado River Watershed (Texas), and Washita River Watershed.

§ 701g. Removal of obstructions; clearing channels.

The Secretary of the Army is authorized to allot not to exceed \$2,000,000 from any appropriations heretofore or hereafter made for any one fiscal year for flood control, for removing accumulated snags and other debris, and clearing and straightening the channel in navigable streams and tributaries thereof, when in the opinion of the Chief of Engineers such work is advisable in the interest of flood control: *Provided*, That not more than \$100,000 shall be expended for this purpose for any single tributary from the appropriations for any one fiscal year. (Aug. 28, 1937, ch. 877, § 2, 50 Stat. 877; Aug. 11, 1939, ch. 699, § 1, 53 Stat. 1414; Aug. 18, 1941, ch. 377, § 9, 55 Stat. 650; July 24, 1946, ch. 596, § 13, 60 Stat. 652; Sept. 3, 1954, ch. 1264, title II, § 208, 68 Stat. 1266.)

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was 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 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

AMENDMENTS

1954—Act Sept. 3, 1954, increased the fiscal year authorization from \$1,000,000 to \$2,000,000, and increased the project limitation from \$50,000 to \$100,000.

1946—Act July 24, 1946, increased the authorization from \$500,000 to \$1,000,000 and the authorization for a single tributary from \$25,000 to \$50,000.

1941—Act Aug. 18, 1941, increased the authorization from \$300,000 to \$500,000.

1939—Act Aug. 11, 1939, authorized Secretary to allot instead of to approve amount for flood control and limited amount allotted instead of expended for any single tributary.

CROSS REFERENCES

River and harbor improvements, removal of snags and debris, see section 603a of this title.

§ 701h. Contributions by States and political subdivisions.

The Secretary of the Army is authorized to receive from States and political subdivisions thereof, such funds as may be contributed by them to be expended in connection with funds appropriated by the United States for any authorized flood control work whenever such work and expenditure may be considered by the Secretary of the Army, on recommendation of the Chief of Engineers, as advantageous in the public interest, and the plans for any reservoir project may, in the discretion of the Secretary of the Army, on recommendation of the Chief of Engineers, be modified to provide additional storage capacity for domestic water supply or other conservation storage, on condition that the cost of such increased storage capacity is contributed by local agencies and that the local agencies agree to utilize such additional storage capacity in a manner consistent with Federal uses and purposes: *Provided*, That when contributions made by States and political subdivisions thereof, are in excess of the actual cost of the work

contemplated and properly chargeable to such contributions, such excess contributions may, with the approval of the Secretary of the Army, be returned to the proper representatives of the contributing interests. (June 22, 1936, ch. 688, § 5, as added July 19, 1937, ch. 511, § 1, 50 Stat. 518.)

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was 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 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

§ 701h-1. Contributions by States and political subdivisions for immediate use on authorized flood-control work; repayment.

Whenever any State or political subdivision thereof shall offer to advance funds for a flood-control project duly adopted and authorized by law the Secretary of the Army may in his discretion, receive such funds and expend the same in the immediate prosecution of such work. The Secretary of the Army is authorized and directed to repay without interest, from appropriations which may be provided by Congress for flood-control work, the moneys so contributed and expended: *Provided, however*, That no repayment of funds which may be contributed for the purpose of meeting any conditions of local cooperation imposed by Congress, or under the authority of section 701h of this title, shall be made. (Oct. 15, 1940, ch. 884, 54 Stat. 1176.)

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was 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 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

§ 701i. Elimination from protection of areas subject to evacuation.

In any case where the construction cost of levees or flood walls included in any authorized project can be substantially reduced by the evacuation of a portion or all of the area proposed to be protected and by the elimination of that portion or all of the area from the protection to be afforded by the project, the Chief of Engineers may modify the plan of said project so as to eliminate said portion or all of the area: *Provided*, That a sum not substantially exceeding the amount thus saved in construction cost may be expended by the Chief of Engineers, or in his discretion may be transferred to any other appropriate Federal agency for expenditure, toward the evacuation of the locality eliminated from protection and the rehabilitation of the persons so evacuated: *And provided further*, That the Chief of Engineers may, if he so desires, enter into agreement with States, local agencies, or the individuals concerned for the accomplishment by them, of such evacuation and rehabilitation and for their reimbursement from said sum for expenditures ac-

tually incurred by them for this purpose. (June 28, 1938, ch. 795, § 3, 52 Stat. 1216.)

§ 701j. Installation in dams of facilities for future development of hydro-electric power.

Penstocks or other similar facilities adapted to possible future use in the development of hydro-electric power shall be installed in any dam authorized in sections 701b, 701b-1, 701b-2, 701c-1, 701f-1, 701i, 701j, 702a-1½, 702a-11, and 706 of this title when approved by the Secretary of the Army upon the recommendation of the Chief of Engineers and of the Federal Power Commission. (June 28, 1938, ch. 795, § 4, 52 Stat. 1216.)

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was 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 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

TRANSFER OF FUNCTIONS

All executive and administrative functions of the Federal Power Commission were, with certain reservations, transferred to the Chairman of such Commission, with authority vested in him to authorize their performance by any officer, employee, or administrative unit under his jurisdiction, by 1950 Reorg. Plan No. 9, § 1, 2, eff. May 24, 1950, 15 F. R. 3175, 64 Stat. 1265, set out in note under section 792 of Title 16, Conservation.

SIMILAR PROVISIONS

Similar provisions with reference to dams authorized in such acts were contained in acts Aug. 18, 1941, ch. 377, § 3, 55 Stat. 639; Dec. 22, 1944, ch. 665, § 10, 58 Stat. 891; July 24, 1946, ch. 596, § 10, 60 Stat. 643.

§ 701k. Crediting reimbursements for lost, stolen, or damaged property.

Any amounts collected from any person, persons, or corporations as a reimbursement for lost, stolen, or damaged property, purchased in connection with river and harbor or flood control work prosecuted under the direction of the Secretary of the Army and the supervision of the Chief of Engineers, whether collected in cash or by deduction from amounts otherwise due such person, persons, or corporations, hereafter shall be credited in each case to the appropriation that bore the cost of purchase, repair, or replacement of the lost, stolen, or damaged property. (June 20, 1938, ch. 535, § 4, 52 Stat. 805.)

CODIFICATION

Section is also set out as section 571 of this title.

The Department of War was designated the Department of the Army and the title of the Secretary of War was 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 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

§ 701l. Employment of retired civil service employees.

The provisions of section 715a of Title 5 shall not be so construed as to prevent the employment by the Chief of Engineers under agreement as authorized by sections 569a, 584a and 607a of this

title, of any retired civilian employee whose expert assistance may be needed in connection with the prosecution of river and harbor or flood control works: *Provided*, That during the period of such employment a sum equal to the retired pay of the employee shall be deducted from the compensation agreed upon. (June 20, 1938, ch. 535, § 5, 52 Stat. 805.)

REFERENCES IN TEXT

Section 715a of Title 5, referred to in text, has been transferred and is now set out as a note under section 2255 of Title 5, Executive Departments and Government Officers and Employees.

CODIFICATION

Section is also set out as section 544a of this title.

§ 701l-1. Employment of additional personnel.

CODIFICATION

Section, act May 17, 1950, ch. 188, title II, § 214, 64 Stat. 184, provided that section 947 of Title 5 should not be construed to prevent employment of additional personnel. Section 947 was repealed by act Sept. 12, 1950, ch. 946, title III, § 301 (85), 64 Stat. 843.

§ 701m. Insufficient Congressional authorization; preparations for and modification of project.

In any case where the total authorization for a project heretofore or hereafter authorized by Congress is not sufficient to complete plans that may have been made the Chief of Engineers is authorized in his discretion to plan and make expenditures on preparations for the project, such as the purchase of lands, easements, and rights-of-way; readjustments of roads, railroads, and other utilities; removal of towns, cemeteries, and dwellings from reservoir sites; and the construction of foundations. The Chief of Engineers is also authorized in his discretion to modify the plan for any dam or other work heretofore or hereafter authorized so that such dam or work will be smaller than originally planned with a view to completing a useful improvement within an authorization: *Provided*, That the smaller structure shall be located on the chosen site so that it will be feasible at some future time to enlarge the work in order to permit the full utilization of the site for all purposes of conservation such as flood control, navigation, reclamation, the development of hydroelectric power, and the abatement of pollution. (Aug. 18, 1941, ch. 377, § 2, 55 Stat. 638.)

§ 701n. Flood emergency preparation; authorized expenditures.

There is authorized an emergency fund in the amount of \$15,000,000 to be expended in flood emergency preparation, in flood fighting and rescue operations, or in the repair or restoration of any flood control work threatened or destroyed by flood, including the strengthening, raising, extending, or other modification thereof as may be necessary in the discretion of the Chief of Engineers for the adequate functioning of the work for flood control; in the emergency protection of federally authorized hurricane or shore protection being threatened when in the discretion of the Chief of Engineers such protection is warranted to protect against imminent and substantial loss to life and property; in the repair and restoration of any federally authorized hurricane or shore protective structure damaged or destroyed by wind, wave, or water action of other than

an ordinary nature when in the discretion of the Chief of Engineers such repair and restoration is warranted for the adequate functioning of the structure for hurricane or shore protection. The appropriation of such moneys for the initial establishment of this fund and for its replenishment on an annual basis, is authorized: *Provided*, That pending the appropriation of said sum, the Secretary of the Army may allot, from existing flood-control appropriations, such sums as may be necessary for the immediate prosecution of the work herein authorized, such appropriations to be reimbursed from the appropriation herein authorized when made. The Chief of Engineers is authorized, in the prosecution of work in connection with rescue operations, or in conducting other flood emergency work, to acquire on a rental basis such motor vehicles, including passenger cars and buses, as in his discretion are deemed necessary. (Aug. 18, 1941, ch. 377, § 5, 55 Stat. 650; July 24, 1946, ch. 596, § 12, 60 Stat. 652; June 30, 1948, ch. 771, title II, § 206, 62 Stat. 1132; May 17, 1950, ch. 188, title II, § 210, 64 Stat. 183; June 28, 1955, ch. 194, 69 Stat. 186; Oct. 23, 1962, Pub. L. 87-874, title II, § 206, 76 Stat. 1194.)

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was 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 3011-3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

AMENDMENTS

1962—Pub. L. 87-874 authorized expenditures from the emergency fund for the protection of federally authorized hurricane or shore protection being threatened when such is warranted to protect against imminent and substantial loss to life and property, and for the repair and restoration of any such federally authorized hurricane or shore protective structure damaged or destroyed by wind or water action of an extraordinary nature when such is warranted for the adequate functioning of the structure for hurricane or shore protection.

1955—Act June 28, 1955, authorized expenditure for flood emergency preparation and eliminated the requirement of maintenance of flood control works threatened by flood.

1950—Act May 17, 1950, expanded scope of work considered under emergency repairs to flood-control structures, and increased the appropriation from \$2,000,000 to \$15,000,000.

1948—Act June 30, 1948, added provisions relating to the strengthening, extending, or modification of flood-control works.

1946—Act July 24, 1946, increased authorization from \$1,000,000 to \$2,000,000.

CROSS REFERENCES

Mississippi River projects, see section 702g of this title.

§ 701o. Conditions precedent on unauthorized projects and modifications.

