Rivers and Harbors Projects

Extension of Remarks of Hon. Homer D. Angell of Oregon in the House of Representatives Tuesday, March 4, 1947

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Mr. ANGELL. Mr. Speaker, at a recent meeting of the Rivers and Harbors Subcommittee of the Public Works Committee, of which I have the honor to be chairman, I invited Lt. Gen. R. A. Wheeler, Chief of Engineers, War Department, to appear before the committee and present to the committee the procedure of the Corps of Army Engineers in the consideration of projects for river and harbor development which are presented to the Army engineers by the Congress for consideration. Under leave heretofore granted, I include hereewith the following statement by Lieutenant General Wheeler in response to the invitation:

STATEMENT TO RIVER AND HARBOUR SUBCOMMITTEE OF COMMITTEE ON PUBLIC WORKS OF THE HOUSE OF REPRESENTATIVES BY LT. GEN. R. A. WHEELER, CHIEF OF ENGINEERS, WAR DEPARTMENT

1. Federal policy: The control by the Federal Government over rivers and harbors is derived from the third clause of the eighth section of article I of the Constitution which provides that the Congress shall have power "To regulate commerce with foreign nations, and among the several States, and with the Indian tribes."

The policy with respect to Federal improvements of rivers and harbors in the interest of navigation has been formulated through laws enacted by Congress over a span of many years. Following the decision of Chief Justice Marshall in the case of Gibbons v. Ogden, decided in 1824, it was generally recognized that the lifting of a snag, the removal of a sand bar, or the building of a breakwater, is a national work, with a national character and a national consequence, and a proper subject of national appropriation. This policy, limited in scope at first, has grown and broadened from year to year with the advance of population, the increasing needs of commerce, and navigation. The first distinct act of Congress for improving navigation was that of May 24, 1824, which appropriated funds for removing sand bars from the Ohio River, and planters, sawyers, and snags from the Mississippi. Since that date the functions and responsibilities of the Corps of Engineers have been clarified and expanded by succeeding acts of Congress. Some of the more significant of these acts will be discussed in detail later.

2. Process of project development: It is believed important at this point, even at the risk of repeating facts already well known to the members of the committee, to describe the process by which a project develops from its initial conception to the ultimate provision by Congress of authority and funds for its execution. The authorization of a river-and-harbor or a flood-control project follows a definitely prescribed democratic course of action. It is based upon the activation of the desires of local interests, the people who are most vitally interested. Local interests, as individuals or groups through the action of their Representatives in Congress, make request for an item to be included in a river-and-harbor or flood-control bill which will authorize a study by the Corps of Engineers for the purpose of determining the feasibility and the economic soundness of doing the work desired. In case such an investigation has been made previously, then formal action by means of a River and Harbor or Flood-Control Act is not necessary and instead a
study can be authorized by the adoption of a review resolution by the Public Works Committee of the House or the Public Works Committee of the Senate, formerly the River and Harbor or the Flood Control Committee of the House or the Committee on Commerce of the Senate.

Preliminary examination: The Chief of Engineers then assigns the duty of making a preliminary investigation to the district engineer in charge of the district in which the project will fall. The district engineer, mindful of the need for developing all public opinion, holds an open public hearing at which not only the views of those interests that are active in obtaining the authorization of the proposed work, but also all other views, are obtained and encouraged. Having thus developed the desires and feelings of the local citizens, the district engineer makes a study. Many of the projects eventually are found not feasible, hence the first type of study is a preliminary investigation which is not costly. The results of that investigation are then sent forward to the Chief of Engineers, who in turn refers them to the Board of Engineers for Rivers and Harbors for study and recommendation as to whether sufficient merit exists in the project to warrant a more costly survey.

In case the project is not deemed feasible from the standpoint of either engineering or economics, an unfavorable report is sent to Congress with a recommendation that no further action be taken. It is interesting to note that about 50 percent of all projects covered by preliminary investigations and surveys are found not justified.

