

MOM
3 3m 41

222

REPORT
of
Committee on Thesis

The undersigned, acting as a Committee of
the Graduate School, have read the accompanying
thesis submitted by Richard J. Swenson
for the degree of Master of Arts

They approve it as a thesis meeting the require-
ments of the Graduate School of the University of
Minnesota, and recommend that it be accepted in
partial fulfillment of the requirements for the
degree of Master of Arts

W. A. Schaper
Chairman

E. DuBois

Edgar E. Johnson

_____A

May 1916

UNIVERSITY OF
MINNESOTA
LIBRARY

RIVER AND HARBOR IMPROVEMENTS
BY THE UNITED STATES GOVERNMENT:

A Thesis submitted to the
Faculty of the Graduate School of the
University of Minnesota

by

Rinehart J. Swenson

In partial fulfillment of the require-
ments for the degree of
Master of Arts

June 1916.

19076 48.75

T A B L E O F C O N T E N T S .

* * * * *

CHAPTER ONE.

HISTORY OF COMMITTEE JURISDICTION OF THE RIVER AND
HARBOR BILL.

CHAPTER TWO.

THE GOVERNMENTAL MACHINERY.

Congress - The War Department - The Bureau of
Engineering.
The Board of Engineers.
The Mississippi River Commission.
The California Debris Commission.
The International Waterways Commission.
The International Joint Commission.

CHAPTER THREE.

METHOD OF CONSTRUCTING AND FINANCING THE IMPROVEMENT
OF WATERWAYS IN THE UNITED STATES.

CHAPTER FOUR.

HOW A RIVER AND HARBOR PROJECT IS LEGALLY AUTHORIZED.

CHAPTER FIVE.

DECENTRALIZATION OF JURISDICTION OF APPROPRIATION BILLS.

CHAPTER SIX.

THE CHARACTER OF RIVER AND HARBOR LEGISLATION, AND SOME
CONSIDERATIONS THAT ENTER INTO THE FRAMING OF
THE RIVER AND HARBOR BILL.

Demands of Localities for Large Appropriations.
Demands for an Extension of Federal Powers and
Activities.
Waterways Improvements to Lower Freight Rates.
Piecemeal Appropriations.
Federal Expenditures for Rivers and Harbors.
Legislation on Appropriation Bills.

T A B L E O F C O N T E N T S .

(continued)

CHAPTER SEVEN.

ATTEMPTS TO CONTROL AND TO SECURE EXECUTIVE
RESPONSIBILITY FOR EXPENDITURES ON
OUR WATERWAYS.

Attempts to Secure Executive Responsibility.
The Engineers.
Local Cooperation.

CHAPTER EIGHT.

A NATIONAL BUDGET.

The Estimates.
Budgetary Plans.

CHAPTER ONE.

HISTORY OF COMMITTEE JURISDICTION OVER
THE RIVER AND HARBOR BILL.

The Federal Government, from its origin to the peace of 1815, was too deeply engrossed with other matters of immediate and pressing concern to be able to turn its thoughts inward, and look to the developement of its vast internal resources, said Daniel Webster in 1830.¹ Some of these important concerns were the organization of the Departments, providing for the payment of the debt, defending the frontiers, maintaining domestic peace, and weathering the French Revolution and our War of 1812. "Down to the close of that war, no distinct, marked, and deliberate attention had been given, or could have been given, to the internal condition of the country, its capacities of improvement, or the constitutional power of the Government in regard to objects connected with such improvements."² Hence, but little was done for the improvement of rivers and harbors during these troublous years. In fact, prior to 1822 most of this work was carried on by the individual States, and the first Federal acts pertaining to the general subject of river and harbor improvements were acts declaring the assent of Congress to certian acts of the several State legislatures levying tonnage duties for the purpose of raising funds for the prosecution of this work. The first of these assenting acts was approved

1. Congressional Debates, VI., part 1, page 66.

2. Ibid.

2
2

August 11, 1790,¹ and there were ten more passed before 1820.

The first act appropriating money from the Federal Treasury for the improvement of a river was approved April 6, 1802, and authorized the expenditure of a sum not to exceed \$30,000 for the erection and repair of public piers in Delaware River.³ An act of March 1, 1805, appropriated the sum of \$5,888.79 for the continuation of this work,⁴ and an act of April 18, 1806, set aside \$448.71 for the paymeny of the commissioners who superintended the work.⁵ By an act of February 10, 1809, \$25,000 was put at the service of the President for the extension to the Mississippi River of the canal of Carondelet, leading from Lake Pouchartrain, by way of the Bayou St. John, to New Orleans.⁶ An act of February 15, 1819, appropriated \$6,500 for making surveys of certain tributaries to the Mississippi River.⁷ The enabling act for the Territory of Alabama set aside five per cent. of the net proceeds of land within the Territory sold after September 1, 1819, for the making of public roads, canals, and improving the navigation of rivers.⁸ An act of April 19, 1820, making appropriations for the military service, made \$9,000 available for surveys of certain water courses.⁹ The following year, by

1. 1 Statutes at Large, p. 150. 184.