CODIFICATION

Section, act June 30, 1948, ch. 771, title II, § 202, 62 Stat. 1175, is now covered by section 701b-8 of this title.

SIMILAR PROVISIONS

1946—Act July 24, 1946, ch. 596, § 2, 60 Stat. 641.

§ 701p. Railroad bridge alterations at Federal expense.

After July 24, 1946, for authorized flood-protection projects which include alterations of railroad bridges

the Chief of Engineers is authorized to include at Federal expense the necessary alterations of railroad bridges and approaches in connection therewith. (July 24, 1946, ch. 596, § 3, 60 Stat. 642.)

§ 701q. Repair and protection of highways, railroads, and utilities damaged by operation of dams or reservoir.

Whenever the Chief of Engineers shall find that any highway, railway, or utility has been or is being damaged or destroyed by reason of the operation of any dam or reservoir project under the control of the Department of the Army, he may utilize any funds available for the construction, maintenance, or operation of the project involved for the repair, relocation, restoration, or protection of such highway, railway, or utility: *Provided*, That this section shall not apply to highways, railways, and utilities previously provided for by the Department of the Army, unless the Chief of Engineers determines that the actual damage has or will exceed that for which provision had previously been made. (July 24, 1946, ch. 596, § 9, 60 Stat. 643.)

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was 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 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

§ 701r. Protection of highways, bridge approaches, and public works.

The Secretary of the Army is authorized to allot from any appropriations heretofore or hereafter made for flood control, not to exceed \$1,000,000 per year, for the construction of emergency bank-protection works to prevent flood damage to highways, bridge approaches, and public works, when in the opinion of the Chief of Engineers such work is advisable: *Provided*, That not more than \$50,000 shall be allotted for this purpose at any single locality from the appropriations for any one fiscal year. (July 24, 1946, ch. 596, § 14, 60 Stat. 653.)

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was 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 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

§ 701r-1. Utilization of public roads.

(a) Definitions.

When used in this section—

(1) The term "Agency" means the Corps of Engineers, United States Army or the Bureau of Reclamation, United States Department of the Interior, whichever has jurisdiction over the project concerned.

(2) The term "head of the Agency concerned" means the Chief of Engineers or the Commis-

sioner, Bureau of Reclamation, or their respective designees.

(3) The term "water resources projects to be constructed in the future" includes all projects not yet actually under construction, and, to the extent of work remaining to be completed, includes projects presently under construction where road relocations or identifiable components thereof are not complete as of the date of this section.

(4) The term "time of the taking" is the date of the relocation agreement, the date of the filing of a condemnation proceeding, or a date agreed upon between the parties as the date of taking.

(b) Improvement, reconstruction, and maintenance.

Whenever, in connection with the construction of any authorized flood control, navigation, irrigation, or multiple-purpose project for the development of water resources, the head of the Agency concerned determines it to be in the public interest to utilize existing public roads as a means of providing access to such projects during construction, such Agency may improve, reconstruct, and maintain such roads and may contract with the local authority having jurisdiction over the roads to accomplish the necessary work. The accomplishment of such work of improvement may be carried out with or without obtaining any interest in the land on which the road is located in accordance with mutual agreement between the parties: *Provided*, (1) That the head of the Agency concerned determines that such work would result in a saving in Federal cost as opposed to the cost of providing a new access road at Federal expense, (2) that, at the completion of construction, the head of the Agency concerned will, if necessary, restore the road to at least as good condition as prior to the beginning of utilization for access during construction, and (3) that, at the completion of construction, the responsibility of the Agency for improvement, reconstruction, and maintenance shall cease.

(c) Replacement roads; construction to higher standards.

For water resources projects to be constructed in the future, when the taking by the Federal Government of an existing public road necessitates replacement, the substitute provided will, as nearly as practicable, serve in the same manner and reasonably as well as the existing road. The head of the Agency concerned is authorized to construct such substitute roads to design standards comparable to those of the State, or, where applicable State standards do not exist, those of the owing political division in which the road is located, for roads of the same classification as the road being replaced. The traffic existing at the time of the taking shall be used in the determination of the classification. In any case where a State or political subdivision thereof requests that such a substitute road be constructed to a higher standard than that provided in the preceding provisions of this subsection, and pays, prior to commencement of such construction, the additional costs involved due to such higher standard, such Agency head is authorized to construct such road to such higher standard. Federal

costs under the provisions of this subsection shall be part of the nonreimbursable project costs (Pub. L. 86-645, title II, § 207, July 14, 1960, 74 Stat. 500; Pub. L. 87-874, title II, § 208, Oct. 23, 1962, 76 Stat. 1196.)

AMENDMENTS

1962—Subsec. (a). Pub. L. 87-874 added subsec. (a). Former subsec. (a) redesignated (b).

Subsec. (b). Pub. L. 87-874 redesignated former subsec. (a) as (b), and among other changes, inserted "irrigation," preceding "or multiple-purpose project" and substituted references to the head of the Agency concerned, for references to the Chief of Engineers. Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 87-874 redesignated former subsec. (b) as (c), substituted construction authority to the head of the agency concerned for authority to the Chief of Engineers, provided that where State standards do not exist, those of the owning political division in which the road is located shall be used, that where a State or political subdivision requests a substitute road to be constructed to a higher standard than provided in this subsection, and pays the additional costs, the Agency head is authorized to so construct the road, and that the Federal costs under this subsection shall be part of the nonreimbursable costs.

§ 701s. Small flood-control projects; appropriations; amount limitation for single locality; conditions.

The Secretary of the Army is authorized to allot from any appropriations heretofore or hereafter made for flood control, not to exceed \$25,000,000 for any one fiscal year, for the construction of small projects for flood control and related purposes not specifically authorized by Congress, which come within the provisions of section 701a of this title, when in the opinion of the Chief of Engineers such work is advisable: *Provided*, That not more than \$1,000,000 shall be allotted under this section for a project at any single locality and the amount allotted shall be sufficient to complete Federal participation in the project: *Provided further*, That the provisions of local cooperation specified in section 701c of this title, shall apply: *And provided further*, That the work shall be complete in itself and not commit the United States to any additional improvement to insure its successful operation, except as may result from the normal procedure applying to projects authorized after submission of preliminary examination and survey reports. (June 30, 1948, ch. 771, title II, § 205, 62 Stat. 1182; May 17, 1950, ch. 188, title II, § 212, 64 Stat. 183; July 11, 1956, ch. 558, 70 Stat. 522; Oct. 23, 1962, Pub. L. 87-874, title II, § 205, 76 Stat. 1194.)

AMENDMENTS

1962—Pub. L. 87-874 substituted "\$25,000,000" for "\$10,000,000", "projects for flood control and related purposes" for "flood control projects", and provisions limiting the allotment for a single project to \$1,000,000 and providing that such allotment shall be sufficient to complete Federal participation, for provisions limiting the allotment for any single project to \$400,000 from the appropriations for any fiscal year.

1956—Act July 11, 1956, substituted "\$10,000,000" for "\$3,000,000", deleted the words "and not within areas intended to be protected by projects so authorized" which preceded the words "which come within the provisions of section 701a of this title", and substituted "\$400,000" for "\$150,000".

1950—Act May 17, 1950, increased the appropriation from \$2,000,000 to \$3,000,000 for any one fiscal year, and increased limitation on allocation to any single locality from \$100,000 to \$150,000.

§ 701t. Emergency fund for flood damage; amount; commitments to be fulfilled by local interests.

The sum of \$25,000,000 is authorized to be appropriated as an emergency fund to be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for the repair, restoration, and strengthening of levees and other flood-control works which have been threatened or destroyed by recent floods, or which may be threatened or destroyed by later floods, including the raising, extending, or other modification of such works as may be necessary in the discretion of the Chief of Engineers for the adequate functioning of the works for flood control: *Provided*, That local interests shall provide without cost to the United States all lands, easements, and rights-of-way necessary for the work and shall maintain and operate all the works after completion in a manner satisfactory to the Chief of Engineers: *Provided further*, That pending the appropriation of said sum, the Secretary of the Army may allot from existing flood-control appropriations such sums as may be necessary for the immediate prosecution of the work authorized by this section, such appropriations to be reimbursed from said emergency fund when appropriated: *And provided further*, That funds allotted under this authority shall not be diverted from the unobligated funds from the appropriation "Flood control, general", made available in War Department Civil Functions Appropriation Acts for specific purposes. (June 30, 1948, ch. 771, title II, § 208, 62 Stat. 1182.)

§ 701u. International engineering or scientific conferences; attendance.

The Secretary of the Army is authorized to allot from any appropriations heretofore or hereafter made for flood control or rivers and harbors, funds for payment of expenses of representatives of the Corps of Engineers engaged on flood control and river and harbor work to international engineering or scientific conferences to be held outside the continental limits of the United States: *Provided*, That not more than ten representatives of the Corps of Engineers shall attend any one conference: *And provided further*, That not more than \$25,000 shall be allotted during any one fiscal year for this purpose. (May 17, 1950, ch. 188, title II, § 211, 64 Stat. 183.)

§ 702. Mississippi River.

Authorization of flood-control work.—For controlling the floods of the Mississippi River and continuing its improvement from the Head of the Passes to the mouth of the Ohio River the Secretary of the Army is empowered, authorized, and directed to carry on continuously, by hired labor or otherwise, the plans of the Mississippi River Commission, prior to March 3, 1923, or thereafter adopted, to be paid for as appropriations may from time to time be made by law.

Allotments for improvement of watercourses connected with Mississippi River.—The watercourses connected with the Mississippi River to such extent as may be necessary to exclude the flood waters from the upper limits of any delta basin, together with the Ohio River from its mouth to the mouth of the

Cache River, may, in the discretion of said commission, receive allotments for improvements under way March 1, 1917, or thereafter to be undertaken.

Maintenance of levees constructed for flood control.—Upon the completion of any levee constructed for flood control under authority of this section, said levee shall be turned over to the levee district protected thereby for maintenance thereafter; but for all other purposes the United States shall retain such control over the same as it may have the right to exercise upon such completion. (Mar. 1, 1917, ch. 144, § 1, 39 Stat. 948; Mar. 4, 1923, ch. 277, 42 Stat. 1505.)

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was 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 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

Last clause of first paragraph and subsections (a)—(d), providing for improvements on watercourses connected with Mississippi River, were limited to appropriations made for a period of six years beginning July 1, 1924.

The portion of the first paragraph providing "and a sum not to exceed \$10,000,000 annually is hereby authorized to be appropriated for that purpose, for a period of six years beginning July 1, 1924" together with the fourth paragraph, relating to expenditures for improvements between Head of Passes and Rock Island, were from act Mar. 4, 1923, which superseded provisions on the same subjects contained in act Mar. 1, 1917, from which the rest of the section was derived.

See, also, note to section 701 of this title.

CROSS REFERENCES

Classification as trust funds, appropriation and disbursement of funds contributed for flood control, see section 725s (78) of Title 31, Money and Finance.

§ 702a. Same; adoption of 1927 project; execution; creation of board; scope of authority; appropriation.