Detailed survey: If the preliminary investigation indicates that further study is warranted, the duty of making the survey is assigned to the district engineer, who at that time goes into an exacting analysis and study of the various details of the project in an endeavor to set up a practical engineering solution and determines the cost involved. At this stage he may, if necessary, again hold public hearings in order to obtain the current views of the citizens. He correlates his work with other Federal agencies involved. He obtains the views of the local and State governments. Finally, the results of his survey are sent to the Chief of Engineers in Washington and are again referred to the Board of Engineers for Rivers and Harbors. There, if necessary, an additional public hearing may be held. The board, after consideration of all the factors involved, makes its recommendation to the Chief of Engineers. At that time the chief sends the report, together with his proposed recommendations, to the governors of the States involved in order that their views will be obtained and made a permanent part of the record. The formal views of other Federal agencies interested are also obtained at this time, as well as a statement from the Bureau of the Budget as to the relationship of the project to the program of the President.

Authorization: Finally, the report is submitted to Congress to be considered by the appropriate committees. At this stage, additional hearings are held by the committees. The report then usually is included in an omnibus river and harbor or flood-control bill and is subsequently enacted into law.

Appropriation: After the project is authorized by act of Congress, funds for its execution may be included in budget estimates. After consideration and possible revisions by the Bureau of the Budget, these estimates are submitted to the Appropriation Committees of the Congress and, with such modifications as may be made by Congress, are included in appropriation acts.

Coordination with other agencies: Section 1 of the River and Harbor Act approved March 2, 1945, and section 1 of the Flood Control Act approved December 22, 1944, provide
for close cooperation with the Department of the Interior on projects having irrigation benefits and for equally close cooperation with State agencies. Section 1 of these acts declared it to be the policy of the Congress:

"That 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 hereby 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."

The 1938 Flood Control Act provides for cooperation with the Federal Power Commission on multiple-purpose projects having power benefits. A Federal Inter-Agency Basin Committee was created in 1943 by joint agreement of the four agencies primarily concerned with water resources, the Federal Power Commission, Department of Interior, Department of Agriculture, and War Department. Recently the Commerce Department, which has the Weather Bureau and other functions related to our work, became the fifth member of the committee. There are a number of subcommittees of staff level collaborating on technical matters such as benefits and costs, sedimentation, hydrologic data, and power. In addition, two regional committees have been created which include representatives of the States as well as of the Federal agencies. These are the Columbia and Missouri Inter-Agency Basin Committees.

The objectives of the interagency basin committee as set forth in the joint agreement of 1943 are to cooperate more completely in the preparation of reports on multiple-purpose projects and to correlate the results to the greatest practicable extent. Conferences are held in Washington at least once each month between the Chief of Engineers, the Commissioner of Reclamation, the Land Use Coordinator, the Chairman of the Federal Power Commission, and the representative of the Department of Commerce.

Conservation of Wildlife Act approved August 14, 1946: This act amended the act of March 10, 1934, entitled "An act to promote the conservation of wildlife, fish, and game, and for other purposes," and provides for cooperation with the States and the United States Fish and Wildlife Service with a view to preventing loss of and damage to wildlife resources in connection with projects of the War Department as well as of other agencies.

4. Significant acts of Congress: It was stated at the beginning of this conference that certain particularly significant acts of Congress with respect to the duties of the Corps of Engineers in waterway development, especially in the river and harbor field, would be discussed. These include the following:

Three hundred and eight studies: The River and Harbor Act approved January 21, 1927, authorized comprehensive studies of the principal river basins as recommended in House Document No. 308, Sixty-ninth Congress, first session, and as supplemented by that act and the Flood Control Act approved May 15, 1928. In its House Document No. 308, the Sixty-ninth Congress recognized the importance to a great and growing Nation of comprehensive, coordinated data covering the still undeveloped wealth of national resources
in our river basins. This recognition took the form of the above-mentioned authorization for a comprehensive study by the Corps of Engineers to determine the needs and possibilities of developing the river basins for flood control, navigation, and related water uses such as irrigation and power. The wealth of information gathered by the resulting so-called 308 Reports form the backbone of the succeeding detailed studies on which our present and prospective work is based.