2. Acts of Jan. 10, 1791 (1 Statutes at Large, p. 189)
Mar. 19, 1792 (1 " " " " 243)
May 13, 1796 (1 " " " " 463)
Mar. 27, 1798 (1 " " " " 546)
Mar. 17, 1800 (2 " " " " 18)
Mar. 16, 1804 (2 " " " " 269)
Feb. 28, 1806 (2 " " " " 353)
Apr. 20, 1808 (2 " " " " 484)
Apr. 16, 1814 (3 " " " " 125)
Apr. 26, 1816 (3 " " " " 301)

4. 2 Statutes at Large, page 316.

5. Ibid., p. 384.

6. Ibid., p. 516.

7. 3 Ibid., p. 480.

8. Ibid., p. 489. Act Mar. 2, 1819.

3. 2 Statutes at Large, p. 150. 184.

9. Ibid., p. 562.

an act of March 3, 1821, \$2,500 was appropriated for surveys, repairs, and the building, if practicable, of a sea-wall between Smutty Nose Island and Cedar Island.¹ Then, on May 7, 1822,² Congress passed what Professor Emory R. Johnson has called "the first river and harbor bill."³

These early appropriations for the improvement of rivers were not made in separate river and harbor bills, but were included in the general appropriation bill. In the early years of the Government, all appropriations for the fiscal year were included in one general bill, and in gross sums, to be expended for the several executive departments.⁴ The appropriations for fortifications were placed in a separate bill in 1823.⁵ In 1826, the appropriations for pensions were made in a separate bill.⁶ The first separate act for rivers and harbors was the act of May 19, 1828.⁷ The post office and deficiency bills were first passed as separate acts in 1844.⁸

Thus the distribution of appropriations has gone on hand in hand with our national growth, which growth has caused a relative increase in federal business. In 1847 the appropriations for the Government were put

-
1. 3 Statutes at Large, p. 643.
 2. Ibid., p.698.
 3. Annals of the American Academy, Vol.2, p.786. May 1892.
 4. James A. Garfield in North American Review, June 1879, p.578. Also Congressional Record, Vol.17, p.170.
 5. James A. Garfield in North American Review, June 1879, p.579.
 6. Ibid.
 7. Statutes at Large, Vol. IV, p.288. Chap.73.
 8. James A. Garfield, North American Review, June 1879, p.579.

in nine separate bills, namely, Pensions, Fortifications, Military Academy, Army, Navy, Indians, Post-Office, Civil and Diplomatic, and Deficiencies.¹ The consular and diplomatic appropriations were put in a separate bill in 1856.² In 1857 the legislative, executive, and judicial bills first appeared separately. With the addition of a new bill, now known as the Sundry Civil Bill, in 1862,³ we had in that year twelve regular annual appropriation bills.³ At the present time there are thirteen such annual supply bills.⁴

This breaking up of the general annual appropriation bill into the several bills referred to should not be confused with the distribution, among the several committees of the House, of the authority to report these bills. The latter represents another and a later line of development, to which reference will be made later.

The question as to which committee of the House had, and should have, jurisdiction to report the river and harbor bill, previous to the revision of the rules in 1880 when this authority was definitely given to the Committee on Commerce, has come up before the House often for long and spirited debate. Prior to 1880 three committees had reported river and harbor bills: the Committee on Ways and Means, the Committee on Commerce, and the Committee on Roads and Canals. During this time the House did not follow any definite rule in the matter. The

1. James A. Garfield, North American Review, June 1879, p. 579.
2. *Ibid.*, p. 579.
3. *Ibid.*, p. 579.
4. J. J. Fitzgerald, Congressional Record, Vol. 30, p. 5154.

Committee on Ways and Means, established as a select committee by a resolution of July 24, 1789,¹ and made a standing committee on January 7, 1802,² had, for the first 79 years of the Government, exclusive jurisdiction of all revenue measures and of all appropriations;³ it was the one important committee. Appropriations for rivers and harbors, as for all other internal improvements, were, therefore, within the pale of its jurisdiction; but, while it passed on all such appropriations, it did not at first report the bills. The work of framing bills for river and harbor improvement was, until 1828,⁴ referred to either a select committee on Roads and Canals, or to the standing Committee on Commerce and Manufactures.⁵

Due to the comparatively small importance of waterway improvements in the early years of the Government, there was, during these years, little rivalry between the House committees for jurisdiction over river and harbor bills. It was after the Civil War, when nationalism became a real factor in American development, that the river and harbor bill became really important from the viewpoint of the committees, and it was then that the contest between the Committee on Commerce and the Committee on Railways and Canals began in earnest.