The project for the flood control of the Mississippi River in its alluvial valley and for its improvement from the Head of Passes to Cape Girardeau, Missouri, in accordance with the engineering plan set forth and recommended in the report submitted by the Chief of Engineers to the Secretary of the Army dated December 1, 1927, and printed in House Document Numbered 90, Seventieth Congress, first session, is adopted and authorized to be prosecuted under the direction of the Secretary of the Army and the supervision of the Chief of Engineers: *Provided*, That a board to consist of the Chief of Engineers, the president of the Mississippi River Commission, and a civil engineer chosen from civil life to be appointed by the President, by and with the advice and consent of the Senate, whose compensation shall be fixed by the President and be paid out of the appropriations made to carry on this project, is created; and such board is authorized and directed to consider the engineering differences between the adopted project and the plans recommended by the Mississippi River Commission in its special report dated November 28, 1927, and after such study and such further surveys as may be necessary, to recommend to the President such action as it may deem necessary to be taken

in respect to such engineering differences and the decision of the President upon all recommendations or questions submitted to him by such board shall be followed in carrying out the project herein adopted. The board shall not have any power or authority in respect to such project except as hereinbefore provided. Such project and the changes therein, if any, shall be executed in accordance with the provisions of section 702h of this title. Such surveys shall be made between Baton Rouge, Louisiana, and Cape Girardeau, Missouri, as the board may deem necessary to enable it to ascertain and determine the best method of securing flood relief in addition to levees, before any flood-control works other than levees and revetments are undertaken on that portion of the river: *Provided*, That all diversion works and outlets constructed under the provisions of sections 702a, 702b—702d, 702e—702g, 702h—702j, 702k, 702l, 702m, and 704 of this title shall be built in a manner and of a character which will fully and amply protect the adjacent lands: *Provided further*, That pending completion of any floodway, spillway, or diversion channel, the areas within the same shall be given the same degree of protection as is afforded by levees on the west side of the river contiguous to the levee at the head of said floodway, but nothing herein shall prevent, postpone, delay, or in anywise interfere with the execution of that part of the project on the east side of the river, including raising, strengthening, and enlarging the levees on the east side of the river. The sum of \$325,000,000 is authorized to be appropriated for this purpose.

All unexpended balances of appropriations prior to May 15, 1928, made for prosecuting work of flood control on the Mississippi River in accordance with the provisions of section 702 of this title, are made available for expenditure under the provisions of sections 702a, 702b—702d, 702e—702g, 702h—702j, 702k, 702l, and 702m, of this title. (May 15, 1928, ch. 569, § 1, 45 Stat. 534.)

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was 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 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

ABANDONMENT AND REPEAL OF PROJECTS

For abandonment of Boeuf Floodway and Eudora Floodway as well as Northward Extension and back protection levee extending from head of Eudora Floodway north to Arkansas River and repeal of provisions relating to prosecution of work, see section 702a—12 (a) of this title.

CROSS REFERENCES

Further modifications of project, see sections 702a—1½ and 702a—1¾ of this title.

Modification of project of 1927 and adoption as modified, see section 702a—1 of this title.

§ 702a—1. Same; modification of project of 1927; adoption.

The project for the control of floods of the Mississippi River and its tributaries, adopted by section 702a of this title, is modified in accordance with

the recommendations of section 43 of the report submitted by the Chief of Engineers to the Chairman of the Committee on Flood Control, dated February 12, 1935, and printed in House Committee on Flood Control Document Numbered 1, Seventy-fourth Congress, first session, as, in sections 702a-2 to 702a-12, 702g-1, 702j-1(a), 702j-2, 702k-1, and 702k-2 of this title, further modified and amended; and as so modified is adopted and authorized and directed to be prosecuted under the direction of the Secretary of the Army and the supervision of the Chief of Engineers. (June 15, 1936, ch. 548, § 1, 49 Stat. 1508.)

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was 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 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

CROSS REFERENCES

Further modifications of project, see sections 702a-1½ and 702a-1¾ of this title.

§ 702a-1½. Same; further modification of 1927 project; adoption; appropriation.

In accordance with the recommendations of the Chief of Engineers, as set forth in his report of April 6, 1937, and published as Flood Control Committee Document Numbered 1, Seventy-fifth Congress, first session, paragraph 38 (b), except subparagraph (1), the project for flood control of the Lower Mississippi River adopted by sections 702a, 702a-1, 702a-2 to 702a-12, 702b—702d, 702e—702g, 702g-1, 702h—702j, 702j-1, 702j-2, 702k, 702k-1, 702k-2, 702l, 702m, and 704 of this title, is modified and, as modified, is adopted, and there is authorized to be appropriated in addition to the sums previously authorized \$40,000,000 to be applied for the purposes set forth in said document covering the said recommendations, with the exceptions mentioned, subject to the provisions made in section 702a-11 of this title. (June 28, 1938, ch. 795, § 4, 52 Stat. 1220.)

§ 702a-1¾. Same; further modification; adoption.

The project for flood control of the Lower Mississippi River adopted by sections 702a to 702a-1½, 702a-2 to 702a-12, 702b—702d, and 702e—702m of this title is modified and, as modified, is authorized and adopted. (Aug. 18, 1941, ch. 377, § 3, 55 Stat. 642.)

CROSS REFERENCES

Modification of Lower Mississippi River flood control project by act Aug. 18, 1941, see section 702a-12 of this title.

§ 702a-2. Same; abandonment of Boeuf Floodway.

The Boeuf Floodway, authorized by the provisions adopted in section 702a of this title, shall be abandoned as soon as the Eudora Floodway, provided for in Flood Control Committee Document Numbered 1, Seventy-fourth Congress, first session, is in operative condition and the back-protection levee recommended in said document, extending north from the head of the Eudora Floodway, shall have been constructed. (June 15, 1936, ch. 548, § 2, 49 Stat. 1509.)

ABANDONMENT AND REPEAL OF PROJECTS

For abandonment of Boeuf Floodway and Eudora Floodway as well as Northward Extension and back protection levee extending from head of Eudora Floodway north to Arkansas River and repeal of provisions relating to prosecution of work, see section 702a-12 (a) of this title.

§ 702a-3. Same; levees; raising and enlarging.

The levees along the Mississippi River from the head of the Morganza Floodway to the head of the Atchafalaya River and down the east bank of the Atchafalaya River to intersection with the west protection levee of said Morganza Floodway shall be raised and enlarged to 1928 grade and section. (June 15, 1936, ch. 548, § 3, 49 Stat. 1509.)

§ 702a-4. Same; fuse-plug levees.

After the Eudora Floodway shall have been constructed and is ready for operation, the fuse-plug levees now at the head of the Boeuf and Tensas Basins shall be constructed to the 1914 grade and the 1928 section. The fuse-plug levees at the head of the Atchafalaya Basin on the west side shall be constructed to the 1914 grade and the 1928 section. The fuse-plug levees at the head of the Atchafalaya Basin on the east side of the Atchafalaya River shall be constructed to the 1914 grade and 1928 section, and, after the Morganza Floodway has been completed, shall be raised to the 1928 grade as provided in section 702a-3 of this title. Thereafter those stretches of said levees which are left as fuse-plug levees shall be reconstructed and maintained as herein provided, subject to the provisions of section 702a-3 of this title. Any funds appropriated under authority of 702k-1 of this title may be expended for this purpose. (June 15, 1936, ch. 548, § 10, 49 Stat. 1511.)

§ 702a-5. Same; back levee north of Eudora Floodway.

The back-protection levee north of the Eudora Floodway shall be constructed to the same grade and section as the levees opposite on the east side of the Mississippi River: *Provided*, That this levee extending from the head of the Eudora Floodway north to the Arkansas River shall be so located as to afford adequate space for the passage of flood waters without endangering the levees opposite on the east side of the river and shall be constructed contemporaneously with the construction of the Eudora Floodway; except that, until the Eudora Floodway is in operative condition, there shall be left in this back levee north of the head of the Eudora Floodway openings which shall be sufficient, in the discretion of the Chief of Engineers, to permit the passage of all flood waters to be reasonably contemplated in the event of any break in the riverside fuse-plug levee prior to the time the Eudora Floodway shall be in operative condition. (June 15, 1936, ch. 548, § 11, 49 Stat. 1511.)

ABANDONMENT AND REPEAL OF PROJECTS

For abandonment of Boeuf Floodway and Eudora Floodway as well as Northward Extension and back protection levee extending from head of Eudora Floodway north to Arkansas River and repeal of provisions relating to prosecution of work, see section 702a-12 (a) of this title.

§ 702a-6. Same; drainage necessitated by floodway levees.

The United States shall provide the drainage made necessary by the construction of floodway levees included in the modified project. (June 15, 1936, ch. 548, § 6, 49 Stat. 1510.)

§ 702a-7. Same; railroad and highway crossings over floodways.

The United States shall construct, at its own cost, one railroad and one highway crossing over the Eudora Floodway and not to exceed three railway and two highway crossings over the Morganza Floodway, and not to exceed one railway crossing (together with suitable physical connections therewith) and one highway crossing over the floodway west of the Atchafalaya River provided for in the modified project: *Provided*, That equitable agreements can be made with the railroad and highway authorities concerned and that the appropriate railroad or highway agencies agree to accept and maintain and operate these crossings without cost to the United States: *Provided further*, That the railroads crossing the Morganza and West Atchafalaya Floodways agree in consideration for the crossings constructed to waive all claims against the Government for any damages that may occur by reason of overflows in the Morganza and West Atchafalaya Floodways: *And provided further*, That other railway and highway damages shall be adjusted as provided for in section 702a-10 of this title. (June 15, 1936, ch. 548, § 7, 49 Stat. 1510.)

§ 702a-8. Same; additional roads; construction by United States.

In addition to the construction by the United States of roads in connection with floodways as heretofore provided, the Federal Government may, in the discretion of the Chief of Engineers, and within the limits of available funds, construct additional roads to afford access to those portions of the levee lines not otherwise accessible. (June 15, 1936, ch. 548, § 8, 49 Stat. 1510.)

§ 702a-9. Same; lands, easements, and rights-of-way; acquisition by local authorities; reimbursement; protection of United States from liability for damages.

No money appropriated under section 702k-1 of this title shall be expended on the construction of any reservoir project herein authorized until States, political subdivisions thereof, or other responsible local agencies have given assurances satisfactory to the Secretary of the Army that they will (a) provide without cost to the United States all lands, easements, and rights-of-way necessary for the construction of the project, except as otherwise provided herein; (b) hold and save the United States free from damages due to the construction works; (c) maintain and operate all the works after completion in accordance with regulations prescribed by the Secretary of the Army: *And provided*, That the construction of any dam authorized herein may be undertaken without delay when the dam site has been acquired and the assurances prescribed herein have been furnished, without awaiting the acquisition of the easements and rights-of-way required for the reservoir area: *And provided further*, That

whenever expenditures for lands, easements, and rights-of-way by States, political subdivisions thereof, or responsible local agencies for any individual project or useful part thereof shall have exceeded the present estimated construction cost therefor, the local agency concerned may be reimbursed one-half of its excess expenditures over said estimated construction cost: *And provided further*, That when benefits of any project or useful part thereof accrue to lands and property outside of the State in which said project or part thereof is located, the Secretary of the Army may acquire the necessary lands, easements, and rights-of-way for said project or part thereof after he has received from the States, political subdivisions thereof, or responsible local agencies benefited the present estimated cost of said lands, easements, and rights-of-way, less one-half the amount by which the estimated cost of these lands, easements, and rights-of-way exceeds the estimated construction cost corresponding thereto: *And provided further*, That the Secretary of the Army shall determine the proportion of the present estimated cost of said lands, easements, and rights-of-way that each State, political subdivision thereof, or responsible local agency should contribute in consideration for the benefits to be received by such agencies: *And provided further*, That whenever not less than 75 per centum of the benefits as estimated by the Secretary of the Army of any project or useful part thereof accrue to lands and property outside of the State in which said project or part thereof is located, provision (c) of this section shall not apply thereto; nothing herein shall impair or abridge the powers now existing in the Department of the Army with respect to navigable streams: *And provided further*, That nothing herein shall be construed to interfere with the completion of any reservoir or flood control work authorized by the Congress and under way on June 15, 1936. (June 15, 1936, ch. 548, § 8a, 49 Stat. 1510.)