Flood Control Act approved December 22, 1944: This act contained two especially important provisions. One of these authorized the Corps of Engineers to construct, maintain, and operate public park and recreational facilities in reservoir areas under the control of the War Department, to permit the construction, maintenance, and operation of such facilities, and to cooperate fully with Federal and local agencies in developing plans for realizing the benefits to recreation and to fish and wildlife conservation. The second provision of major importance, specifying that the Corps of Engineers will turn over all generated hydroelectric power to the Department of the Interior for marketing, is contained in section 5, which is quoted as follows:

"SEC. 5. Electric power and energy generated at reservoir projects under the control of the War Department and in the opinion of the Secretary of War not required in the operation of such projects shall be delivered to the Secretary of the Interior, who shall transmit and dispose of such power and energy in such manner as to encourage the most widespread use thereof at the lowest possible rates to consumers consistent with sound business principles, the rate schedules to become effective upon confirmation and approval by the Federal Power Commission. Rate schedules shall be drawn having regard to the recovery (upon the basis of the application of such rate schedules to the capacity of the electric facilities of the projects) of the cost of producing and transmitting such electric energy including the amortization of the capital investment allocated to power over a reasonable period of years. Preference in the sale of such power and energy shall be given to public bodies and cooperatives. The Secretary of the Interior is authorized, from funds to be appropriated by the Congress, to construct or acquire, by purchase or other agreement, only such transmission lines and related facilities as may be necessary in order to make the power and energy generated at said projects available in wholesale quantities for sale on fair and reasonable terms and conditions to facilities owned by the Federal Government, public bodies, cooperatives, and privately owned companies. All moneys received from such sales shall be deposited in the Treasury of the United States as miscellaneous receipts."

Recreational boating (Fletcher Act): Public Law 16, Seventy-second Congress, approved February 10, 1932, provides that the term “commerce” shall include the use of waterways by seasonal passenger craft, yachts, houseboats, fishing boats, motorboats, and other similar water craft, whether or not operated for hire.

Policy on terminals (River and Harbor Act, approved March 2, 1919): Section 1 of this act sets forth the following policy on terminal facilities:

"It is hereby declared to be the policy of the Congress that water terminals are essential at all cities and towns located upon harbors or navigable waterways and that at least one public terminal should exist, constructed, owned, and regulated by the municipality, or other public agency of the State, and open to the use of all on equal terms."

Public roads over dams: The Highway Act, approved July 29, 1946, amends and supplements prior Federal Aid Road Acts to provide for the design and construction of dams under the jurisdiction of a Federal agency so that they will serve as foundations for highway bridges, to provide for the design and construction of highway bridges upon and across such dams, and for other purposes,
provided that the highway department of the State in which such dam shall be located jointly with the United States Commissioner of Public Roads shall first determine and certify that such bridge is economically desirable and needed and shall agree to reimburse the agency having jurisdiction over the dam for any additional costs which it may be required to incur in connection therewith.