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was 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 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

§ 702a-10. Same; flowage rights and rights-of-way; reimbursement of local authorities; highway crossings; use of properties for national forests or wildlife refuges.

In order to facilitate the United States in the acquisition of flowage rights and rights-of-way for levee foundations, the Secretary of the Army is authorized to enter into agreements with the States or with local levee districts, boards, commissions, or other agencies for the acquisition and transfer to the United States of such flowage rights and levee rights-of-way, and for the reimbursement of such States or local levee districts, boards, commissions, or other agencies, for the cost thereof at prices previously agreed upon between the Secretary of the Army and the governing authority of such agencies, within

the maximum limitations hereinafter prescribed: *Provided*, That no money appropriated under the authority of section 702k-1 of this title shall be expended upon the construction of the Eudora Floodway, the Morganza Floodway, the back protection levee extending north from the Eudora Floodway, or the levees extending from the head of the Morganza Floodway to the head of and down the east bank of the Atchafalaya River to the intersection of said Morganza Floodway until 75 per centum of the value of the flowage rights and rights-of-way for levee foundations, as estimated by the Chief of Engineers, shall have been acquired or options or assurances satisfactory to the Chief of Engineers shall have been obtained for the Eudora Floodway, the Morganza Floodway, and the area lying between said back protection levee and the present front line levees: *Provided further*, That easements required in said areas in connection with roads and other public utilities owned by States or political subdivisions thereof shall be provided without cost to the United States upon the condition that the United States shall provide suitable crossings, including surfacing of like character, over floodway guide-line levees in said areas for all improved roads now constituting a part of the State highway system, and shall repair all damage done to said highways within the said floodways by the actual use of such floodways for diversion: *Provided further*, That when such portion of said rights as to all of said areas shall have been acquired or obtained and when said easements required in connection with roads and other public utilities owned by States or political subdivisions thereof have been provided as hereinabove set forth, construction of said flood-control works in said areas shall be undertaken according to the engineering recommendations of the Report of the Chief of Engineers dated February 12, 1935 (House Committee on Flood Control Document Numbered 1, Seventy-fourth Congress, first session), and the Secretary of the Army shall cause proceedings to be instituted for the condemnation of the remainder of said rights and easements, as are needed and cannot be secured by agreement, in accordance with section 702d of this title: *Provided further*, That in no event and under no circumstances shall any of the additional money appropriated under the authority of this Act be expended for the acquisition of said 75 per centum of the flowage rights and rights-of-way hereinabove contemplated in excess of \$20,000,000: *Provided further*, That the Chief of Engineers is authorized, out of the funds authorized to be appropriated by section 702k-1 of this title to purchase flowage easements over lands and properties in the floodway west of the Atchafalaya River and lying above the approximate latitude of Krotz Springs: *Provided further*, That none of such easements in said West Atchafalaya Floodway shall be purchased until options covering at least 75 per centum of the total value of such easements as estimated by the Chief of Engineers shall have been obtained at prices deemed reasonable by the Chief of Engineers and not exceeding in the aggregate \$2,250,000 for said 75 per centum of said easements with respect to the floodway west of the Atchafalaya River: *Provided further*, That easements required in said West Atchafalaya Floodway in connection

with roads and other public utilities owned by States or other political subdivisions shall be provided without cost to the United States upon condition that the United States shall provide suitable crossings, including surfacing of like character, over floodway guide-line levees for all improved roads in said West Atchafalaya Floodway now constituting a part of the State highway system and shall repair all damage done to said highways within said West Atchafalaya Floodway by the actual use of such floodway for diversion: *Provided further*, That no flowage easements shall be paid for by the United States over properties subject to frequent overflow in the Atchafalaya Basin below the approximate latitude of Krotz Springs: *Provided further*, That payment for rights-of-way, easements, and flowage rights acquired under this section, or reimbursement to the States or local interests furnishing them, shall be made as soon as the Chief of Engineers is satisfied that such rights-of-way, easements, or flowage rights have been acquired in conformity with local custom or legal procedure in such matters; and, thereafter, no liability of any kind shall attach to or rest upon the United States for any further damage by reason of diversions or flood waters: *And provided further*, That if the Secretary of Agriculture shall determine to acquire any of the properties within the floodways herein referred to, for national forests, wildlife refuges, or other purposes of his Department, the Secretary of the Army may, upon recommendation by the Chief of Engineers, in lieu of acquiring flowage rights, advance to or reimburse the said Secretary of Agriculture sums equal to those that would otherwise be used for the purchase of easements desired by the Department of the Army and the Secretary of Agriculture is authorized to use these sums for the purpose of acquiring properties in the floodways in question. (June 15, 1936, ch. 548, § 12, 49 Stat. 1512.)

REFERENCES IN TEXT

"This Act", referred to in text, means act June 15, 1936, ch. 548, 49 Stat. 1508, which is classified to sections 702a-1 to 702a-12, 702g-1, 702j-1, 702j-2, 702k-1, and 702k-2 of this title.

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was 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 3011-3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

§ 702a-11. Same; Morganza Floodway; Eudora Floodway.

The United States may, within the discretion of the Chief of Engineers, irrespective of other provisions of law, proceed to acquire all easements needed and of the character considered advisable in the Morganza floodway and to construct said Morganza floodway. Said Morganza floodway may, within the discretion of the Chief of Engineers, be modified as to its design and inflow.

The said Morganza floodway may be initiated and constructed without delay; and the United States may, within the discretion of the Chief of Engineers,

irrespective of other provisions of law, proceed to the acquisition of flowage rights and flowage easements in the Eudora floodway, and to its construction as authorized by existing law: *Provided*, That the intakes of such Eudora floodway shall include an automatic masonry weir with its sill at such an elevation that it will not be overtopped by stages other than those capable of producing a stage of fifty-one feet or over on the Vicksburg gage: *Provided further*, That a fuseplug levee loop may be constructed behind said sill to prevent flow into the floodway until the predicted flood exceeds the safe capacity of the main river leveed channel, with a free-board of at least three feet, but said fuseplug levee may be artificially breached when in the opinion of the Chief of Engineers such breaching is advisable to insure the safety of the main river controlling levee line: *Provided further*, That the authority to acquire lands, flowage rights, and easements for floodways shall be confined to the floodways proper and to the northward extension of Eudora: *Provided further*, That within the discretion of the Chief of Engineers, the guide line levees of the Eudora floodway may be extended south toward Old River: *Provided further*, That the Chief of Engineers is authorized to construct the said Eudora floodway at such location as he may determine, in the vicinity of Eudora. The United States may, within the discretion of the Chief of Engineers irrespective of other provisions of law, proceed to acquire flowage rights and flowage easements in the northward extension of the Eudora floodway, as authorized by existing law, provided that pending the completion of such northward extension all the Riverside fuseplug levee extending south from the vicinity of Yancopin to the vicinity of Vau Cluse, Arkansas, and so as to connect with the existing levee of 1928 grade and section, shall be reconstructed to the 1914 grade and 1928 section: *Provided further*, That if the back protection levee is constructed prior to the construction of Eudora floodway, it shall be connected with the main Mississippi River levee and subsequently connected with the Eudora floodway when constructed: *Provided further*, That the Chief of Engineers is authorized, in his discretion, to negotiate options, make agreements and offers with respect to lands, flowage rights, easements, and rights-of-way involved, as provided by law, at prices deemed reasonable by him.

The United States, irrespective of other provisions of law, may, within the discretion of the Chief of Engineers, acquire flowage easements over all lands not subject to frequent overflow in the Atchafalaya Basin below the latitude of Krotz Springs.

Said Morganza floodway shall not be operated until the Wax Lake outlet has been put into operative condition.

The fuseplug levees at the head of the Atchafalaya Basin on the east side of the Atchafalaya River shall be reconstructed to the 1928 grade and section.

The United States may, in the discretion of the Chief of Engineers, acquire all flowage rights, flowage easements, rights-of-way for levee foundations, and titles in fee simple as herein provided, either by voluntary acquisition or in accordance with the condemnation proceedings by the Secretary of the Army as provided for in section 702d of this title.

In the event the United States acquires or owns title to any lands in fee simple under the provisions of sections 702a, 702b—702d, 702e—702g, 702h—702j, 702k, 702l, 702m, and 704 of this title, as amended and supplemented, the United States may retain the ownership thereof, or any part thereof instead of turning over such lands to the ownership of States or local interests as provided in section 702d of this title, and may lease such lands: *Provided*, That 25 per centum of all moneys received and deposited in the Treasury of the United States during any fiscal year on account of such leases shall be paid, at the end of such year, by the Secretary of the Treasury to the State in which such property is situated, to be expended as the State legislature may prescribe for the benefit of the public schools and public roads of the county or counties in which such property is situated: *Provided further*, That when such property is situated in more than one State or county the distributive share to each from the proceeds of such property shall be proportional to its area therein: *Provided further*, That no part of the appropriations heretofore authorized in sections 702a-1, 702a-2 to 702a-11, 702g-1, 702j-1, 702j-2, 702k-1, and 702k-2 of this title for said Morganza and Eudora floodways and extension shall be used for any other purpose. (June 15, 1936, ch. 548, as added June 28, 1938, ch. 795, § 4, 52 Stat. 1220.)

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was 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 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

EFFECT OF AMENDMENT

Act June 28, 1938 provided that, except as amended therein, the act of May 15, 1928, ch. 569, 45 Stat. 534, as amended by the act of June 15, 1936, as amended, should remain in full force and effect. Act May 15, 1928, is classified to section 702b et seq. of this title.

ABANDONMENT AND REPEAL OF PROJECTS

For abandonment of Boeuf Floodway and Eudora Floodway as well as Northward Extension and back protection levee extending from head of Eudora Floodway north to Arkansas River and repeal of provisions relating to prosecution of work, see section 702a-12 (a) of this title.

§ 702a-12. Same; modified Lower Mississippi River project as of August 18, 1941.

(a) The existing engineering plan for flood control in the alluvial valley of the Mississippi River is modified so as to provide for the construction of plan 4 as set forth in the report of the Mississippi River Commission, dated March 7, 1941, to the Chief of Engineers, except that the levees in the Yazoo Basin on the east bank of the Mississippi River south of the Coahoma-Bolivar County line in said plan shall have a three-foot freeboard over the project flood, and all levees shall be constructed with adequate section and foundation to conform to increased levee heights. The Boeuf Floodway in the project adopted by sections 702a, 702b—702d, 702e—702g, 702h—702j, 702k, 702l, and 702m of this title, and the Eudora Floodway as well as the North-

ward Extension and the back protection levee extending from the head of the said Eudora Floodway north to the Arkansas River in the project adopted by sections 702a-1, 702a-2 to 702a-11, 702g-1, 702j-1, 702j-2, 702k-1, and 702k-2 of this title, are abandoned, and the provisions of said sections relating to the prosecution of work on said floodways and extension are repealed.

(b) The project for flood control of the Yazoo River shall be as authorized by sections 701c-1, 702a-1, 702a-2 to 702a-12, 702g-1, 702j-1, 702j-2, 702k-1, and 702k-2 of this title, except that the Chief of Engineers may, in his discretion, from time to time, substitute therefor combinations of reservoirs, levees, and channel improvements; and except that the extension of the authorized project and improvements contemplated in plan C of the report of March 7, 1941, of the Mississippi River Commission are authorized, including the extension of the levee on the east bank of the Mississippi River generally along the west bank of the Yazoo River to a connection in the vicinity of Yazoo City with the Yazoo River levee, authorized by the existing project for protection against headwater floods of the Yazoo River system, and the adjustment in the discretion of the Chief of Engineers of the grades of the existing levees in the backwater area on the east bank of Yazoo River below Yazoo City, all at an estimated additional cost of \$11,982,000: *Provided*, That the Chief of Engineers shall fix the grade of the extension levees along the Yazoo River, with higher levees in his discretion, so that their construction will give the maximum practical protection without jeopardizing the safety and integrity of the main Mississippi River levees: *And provided further*, That prior to the beginning of construction local authorities shall furnish satisfactory assurances that they will (1) maintain the levees in accordance with the provisions of section 702c of this title, and will (2) not raise the levees in the backwater above the limiting elevations established therefor by the Chief of Engineers.

(c) In the development of the authorized project, the construction of a levee and improvements contemplated in the report of March 7, 1941, of the Mississippi River Commission from the main-line levee on the west bank of the Mississippi River in the vicinity of Shaw, Louisiana, westward and northward to the vicinity of Newlight, Louisiana, for the protection of that part of the Red River backwater known as the Tensas-Cocodrie area at an estimated cost of \$6,976,000 is authorized: *Provided*, That the Chief of Engineers shall fix the grade of said levee, with a higher levee in his discretion, so that its construction will give the maximum practical protection without jeopardizing the safety and integrity of the main Mississippi River levees: *And provided further*, That prior to the beginning of construction local authorities shall furnish satisfactory assurances that they will (1) maintain the levee in accordance with the provisions of section 702c of this title, and will (2) not raise the said levee above the limiting elevations established therefor by the Chief of Engineers: *Provided further*, That subject to the foregoing conditions of local cooperation the Chief of Engineers may in his discretion substitute other levees and appurtenant works for, or make such

modifications of, the levees and improvements herein authorized for the protection of the Tensas-Cocodrie area as may be found after further investigation to afford protection to a larger area in the Red River Backwater at a total cost not to exceed \$29,000,000 and without jeopardizing the safety and integrity of the main Mississippi River levees and without preventing or jeopardizing the diversions contemplated in the adopted project through the Atchafalaya River and Atchafalaya Basin.

(d) The Chief of Engineers, with approval of the Secretary of the Army, shall reimburse local authorities for actual expenditures found by the Chief of Engineers to be reasonable, for providing at the request of the United States, in accordance with local legal procedure or custom, rights-of-way and flowage easements required for future setbacks of main-line Mississippi River levees.

(e) The existing engineering plan for flood control of the Saint Francis River is modified so as to permit the substitution for the suspended portions of the original project below Oak Donnick, Arkansas, of the construction of a ditch in Cross County, Arkansas, beginning in the vicinity of the outlet end of the existing Oak Donnick to Saint Francis Bay floodway and terminating in Saint Francis Bay about two miles north of Riverfront, including the construction of a highway bridge at State Highway Numbered 42 made necessary by the ditch construction: *Provided*, That local interests give assurances satisfactory to the Secretary of the Army that they will (1) provide without cost to the United States all lands, easements, and rights-of-way necessary for the construction; (2) hold and save the United States free from damages due to the construction works; and (3) maintain the works after completion in accordance with regulations prescribed by the Secretary of the Army.

(f) In the development of the authorized project, the construction of improvements for Bayou Rapides, Boeuf, and Cocodrie, Louisiana, contemplated in the report dated March 24, 1941, of the Special Board of Officers at an estimated cost of \$2,600,000 is authorized.

(g) The total authorizations heretofore made for the flood control project of the alluvial valley of the Mississippi River shall not be increased by reason of any provision in sections 701b, 701b-2, 701c-2, 701c-3, 701g, 701n, 701n, 702a-1 $\frac{1}{4}$, 702a-12, and 702h-1 of this title, except for the additional amounts necessary for the Yazoo and Red River backwater improvements, and any appropriations heretofore or hereafter made or authorized for said project as herein or heretofore modified may be expended upon any feature of the said project, notwithstanding any restrictions, limitations, or requirements of existing law: *Provided*, That funds hereafter expended for maintenance shall not be considered as reducing present remaining balances of authorizations. (June 15, 1936, ch. 548, as added Aug. 18, 1941, ch. 377, § 3, 55 Stat. 642, and amended May 17, 1950, ch. 188, title II, § 204 (a), 64 Stat. 172.)

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was 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 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

AMENDMENTS

1950—Subsec. (c). Act May 17, 1950, substituted "29,000,000" for "\$14,000,000".

APPLICATION OF 1950 INCREASE IN AUTHORIZATION CONTAINED IN SUBSEC. (C) TO OLD AND ATCHAFALAYA RIVERS PROJECT

Section 203 of act Sept. 3, 1954, ch. 1264, title II, 68 Stat. 1258, in addition to authorizing an amount of \$32,000,000 for control of the Old and Atchafalaya Rivers and a lock for navigation, provided in part that the \$15,000,000 increase in authorization by act May 17, 1950 in amending subsec. (c) of this section (see 1950 Amendment note under this section), should be applied to such project.

§ 702b. Same; local contribution toward cost of flood-control work.

It is declared to be the sense of Congress that the principle of local contribution toward the cost of flood-control work, which has been incorporated in all previous national legislation on the subject, is sound, as recognizing the special interest of the local population in its own protection, and as a means of preventing inordinate requests for unjustified items of work having no material national interest. As a full compliance with this principle in view of the great expenditure estimated at approximately \$292,000,000, prior to May 15, 1928, made by the local interests in the alluvial valley of the Mississippi River for protection against the floods of that river; in view of the extent of national concern in the control of these floods in the interests of national prosperity, the flow of interstate commerce, and the movement of the United States mails; and, in view of the gigantic scale of the project, involving flood waters of a volume and flowing from a drainage area larger outside the States most affected, and far exceeding those of any other river in the United States, no local contribution to the project herein adopted is required. (May 15, 1928, ch. 569, § 2, 45 Stat. 535.)

§ 702c. Same; expenditures for construction work; conditions precedent; liability for damage from flood waters; condemnation proceedings; floodage rights.

Except when authorized by the Secretary of the Army upon the recommendation of the Chief of Engineers, no money appropriated under authority of sections 702a, 702b—702d, 702e—702g, 702h—702j, 702k, 702l, and 702m of this title shall be expended on the construction of any item of the project until the States or levee districts have given assurances satisfactory to the Secretary of the Army that they will (a) maintain all flood-control works after their completion, except controlling and regulating spillway structures, including special relief levees; maintenance includes normally such matters as cutting grass, removal of weeds, local drainage, and minor repairs of main river levees; (b) agree to accept land turned over to them under the provisions of section 702d of this title; (c) provide without cost to the United States, all rights-of-way for levee foundations and levees on the main stem of the Mississippi

River between Cape Girardeau, Missouri, and the Head of Passes.

No liability of any kind shall attach to or rest upon the United States for any damage from or by floods or flood waters at any place: *Provided, however*, That if in carrying out the purposes of sections 702a, 702b—702d, 702e—702g, 702h—702j, 702k, 702l, and 702m of this title it shall be found that upon any stretch of the banks of the Mississippi River it is impracticable to construct levees, either because such construction is not economically justified or because such construction would unreasonably restrict the flood channel, and lands in such stretch of the river are subjected to overflow and damage which are not now overflowed or damaged by reason of the construction of levees on the opposite banks of the river it shall be the duty of the Secretary of the Army and the Chief of Engineers to institute proceedings on behalf of the United States Government to acquire either the absolute ownership of the lands so subjected to overflow and damage or floodage rights over such lands. (May 15, 1928, ch. 569, § 3, 45 Stat. 535.)

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was 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 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

CROSS REFERENCES

Payment or reimbursement by Secretary of the Army for levee rights-of-way or easements, see section 702n of this title.

§ 702d. Same; flowage rights; condemnation proceedings; benefits to property.

The United States shall provide flowage rights for additional destructive flood waters that will pass by reason of diversions from the main channel of the Mississippi River: *Provided*, That in all cases where the execution of the flood-control plan herein adopted results in benefits to property such benefits shall be taken into consideration by way of reducing the amount of compensation to be paid.

The Secretary of the Army may cause proceedings to be instituted for the acquirement by condemnation of any lands, easements, or rights of way which, in the opinion of the Secretary of the Army and the Chief of Engineers, are needed in carrying out this project, the said proceedings to be instituted in the United States district court for the district in which the land, easement, or right of way is located. In all such proceedings the practice, pleadings, forms, and modes of proceedings shall conform as near as may be to the practice, pleadings, forms, and proceedings existing at the time in like causes in the courts of record of the State within which such district court is held, any rule of the court to the contrary notwithstanding. When the owner of any land, easement, or right of way shall fix a price for the same which, in the opinion of the Secretary of the Army is reasonable, he may purchase the same at such price; and the Secretary of the Army is also authorized to accept donations of lands, easements, and rights of

way required for this project. The provisions of sections 594 and 595 of this title are made applicable to the acquisition of lands, easements, or rights of way needed for works of flood control: *Provided*, That any land acquired under the provisions of this section shall be turned over without cost to the ownership of States or local interests. (May 15, 1928, ch. 569, § 4, 45 Stat. 536; Nov. 30, 1945, ch. 496, 59 Stat. 587.)

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was 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 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

AMENDMENTS

1945—Act Nov. 30, 1945, substituted second sentence of second par. for a sentence which read "In all such proceedings the court, for the purpose of ascertaining the value of the property and assessing the compensation to be paid, shall appoint three commissioners, whose award, when confirmed by the court, shall be final."

CROSS REFERENCES

Lands acquired for construction of Bonnet Carre Spillway and Floodway not to be subject to this section, see section 702d-1 of this title.

§ 702d-1. Same; Bonnet Carre Spillway and Floodway; rights-of-way, etc., over lands.

The last proviso in section 702d of this title shall not apply to the lands heretofore acquired or that may be hereafter acquired in connection with the construction, maintenance, or operation of the Bonnet Carre Spillway and Floodway. The Secretary of the Army is authorized to grant to any citizen, association, railroad, or other corporation, State or public agency thereof, rights-of-way, easements, and permits, over, across, in, and upon said lands for railway, highway, telephone, telegraph, and pipe-line crossings, and other purposes. The grants issued in pursuance of this authority shall be under such terms and conditions as the Secretary of the Army may deem advisable for the protection of the public interests, and may be perpetual or temporary in his discretion. (Feb. 15, 1933, ch. 76, 47 Stat. 810.)

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was 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 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

§ 702e. Same; maps for project; preparation.