5. Miscellaneous civil works are varied in character and include the administration of the Federal laws enacted for the protection and preservation of the navigable waters of the United States. These laws include sections 9 to 20, inclusive, of River and Harbor Act of March 3, 1899; section 7 of River and Harbor Act of March 4, 1915; section 5 of River and Harbor Act of August 18, 1894; section 7 of River and Harbor Act of August 8, 1917; Railroad Bridge Act of June 21, 1940, and General Bridge Act, title V, of Legislative Reorganization Act, approved August 2, 1946. Such laws govern the following: Granting of permits for structures or operations in navigable waters; approval of the location and plans of bridges, dams, dikes, or causeways; alteration of obstructive bridges; investigation and removal of sunken vessels or other obstructions endangering navigation; establishment of regulations for the use, administration, and navigation of navigable waters, including drawbridge regulations; establishment of anchorage grounds, special anchorage areas, danger zones, dumping grounds, restricted areas, fishing areas, and harbor lines; investigations of the discharge or deposit of refuse matter of any kind in navigable waters; prevention of pollution of coastal navigable waters by oil; determination of the heads of navigation and the extent to which the laws shall apply to specific streams; supervision of the harbor of New York to prevent obstructive or injurious deposits in the tidal waters thereof, including the waters of Long Island Sound; establishment of reasonable rates of toll for transit across bridges over navigable waters; granting of permits for the occupation and use of Federal works under control of the Corps of Engineers; construction of Anacostia Park and the reclamation and development of Anacostia River and Flats, D. C.; maintenance and repair of the Washington Aqueduct, and increasing the water supply of the city of Washington surveys and charting of the northern and northwestern lakes, including the Lake of the Woods; studies for the preservation of Niagara Falls and the supervision of power companies diverting water therefrom; reports of international boards on operations affecting international boundary waters; and issuance of instruments authorizing the occupation of Government-owned land under the jurisdiction of the Department.

The Railroad Bridge Act of June 21, 1940 (Truman-Hobbs Act), provides for the apportionment of the cost of alteration of bridges used for carrying railroad traffic or both railroad and highway traffic over navigable waters of the United States. Under this act the Secretary of War is authorized to issue and cause to be served upon the parties concerned an order requiring such alterations of such bridge as he finds, after holding a hearing, to be reasonably necessary in order to render navigation through or under it reasonably free, easy, and unobstructed, having due regard also for the necessities of rail or highway traffic thereover.

The General Bridge Act approved August 2, 1946 (title V of Legislative Reorganization Act of 1946) grants the general consent of Congress for the construction, maintenance, and operation of bridges over the navigable waters of the United States. Accordingly, a separate act granting consent for an individual interstate bridge is no longer necessary. Authorization for construction of an international bridge still requires a specific act of Congress as heretofore.

6. Statistics of waterborne commerce, as collected and compiled by the Corps of Engineers and published in part II of the Annual Reports of the Chief of Engineers, are highly important in determining the need for and
justification of the improvement and main­
tenance of rivers and harbors for commerce
and navigation. Such data are also of value
to commercial and shipping concerns, various
Federal and local agencies, and others inter­
ested in transportation. The collection and
compilation of these statistics has been
undertaken continuously since the enactment
of the River and Harbor Act approved June
23, 1866, section 2 of which provided that the
annual report shall state “what amount of
commerce and navigation would be benefited
by the completion of each particular work.”
The Congress has since supplemented this
legislation and strengthened the law to re­
quire navigation interests to report the
movement of waterborne commerce. To
achieve the utmost in economy and efficiency,
to assure accuracy and speed in their collec­
tion, and to provide uniformity in their
presentation, statistics are now being col­
lected by prescribed report forms and proc­
essed by machine method at centrally located
offices in the major regions of the United
States and the office of the Board of Engi­
neers for Rivers and Harbors in Washington.

Under the provisions of section 500 of the
Transportation Act approved February 28,
1920, the Corps of Engineers prepares and
publishes a series of reports on port and
terminal facilities in cooperation with the
Maritime Commission and reports on trans­
portation lines, port and terminal charges,
water transportation in general, and related
shipping matters.

7. Related functions and activities: The
Congress has by law created certain boards
and commissions which are charged with
specific duties related to the Corps of Engi­
neers civil works activities. These bodies
include:

The Board of Engineers for Rivers and
Harbors, created by the River and Harbor
Act approved June 13, 1902, and assigned pri­
marily the duty of reviewing and submit­
ing of recommendations on reports of examina­
tions and surveys called for by Congress cov­
ering proposed improvements for navigation,
flood control and allied purposes. This board,
which has seven members, all senior officers
of the Corps of Engineers, has a permanent
office and staff in Washington.