Subject to the approval of the heads of the several executive departments concerned, the Secretary of the Army, on the recommendation of the Chief of Engineers, may engage the services and assistance of the Coast and Geodetic Survey, the Geological Survey, or other mapping agencies of the Government, in the preparation of maps required in furtherance of this project, and funds to pay for such services may be allotted from appropriations made under

authority of section 702a or 702g of this title. (May 15, 1928, ch. 569, § 5, 45 Stat. 536.)

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was 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 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

TRANSFER OF FUNCTIONS

The functions of all officers of the Department of Commerce and all functions of all officers and employees of such Department, were, with a few exceptions, transferred to the Secretary of Commerce, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 5, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1263, set out in note under section 591 of Title 5, Executive Departments and Government Officers and Employees. The Coast and Geodetic Survey, referred to in this section, is an agency within the Department of Commerce.

All functions of all other officers of the Department of the Interior, and all functions of all agencies and employees of such Department, were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 3 §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in note under section 481 of Title 5, Executive Departments and Government Officers and Employees. The Geological Survey, referred to in this section, is an agency of the Department of the Interior.

§ 702f. Same; expenditures for earlier projects.

Funds appropriated under authority of section 702a of this title may be expended for the prosecution of such works for the control of the floods of the Mississippi River as have, prior to May 15, 1928, been authorized and are not included in the present project, including levee work on the Mississippi River between Rock Island, Illinois, and Cape Girardeau, Missouri, and on the outlets and tributaries of the Mississippi River between Rock Island and Head of Passes insofar as such outlets or tributaries are affected by the backwaters of the Mississippi: *Provided*, That for such work on the Mississippi River between Rock Island, Illinois, and Cape Girardeau, Missouri, and on such tributaries, the States or levee districts shall provide rights-of-way without cost to the United States, contribute 33 1/3 per centum of the costs of the works, and maintain them after completion: *And provided further*, That not more than \$10,000,000 of the sums authorized in section 702a of this title, shall be expended under the provisions of this section.

In an emergency, funds appropriated under authority of section 702a of this title may be expended for the maintenance of any levee when it is demonstrated to the satisfaction of the Secretary of the Army that the levee cannot be adequately maintained by the State or levee district. (May 15, 1928, ch. 569, § 6, 45 Stat. 536.)

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was 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 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

§ 702g. Same; appropriation for emergency fund.

The sum of \$5,000,000 is authorized to be appropriated as an emergency fund to be allotted by the Secretary of the Army on the recommendation of the Chief of Engineers, in rescue work or in the repair or maintenance of any flood-control work on any tributaries of the Mississippi River threatened or destroyed by flood including the flood of 1927: *Provided*, That the unexpended and unallotted balance of said sum, or so much thereof as may be necessary, may be allotted by the Secretary of the Army on the recommendation of the Chief of Engineers in the reimbursement of levee districts or others for expenditures heretofore incurred or made for the construction, repair, or maintenance of any flood-control work on any tributaries or outlets of the Mississippi River that may be threatened, impaired, or destroyed by the flood of 1927 or subsequent flood or that have been impaired, damaged, or destroyed by flood; and also in the construction, repair, or maintenance, and in the reimbursement of levee districts or others for the construction, repair, or maintenance of any flood-control work on any of the tributaries or outlets of the Mississippi River that have been impaired, damaged, or destroyed by caving banks or that may be threatened or impaired by caving banks of such tributaries, whether or not such caving has taken place during a flood stage: *Provided further*, That if the Chief of Engineers finds that it has been or will be necessary or advisable to change the location of any such flood-control work in order to provide the protection contemplated by this section, such change may be approved and/or authorized. (May 15, 1928, ch. 569, § 7, 45 Stat. 537; June 19, 1930, ch. 542, 46 Stat. 787.)

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was 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 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

AMENDMENTS

1930—Act June 19, 1930, added provisos.

CROSS REFERENCES

Rescue work and repair and maintenance of projects threatened by flood, generally, see section 701n of this title.

§ 702g—1. Same; additional appropriation for emergency fund.

The sum of \$15,000,000 is authorized to be appropriated as an emergency fund to be allocated by the Secretary of the Army on the recommendation of the Chief of Engineers in rescue work or in the repair or maintenance of any flood-control work on any tributary of the Mississippi River threatened or destroyed by flood heretofore or hereafter occurring: *Provided*, That the unexpended and unallotted

balance of said sum, or so much thereof as may be necessary, may be allotted by the Secretary of the Army, on the recommendation of the Chief of Engineers, in the reimbursement of levee districts or others for expenditures incurred or made prior to June 15, 1936 for the construction, repair, or maintenance of any flood-control work on any tributaries or outlets of the Mississippi River that may be threatened, impaired, or destroyed by the flood of 1927 or subsequent flood; and also in the construction, repair, or maintenance, and in the reimbursement of levee districts or others for the construction, repair, or maintenance of any flood-control work on any of the tributaries or outlets of the Mississippi River that may have been impaired, damaged, or destroyed by caving banks or that may be threatened or impaired by caving banks, of such tributaries, whether or not such caving has taken place during a flood stage: *Provided further*, That if the Chief of Engineers finds that it has been or will be necessary or advisable to change the location of any such flood-control work in order to provide the protection contemplated by this section, such change may be approved and authorized. (June 15, 1936, ch. 548, § 9, 49 Stat. 1511.)

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was 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 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

§ 702h. Same; prosecution of project by Mississippi River Commission; president of commission; salaries.

The project authorized shall be prosecuted by the Mississippi River Commission under the direction of the Secretary of the Army and supervision of the Chief of Engineers and subject to the provisions of sections 702a, 702b—702d, 702e—702g, 702h—702j, 702k, 702l, and 702m of this title. It shall perform such functions and through such agencies as they shall designate after consultation and discussion with the president of the commission. For all other purposes the existing laws governing the constitution and activities of the commission shall remain unchanged. The commission shall make inspection trips of such frequency and duration as will enable it to acquire first-hand information as to conditions and problems germane to the matter of flood control within the area of its jurisdiction; and on such trips of inspection ample opportunity for hearings and suggestions shall be afforded persons affected by or interested in such problems. The president of the commission shall be the executive officer thereof and shall have the qualifications prescribed by law on May 15, 1928, for the Assistant Chief of Engineers, shall have the title brigadier general, Corps of Engineers, and shall have the rank, pay, and allowances of a brigadier general while actually assigned to such duty: *Provided*, That the incumbent of the office on May 15, 1928, may be appointed a brigadier general of the Army, retired, and shall be eligible for the position of president of the commission if

recalled to active service by the President under the provisions of existing law.

The official salary of any officer of the United States Army or other branch of the Government appointed or employed under sections 702a, 702b—702d, 702e—702g, 702h—702j, 702k, 702l, and 702m of this title shall be deducted from the amount of salary or compensation provided by, or which shall be fixed under, the terms of such sect. (May 15, 1928, ch. 569, § 8, 45 Stat. 537.)

CODIFICATION

Provisions of the second paragraph which fixed the salaries of the President of the Mississippi River Commission and of the other members were omitted since the positions referred to are now in the classified civil service and subject to the applicable compensation schedules.

The authority for covering excepted positions into the classified civil service was given the President by section 631a of Title 5, Executive Departments and Government Officers and Employees. By Executive Order 8743, Apr. 25, 1941, set it as a note under section 631a of Title 5, the President exercised this authority with respect to many previously excepted positions.

For positions now covered by the Classification Act of 1949, see sections 1081 and 1082 of Title 5. For the power of the Civil Service Commission to determine the applicability of those sections to specific positions, see section 1083 of Title 5.

The Department of War was designated the Department of the Army and the title of the Secretary of War was 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 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

CROSS REFERENCES

Retirement rank, pay, and allowances of officer of Corps of Engineers serving 4 years as President of Mississippi River Commission, see section 642a of this title.

§ 702h-1. Same; rank, pay, and allowances of Corps of Engineers officer serving as President of Mississippi River Commission.

CODIFICATION

Section has been transferred to section 642a of this title.

§ 702i. Same; certain sections applicable to property and rights acquired or constructed.

The provisions of sections 407, 408, 411, 412, and 413 of this title are made applicable to all lands, waters, easements, and other property and rights acquired or constructed under the provisions of sections 702a, 702b—702d, 702e—702g, 702h—702j, 702k, 702l, and 702m of this title. (May 15, 1928, ch. 569, § 9, 45 Stat. 537.)

§ 702j. Same; projects relating to tributary streams; report to Congress; appropriation.

It is the sense of Congress that the surveys of the Mississippi River and its tributaries authorized pursuant to the Act of January 21, 1927 [ch. 47, 44 Stat. 1010], and House Document Numbered 308, Sixty-ninth Congress, first session, be prosecuted as speedily as practicable, and the Secretary of the Army, through the Corps of Engineers, United States Army, is directed to prepare and submit to Congress at the earliest practicable date projects for flood control on all tributary streams of the Mississippi River system subject to destructive floods which projects shall include: The Red River and tributaries, the Yazoo River and tributaries, the White River and tribu-

taries, the Saint Francis River and tributaries, the Arkansas River and tributaries, the Ohio River and tributaries, the Missouri River and tributaries, and the Illinois River and tributaries; and the reports thereon, in addition to the surveys provided by said House Document 308, Sixty-ninth Congress, first session, shall include the effect on the subject of further flood control of the lower Mississippi River to be attained through the control of the flood waters in the drainage basins of the tributaries by the establishment of a reservoir system; the benefits that will accrue to navigation and agriculture from the prevention of erosion and siltage entering the stream; a determination of the capacity of the soils of the district to receive and hold waters from such reservoirs; the prospective income from the disposal of reservoir waters; the extent to which reservoir waters may be made available for public and private uses; and inquiry as to the return flow of waters placed in the soils from reservoirs, and as to their stabilizing effect on stream flow as a means of preventing erosion, siltage, and improving navigation: *Provided*, That before transmitting such reports to Congress the same shall be presented to the Mississippi River Commission, and its conclusions and recommendations thereon shall be transmitted to Congress by the Secretary of the Army with his report.

The sum of \$5,000,000 is authorized to be used out of the appropriation authorized in section 702a of this title, in addition to amounts authorized in the River and Harbor Act of January 21, 1927 [ch. 47, 44 Stat. 1010], to be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineer or the preparation of the flood-control projects authorized to be submitted to Congress under this section: *Provided further*, That the flood surveys herein provided for shall be made simultaneously with the flood-control work on the Mississippi River provided for in sections 702a, 702b—702d, 702e—702g, 702h—702j, 702k, 702l, and 702m of this title: *And provided further*, That the President shall proceed to ascertain through the Secretary of Agriculture and such other agencies as he may deem proper, the extent to and manner in which the floods in the Mississippi Valley may be controlled by proper forestry practice. (May 15, 1928, ch. 569, § 10, 45 Stat. 538.)

REFERENCES IN TEXT

The act of January 21, 1927 [ch. 47, 44 Stat. 1010], referred to in text, was not classified to the Code except for subsecs. (b) and (d) of section 5 which were classified to sections 569 and 584 of this title.

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was 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 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F. R. 3219, 67

Stat. 633, set out as a note under section 511 of Title 5, Executive Departments and Government Officers and Employees.

§ 702j-1. Same; Saint Francis and Yazoo Rivers; lands and easements; alteration of highways; cooperation of States.

(a) Neither of the projects for the flood control of the Saint Francis River or the Yazoo River, authorized by sections 702a-1, 702a-2 to 702a-12, 702g-1, 702j-1, 702j-2, 702k-1, and 702k-2 of this title, shall be undertaken until the States, or other qualified agencies, shall have furnished satisfactory assurances that they will undertake, without cost to the United States, all alterations of highways made necessary because of the construction of the authorized reservoirs, and meet all damages because of such highway alterations, and have agreed also to furnish without cost to the United States all lands and easements necessary to the construction of levees and drainage ditches constructed under this project: *Provided*, That the reservoirs for control of headwater flow of the Yazoo River system may be located by the Chief of Engineers, in his discretion: *And provided further*, That the Chief of Engineers may, in his discretion, substitute levees, floodways, or auxiliary channels, or any or all of them, for any or all of the seven detention reservoirs recommended in his report of February 12, 1935, for the control of floods of the Yazoo River: *And provided further*, That the Chief of Engineers, with the approval of the Secretary of the Army, may modify the project for the flood control of the Saint Francis River as recommended in said report, to include therein the construction of a detention reservoir for the reduction of floods, and the acquisition at the cost of the United States of all lands and flowage necessary to the construction of said reservoir except flowage of highways: *Provided further*, That the estimated cost to the United States of the project is not increased by reason of such detention reservoir.

(b) The Chief of Engineers may, in his discretion, modify the project for the control of floods on the Yazoo River, as authorized by subsection (a) of this section, to substitute therefor a combined reservoir floodway and levee plan: *Provided*, That the total cost thereof does not exceed the present authorization as estimated in House Committee on Flood Control Document Numbered 1, Seventy-fourth Congress, first session: *Provided further*, That the modified project shall be subject to the following conditions of local cooperation:

No work shall be undertaken until the States or other qualified agencies have furnished satisfactory assurances that they will—

(1) undertake, without cost to the United States, all alterations of highways made necessary because of the construction of reservoirs and meet all damages because of such highway alterations; and

(2) furnish, without cost to the United States, all lands and easements necessary to the construction of levees and drainage ditches. (June 15, 1936, ch. 548, § 4, 49 Stat. 1509; Aug. 28, 1937, ch. 877, § 6, 50 Stat. 880.)

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was 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 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

Subsection (a) is comprised of act June 15, 1936, while subsec. (b) is from act Aug. 28, 1937.

§ 702j-2. Same; White River Levee District; rights-of-way; drainage facilities; flowage rights; acquisition by local authorities; protection of United States from liability for damages.

The Chief of Engineers, under the supervision of the Secretary of the Army, shall at the expense of the United States Government construct a system of levees substantially in accordance with general plan shown on map designated as sheet numbered 1 entitled "Tributary Levee Location Survey—White River Levee District—Proposed Levee Location" accompanying report dated April 2, 1925, and filed in office of First and Second Mississippi River Commission Districts, Memphis, Tennessee. The Chief of Engineers shall have the right to alter, change, or modify said plan as to the grades and levee sections: *Provided, however*, That no work shall be commenced on the above-mentioned project until the State, levee boards, or other responsible local interests have given assurances satisfactory to the Secretary of the Army that they will (a) provide without cost to the United States all rights-of-way necessary for the construction of said project; (b) provide drainage facilities made necessary by construction of levees; (c) acquire and provide without cost to the United States all flowage and storage rights and easements over, upon, and across the lands and properties within the protected area in the event it becomes necessary in the judgment and discretion of the Secretary of the Army or the Chief of Engineers to use said area, or any part thereof, for an emergency reservoir; (d) hold and save the United States free from liability for damages on account of the use of said area for reservoir purposes during said emergency. (June 15, 1936, ch. 548, § 5, 49 Stat. 1509.)

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was 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 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

§ 702k. Same; surveys below Cape Girardeau, Missouri; resurvey of levee in Tennessee.

The Secretary of the Army shall cause the Mississippi River Commission to make an examination and survey of the Mississippi River below Cape Girardeau, Missouri, (a) at places where levees have prior to May 15, 1928, been constructed on one side of the river and the lands on the opposite side have been thereby subjected to greater overflow, and where, without unreasonably restricting the flood channel, levees can be constructed to reduce the extent of this overflow, and where the construction of such levees is economically justified, and report thereon to the Congress as soon as practicable with such

recommendations as the commission may deem advisable; (b) with a view to determining the estimated effects, if any, upon lands lying between the river and adjacent hills by reason of overflow of such lands caused by the construction of levees at other points along the Mississippi River, and determining the equities of the owners of such lands and the value of the same, and the commission shall report thereon to the Congress as soon as practicable with such recommendation as it may deem advisable: *Provided*, That inasmuch as the Mississippi River Commission made a report on the 26th day of October 1912, recommending a levee to be built from Tiptonville, Tennessee, to the Obion River in Tennessee, the said Mississippi River Commission is authorized to make a resurvey of said proposed levee and a relocation of the same if necessary, and if such levee is found feasible, and is approved by the board created in section 702a of this title, and by the President the same shall be built out of appropriations made after May 15, 1928. (May 15, 1928, ch. 569, § 11, 45 Stat. 538.)

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was 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 Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces", which in sections 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

§ 702k-1. Same; appropriation.

\$272,000,000 is authorized to be appropriated for the carrying out of the modified adopted project, and all unexpended balances of appropriations heretofore made for the prosecution of said flood-control project are made available for the purposes of sections 702a-1, 702a-2 to 702a-12, 702g-1, 702j-1, 702j-2, 702k-1, and 702k-2 of this title. (June 15, 1936, ch. 548, § 13, 49 Stat. 1513.)

§ 702k-2. Same; separability of provisions.

If any provision of sections 702a-1, 702a-2 to 702a-12, 702g-1, 702j-1, 702j-2, and 702k-1 of this title, or the application thereof, to any person or circumstances, is held invalid, the remainder of the said sections, and the application of such provisions to other persons or circumstances, shall not be affected thereby. (June 15, 1936, ch. 548, § 14, 49 Stat. 1513.)

§ 702l. Same; repeal of inconsistent laws.

All laws or parts of laws inconsistent with sections 702a, 702b—702d, 702e—702g, 702h—702j, and 702k of this title, are repealed. (May 15, 1928, ch. 569, § 12, 45 Stat. 539.)

§ 702m. Same; interest of Members of Congress in contracts for acquisition of land.

In every contract or agreement to be made or entered into for the acquisition of land either by private sale or condemnation as in sections 702a, 702b—702d, 702e—702g, 702h—702j, 702k, 702l, and 702m of this title provided the provisions contained in section 22 of Title 41 shall be applicable. (May 15, 1928, ch. 569, § 14, 45 Stat. 539.)

§ 702n. Levee rights-of-way; payment or reimbursement for.

The Secretary of the Army is authorized, out of any money available for carrying out the provisions of sections 702a, 702b—702d, 702e—702g, 702h—702j, 702k, 702l, and 702m of this title, to purchase from, or to reimburse States or local levee districts for the cost of, any levee rights-of-way or easements for the building of levees in the Mississippi Valley for which the United States was or ' under obligation to pay under the provisions of said sections regardless of whether said States or local levee districts have furnished such rights-of-way in the past and regardless of the conditions under which such levee rights-of-way were furnished, or may be furnished in the future: *Provided*, That after careful investigation the prices are found to be reasonable: *And provided further*, That payments or reimbursements for levee rights-of-way or easements conveying the privilege of building levees may be made as soon as they have been acquired in conformity with local custom or legal procedure in such matters and to the satisfaction of the Chief of Engineers. (Apr. 23, 1934, ch. 159, 48 Stat. 607.)

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was 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 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

§ 703. Sacramento River, California.

Flood-control works authorized.—For controlling the floods, removing the debris, and continuing the improvement of the Sacramento River, California, in accordance with the plans of the California Debris Commission, the Secretary of the Army is authorized and directed to carry on continuously, by hired labor or otherwise, the plan of said commission contained in its report submitted August 10, 1910, and printed in House Document Numbered 81, Sixty-second Congress, first session, as modified by the report of said commission submitted February 8, 1913, approved by the Chief of Engineers of the United States Army and the Board of Engineers for Rivers and Harbors, and printed in Rivers and Harbors Committee Document Numbered 5, Sixty-third Congress, first session, insofar as said plan provides for the rectification and enlargement of river channels and the construction of weirs, to be paid for as appropriations may from time to time be made by law, not to exceed in the aggregate \$5,600,000: *Provided*, That not more than \$1,000,000 shall be expended therefor during any one fiscal year.

Limitation on expenditure of appropriations generally.—(a) All money appropriated under authority of this section shall be expended under the direction of the Secretary of the Army, in accordance with the plans, specifications, and recommendations of the California Debris Commission, as approved by the Chief of Engineers, for the control of floods, removal of debris, and the general improvement of the Sacramento River: *Provided*, That no money shall be

expended under authority of this section until assurances have been given satisfactory to the Secretary of the Army (a) that the State of California will contribute annually for such work a sum equal to such sum as may be expended annually therefor by the United States under authority of this section; (b) that such equal contributions by the State of California will continue annually until the full equal share of the cost of such work shall have been contributed by said State; and (c) that the river levees contemplated in the report of the California Débris Commission, dated August 10, 1910, will be constructed to such grade and section and within such time as may be required by said commission: *Provided further*, That said State shall not be required to expend for such work, for any one year, a sum larger than that expended thereon by the United States during the same year: *And provided further*, That the total contributions so required of the State of California shall not exceed in the aggregate \$5,600,000.

Expenditure of contributions by State of California; acquisition of sites, easements, etc.—(b) All money contributed by the State of California, as herein provided, shall be expended under the direction of the California Débris Commission and in such manner as it may require or approve, and no money appropriated under authority of this section shall be expended in the purchase of or payment for any right-of-way, easement, or land acquired for the purposes of this improvement, but all such rights-of-way, easements, and lands shall be provided free of cost to the United States: *Provided*, That no money paid or expense incurred therefor shall be computed as a part of the contribution of the State of California toward the work of improvement herein provided for within the meaning of paragraph (a) of this section.

Maintenance of works for flood control by State of California.—(c) Upon the completion of all works for flood control herein authorized the said works shall be turned over to the State of California for maintenance thereafter; but for all other purposes the United States shall retain such control over the same as it may have the right to exercise upon such completion. (Mar. 1, 1917, ch. 144, § 2, 39 Stat. 949.)

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was 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 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

See note to section 701 of this title.

CROSS REFERENCES

Classification as trust funds, appropriation and disbursement of funds contributed for rivers and harbors, and funds contributed for flood control, see section 725s (64, 78) of Title 31, Money and Finance.

Modification of Sacramento River project, see section 704 of this title.

§ 704. Same; modification of project.

The project for the control of floods in the Sacramento River, California, adopted by section 703 of this title, is modified in accordance with the re-

port of the California Débris Commission submitted in Senate Document Numbered 23, Sixty-ninth Congress, first session; *Provided*, That the total amounts contributed by the Federal Government, including the amounts heretofore contributed by it, shall in no event exceed in the aggregate \$17,600,000. (May 15, 1928, ch. 569, § 13, 45 Stat. 539.)

§ 705. Salmon River, Alaska; flood-control work authorized.