The Beach Erosion Board was created by
the River and Harbor Act approved July 3,
1930, section 2 of which assigned to it the
duty of assisting the Chief of Engineers in
the conduct of studies of beach erosion prob­
lems and the review of reports thereon. This
board has seven members, four of whom are
engineer officers and three are civil engineers,
representatives of the cooperating State
agencies. The studies of beach erosion are
made in cooperation with State agencies, in
accordance with the provisions and the
above-mentioned section 2, with local inter­
ests bearing 50 percent of the cost.

California Debris Commission was created
by act of Congress approved March 1, 1893,
and has jurisdiction over the drainage area
of the Sacramento and San Joaquin Rivers,
Calif., for the following purposes: First, to
regulate hydraulic mining in such a way as
to permit its resumption and continuance
under such restrictions as to prevent the re­
sulting debris from being carried into naviga­
able waters or otherwise causing damage.
Second, to study and report upon general
hydraulic and hydraulic-mining conditions
and matters affecting or affected by them
and to make surveys, mature and adopt plans
for the purpose of improving the navigability,
deepening the channels, and protecting the
banks of the rivers, and affording relief from
flood damages.

Mississippi River Commission, created by
act of Congress approved June 28, 1879, is
charged with the prosecution of improve­
ments in the interest of navigation on the
Mississippi River above Baton Rouge, La., to
Cairo, Ill., and of improvements for flood
control of the Mississippi River and its tribu­
taries and outlets so far as they are affected
by backwater between Head of Passes, La.,
and Cape Giradeau, Mo.

International boards and commissions have
been created in connection with the regula­
tion and control of the international bound­
ary waters. These include the International
Joint Commission, the St. Croix River Board of Control, the Lake Champlain Board of Control, the Niagara Control Board, and Lake Superior Board of Control.

Permanent International Commission of the Congresses of Navigation: By an act approved June 28, 1902, and subsequent acts, the Congress has appropriated funds for the support and maintenance of this Commission which is also supported by member nations. Its object is the promotion of inland and maritime navigation by means of organized congresses, and the publication of pertinent information. Its headquarters is in Brussels, Belgium, but the congresses are held (except during war periods) in various countries.

In addition to the foregoing, the civil functions of the Corps of Engineers include:

Work for other agencies: In accordance with the provisions of section 1 of the River and Harbor Act approved June 20, 1938, stating that Federal improvement of rivers and harbors and other waterways shall be prosecuted by the War Department, the Corps of Engineers performs work for other agencies from time to time of a river and harbor nature not previously authorized by Congress with funds transferred to the Chief of Engineers by those agencies, which include the Navy Department and War Shipping Administration.

Detail of engineer officers: From time to time officers and civilian engineers of the Corps of Engineers are detailed to administer or perform certain civil activities for other Federal agencies and foreign governments. Also, officers of the corps are detailed to administer and supervise the maintenance and care of the Panama Canal, which is under the direction of the Secretary of War and the Governor of the Panama Canal, the latter being an engineer officer.

8. Summation: As indicated above, all civil-works activities of the Corps of Engineers are carried out in accordance with specific directives of Congress. In the development of a river and harbor project, there are three principal stages, each of which requires the specific authorization of Congress, namely:

(a) Field survey and development of general plans, authorized in the form of a preliminary examination and survey in a River and Harbor Act.

(b) Authorization of the project in a subsequent River and Harbor Act based upon recommendations in reports submitted to Congress upon completion of stage (a) above.

(c) Appropriation of funds with which to undertake construction and maintenance of the completed work is contained in the annual War Department Civil Appropriations Acts subsequent to authorization, stage (b) above.

The prosecution of a project from its inception, when it is first advocated by local interests, to and including its completion, operation, and maintenance, is carried out in close cooperation with all Federal, State, and local interests concerned.

No project is recommended for construction unless the average annual benefits to accrue therefrom are determined, after careful and thorough study, to be greater than the average annual charges for construction, amortization, and maintenance.

In general, local interests are required to participate in the project by contributing funds, providing adequate terminal and other shore facilities, furnishing necessary lands and releasing the United States from claims for damages that may result from the Federal work of improvement.

After authorization of a project, its construction is carried out as soon as may be consistent with budgetary limitations.