The project of prevention and control of floods in the Salmon River, Alaska, recommended in the report of the Chief of Engineers, United States Army, in House Document Numbered 228, Seventy-second Congress, is adopted and authorized and shall be prosecuted under the direction of the Secretary of the Army and the supervision of the Chief of Engineers in accordance with the plan recommended in such report and subject to the conditions set forth therein. (June 18, 1934, ch. 581, 48 Stat. 991.)

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was 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 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

§ 706. Weather Bureau; current information; appropriation.

There is authorized an expenditure as required, from any appropriations heretofore or hereafter made for flood control, rivers and harbors, and related purposes by the United States, for the establishment, operation, and maintenance by the Weather Bureau of a network of recording and non-recording precipitation stations, known as the Hydroclimatic Network, whenever in the opinion of the Chief of Engineers and the Chief of the Weather Bureau such service is advisable in connection with either preliminary examinations and surveys or works of improvement authorized by the law for flood control, rivers and harbors, and related purposes, and the Secretary of the Army upon the recommendation of the Chief of Engineers is authorized to allot the Weather Bureau funds for said expenditure. (June 28, 1938, ch. 795, § 8, 52 Stat. 1226; Sept. 3, 1954, ch. 1264, title II, § 207, 68 Stat. 1266.)

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was 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 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

AMENDMENTS

1954—Act Sept. 3, 1954, removed the \$375,000 limitation on transfers to the Weather Bureau for providing basic hydrologic and climatic information; inserted references to "rivers and harbors, and related purposes" after "flood control," in two places; and substituted "network of recording and nonrecording precipitation stations,

known as the Hydroclimatic Network" for "current information service on precipitation, flood forecasts, and flood warnings"

TRANSFER OF FUNCTIONS

The functions of all other officers of the Department of Commerce and all functions of all agencies and employees of such Department were, with a few exceptions, transferred to the Secretary of Commerce, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 5, § 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1263, set out in note under section 591 of Title 5, Executive Departments and Government Officers and Employees. The Weather Bureau, referred to in this section, is a bureau of the Department of Commerce and the Chief of the Weather Bureau, referred to in this section, is an officer of such Department.

§ 707. Alamogordo Dam and Reservoir; declaration of purpose; report to Congress; appropriation.

The Alamogordo Dam and Reservoir on the Pecos River, New Mexico, is authorized and declared to be for the purposes of controlling floods, regulating the flow of the Pecos River, providing for storage and for delivery of stored waters, for the reclamation of lands, and other beneficial uses, and said dam and reservoir shall be used, first, for irrigation; second, for flood control and river regulation; and third, for other purposes. The Chief of Engineers and the Secretary of the Army are directed to report to the Congress the amount of the total cost of said Alamogordo Dam and Reservoir which is properly allocable to flood control. The appropriation and transfer of such amount from the general fund of the Treasury to the reclamation fund, for credit by reduction of the maximum obligation of the Carlsbad Irrigation District to repay the total cost thereof, is authorized. (Aug. 11, 1939, ch. 699, § 7, 53 Stat. 1417.)

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was 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 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

§ 708. Sale of surplus waters for domestic and industrial uses; disposition of moneys.

The Secretary of the Army is authorized to make contracts with States, municipalities, private concerns, or individuals, at such prices and on such terms as he may deem reasonable, for domestic and industrial uses for surplus water that may be available at any reservoir under the control of the Department of the Army: *Provided*, That no contracts for such water shall adversely affect then existing lawful uses of such water. All moneys received from such contracts shall be deposited in the Treasury of the United States as miscellaneous receipts. (Dec. 22, 1944, ch. 665, § 6, 58 Stat. 890; May 23, 1952, ch. 328, § 1 (a), 66 Stat. 93.)

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was 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 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

AMENDMENTS

1952—Act May 23, 1952, revived and reenacted this section.

REPEALS

Act May 23, 1952 § 1(b), repealed paragraph (59) of section 1 of act Oct. 31, 1951, ch. 654, 65 Stat. 703, which had previously repealed this section.

SECRETARY OF THE AIR FORCE

For transfer of certain personal property and functions relating thereto, insofar as they pertain to the Air Force, from the Secretary of the Army and Department of the Army to the Secretary of the Air Force and Department of the Air Force, see Secretary of Defense Transfer Order No. 39, eff. May 18, 1949, and 40 [App. B (98)], July 22, 1949.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of Title 43, Public Lands.

§ 709. Regulations for use of storage waters; application to Tennessee Valley Authority.

It shall be the duty of the Secretary of the Army to prescribe regulations for the use of storage allocated for flood control or navigation at all reservoirs constructed wholly or in part with Federal funds provided on the basis of such purposes, and the operation of any such project shall be in accordance with such regulations: *Provided*, That this section shall not apply to the Tennessee Valley Authority, except that in case of danger from floods on the Lower Ohio and Mississippi Rivers the Tennessee Valley Authority is directed to regulate the release of water from the Tennessee River into the Ohio River in accordance with such instructions as may be issued by the Department of the Army. (Dec. 22, 1944, ch. 665, § 7, 58 Stat. 890.)

CODIFICATION

The Department of War was designated the Department of the Army and the title of the Secretary of War was 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 3011—3013 continued the military Department of the Army under the administrative supervision of a Secretary of the Army.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of Title 43, Public Lands.

CROSS REFERENCES

Tennessee Valley Authority, see section 831 et seq. of Title 16, Conservation.

§ 709a. Compilation and dissemination of information on floods and flood damages; engineering advice; allotment from appropriations.

(a) In recognition of the increasing use and development of the flood plains of the rivers of the United States and of the need for information on flood hazards to serve as a guide to such development, and as a basis for avoiding future flood hazards by regulation of use by States and municipalities, the Secretary of the Army, through the Chief of Engineers, Department of the Army, is authorized

to compile and disseminate information on floods and flood damages, including identification of areas subject to inundation by floods of various magnitudes and frequencies, and general criteria for guidance in the use of flood plain areas; and to provide engineering advice to local interests for their use in planning to ameliorate the flood hazard: *Provided*, That the necessary surveys and studies will be made and such information and advice will be provided for specific localities only upon the request of a State or a responsible local governmental agency and upon approval by the Chief of Engineers.

(b) The Secretary of the Army is authorized to allot, from any appropriations hereafter made for flood control, sums not to exceed \$1,000,000 in any one fiscal year for the compilation and dissemination of such information. (Pub. L. 86-645, title II, § 206, July 14, 1960, 74 Stat. 500.)

Chapter 16.—LIGHTHOUSES

Sec.

711—715. Omitted.

716. Repealed.

717. Detail of Army engineers as construction aids.

717a. Detail of superintendents and engineers to duty at Washington.

718. Repealed.

719. Additional compensation to civil, military, or naval officers prohibited.

720, 720a. Repealed.

721. Power of Commissioner to settle damage claims.

721a—724. Repealed.

725. Prohibition against officers and employees being interested in contracts for materials, etc.

726. Repealed.

727. Lighthouse and other sites; necessity for cession by State of jurisdiction.

728. Sufficiency of cession by State; service of State process in lands ceded.

729, 730. Repealed.

730a. Sites for pierhead beacons.

731, 732. Repealed.

733. Approval by Attorney General of title to site before expenditure of moneys; acquisition by United States of jurisdiction over lands.

734. Repealed.

735. Marking pierheads in certain lakes.

736. Repealed.

737, 738. Omitted.

739—742. Repealed.

743. Lighthouse districts.

744. Superintendents of lighthouses; salary.

745. Repealed.

745a. Traveling expenses of new appointees to isolated posts outside United States.

746—747a. Repealed.

747b. Lighthouse keepers; traveling expenses incurred in obtaining medical attention.

748. Teachers for children of lighthouse keepers.

748a. Transportation expenses for school children.

749. Repealed.

750. Leave of absence to employees of Lighthouse Service.

751—752a. Repealed.

752b. Disposal of material to Boy Scouts of America.

753, 754. Repealed.

754a. Purchase of commissary and quartermaster supplies.

756—762. Repealed.

763. Retirement for age of officers and employees generally; retirement pay; waiver of retirement pay.

763-1. Increase of retired pay.

763-2. Additional increase of retired pay.

763a. Repealed.

763a-1. Retirement, exceptions for age and period of service.

763a-2. Same; application to persons of Coast Guard.

763b. Repealed.

Sec.

763c. Hospital facilities for officers and employees.

764. Privilege of employee to continue service after retirement age.

765. Retirement for disability.

766. Restoration to active duty after retirement for disability.

767—769. Repealed.

770. Regulations for expenditure of moneys accruing from commutation of rations and provisions.

771. Benefits for widows of Lighthouse Service personnel; death of employee during retirement; amount of payment.

772. Same; death of employee due to non-service-connected causes after 15 years' service; amount of payment.

773. Same; application for benefits.

774. Same; rules and regulations.

775. Same; payments non-assignable and exempt from process.

§§ 711—715. Omitted.

CODIFICATION

Sections related to the establishment of the Bureau of Lighthouses in the Department of Commerce. The Bureau of Lighthouses and its functions were transferred to and consolidated with the Coast Guard in the Department of the Treasury to be administered as a part thereof by 1939 Reorg. Plan No. II, § 2 (a), eff. July 1, 1939, 4 F. R. 2731, 53 Stat. 1432, set out in note to section 1337 of Title 5, Executive Departments and Government Officers and Employees. Further provision to perfect the consolidation of the Lighthouse Service with the Coast Guard by authorizing the commissioning, appointment, and enlistment in the Coast Guard, of certain officers and employees of the Lighthouse Service, was made by act Aug. 5, 1939, ch. 477, 53 Stat. 1216.

Section 711, acts June 17, 1910, ch. 301, § 4, 36 Stat. 537; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; June 5, 1920, ch. 264, § 2, 41 Stat. 1059; July 3, 1930, ch. 850, 46 Stat. 1003; Aug. 16, 1937, ch. 665, § 4, 50 Stat. 667, related to establishment of Bureau of Lighthouses, personnel, salaries, and annual reports.

Section 712, act July 27, 1912, ch. 255, § 2, 37 Stat. 239, as amended by act Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736, authorized designation of acting commissioner.

Section 713, act June 17, 1910, ch. 301, § 10, 36 Stat. 538, as amended by act Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736, related to regulations for Lighthouse Service.

Section 714, act June 17, 1910, ch. 301, § 6, 36 Stat. 538, as amended by act Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736, transferred duties of Lighthouse Board to Commissioner of Lighthouses.

Section 715, act June 17, 1910, ch. 301, § 5, 36 Stat. 537, related to the transfer of employees.

§ 716. Repealed. Aug. 4, 1949, ch. 393, § 20, 63 Stat. 561.

Section, acts June 17, 1910, ch. 301, § 9, 36 Stat. 538; July 27, 1939, ch. 388, § 1, 53 Stat. 1130, related to employment of temporary draftsmen and is now covered by section 653 of Title 14, Coast Guard.

EFFECTIVE DATE OF REPEAL

Repeal of section effective the first day of the third month after the month of approval, August 1949, see note set out preceding chapter 1 of Title 14, Coast Guard.

§ 717. Detail of Army engineers as construction aids.

The President may detail officers of the Engineer Corps of the United States Army for consultation or to superintend the construction or repair of any aid to navigation authorized by Congress. (June 17, 1910, ch. 301, § 11, 36 Stat. 539.)

CODIFICATION

Section was from last part of section 11 of act June 17, 1910. Another part of said section 11 is set out as section 743 of this title.