Previous to 1831 the House had no rule that dealt definitely with river improvements. Rule 79, adopted on December 14, 1895,³ came nearest to it. This rule laid down the duties of the

-
1. Hinds' Precedents, IV., p. 691.
 2. Ibid., IV. 691.
 3. J. J. Fitzgerald, Congressional Record, Vol. 30, p. 5154.
 4. Congressional Record, Vol. 7, p. 20. Mr. Reagan. From 1828 to 1838 the Committee on Ways and Means reported all river and harbor bills that became law.
 5. In 1819 the subjects of Commerce and Manufactures were separated. Hinds' Precedents, IV. 737. (6. Over)

1

Committee on Commerce in the following words:

79. It shall be the duty of the Committee on Commerce to take into consideration all such petitions and matters or things touching the commerce of the United States as shall be presented, or shall or may come into question, and be referred to them by the House; and to report from time to time their opinion thereon. 2

Under this rule, bills dealing with the improvement of rivers and harbors were referred to and reported by the Committee on Commerce from the time of the first river and harbor bills. And it also appears that such matters were at the same time referred to and reported by a select committee known as the Committee on Roads and Canals. In the preamble to a resolution presented to the House on December 4, 1877, the Committee on Railways and Canals said, in part: "We find that previous to the Twenty-second Congress all matters relating to the improvement of rivers, roads, and canals, and internal improvements were referred to select committees appointed by each successive Congress and designated as the Committee on Roads and Canals, and that each select committee reported all bills to the House for survey or improvement of rivers." The Committee was unable, however, to maintain the position here taken in the course of the debate which followed the introduction of this resolution; and it developed that both the Committee on Commerce and the Committee

6.(P.5)-Hinds' Precedents, IV., 737.

1. The Committee on Commerce was organized as a standing committee December 14, 1795, as the Committee on Commerce and Manufactures. On December 12, 1809, a proposal for a Committee on Manufactures was made in the House, but as it involved a division of the powers of the "Committee on Commerce and Manufactures", the House refused to assent. On December 18, 1819, however, the subjects of Commerce and Manufactures were separated. In 1892 the present name of "Interstate and Foreign Commerce" was adopted. Hinds' Precedents, IV, 737, 795.
2. Congressional Record, Vol.7, p.19.
3. Ibid.; also Ibid., Vol.10, p.247. (Mr.Reagan). 4. Ibid., p.18, Vol.7.

on Roads and Canals had reported bills for the improvement of rivers, but that no bill ever reported by the latter committee became law.¹ From 1816 to 1827, inclusive, the Committee on Commerce reported five such bills that became law.² Thus, beginning with the act of May 19, 1828, the Committee on Ways and Means reported eleven bills for the next eleven successive years,³ down to 1838.

-
1. Congressional Record, Vol.7, p.19,20. (Mr.Reagan); p.32 (Mr.McKenna). In the course of the debate Mr.Crittenden, chairman of the Committee on Railways and Canals, admitted: "That committee (Commerce) was formed in the year 1795 and had control of this business in connection with the Committee on Ways and Means up to 1831, and then the Committee on Railways and Canals was formed." Congressional Record, Vol.7, p.28.
 2. Ibid., p.20. (Mr.Reagan).
 Act April 27, 1816. 3 Statutes at Large, 316. .
 1 Session, 14 Congress, page 649.
 Act March 3, 1823. 3 Ibid., 780. 2 Session, 17 Congress;
 page 229 of House Journal.
 Act May 26, 1824. 4 Ibid., 38. 1 Session, 18 Congress.
 Ibid., p.474.
 Act May 20, 1826. 4 Ibid., 175. 1 Session, 19 Congress.
 Ibid., p. 390.
 Act March 2, 1827. 4 Ibid., 228. 2 Session, 19 Congress.
 Ibid., p. 300.
 3. Ibid.

On December 15, 1831, on motion of Mr. C. F. Mercer, of Virginia, the House adopted Rule 94, which established, as a standing committee, the Committee on Roads and Canals, whose duties, under the Rule, should be "to take into consideration all such petitions and matters or things relating to the roads and canals, and the improvement of the navigation of rivers, as shall be presented, or may come in question, and be referred to them by the House; and to report thereon, together with such propositions relative thereto as to them shall seem expedient."² Obviously the purpose of Rule 94 was to simplify the controverted question of jurisdiction over river and other internal improvements. This conclusion draws support from the fact that the rule was adopted by a majority of only six votes, and in the face of a strong opposition which contended that its adoption might be construed as an indorsement of an elaborate³ system of internal improvements. On January 10, 1834, Mr. Mercer moved to add "harbors" to the subjects over which this committee should exercise jurisdiction, but the House did not agree to the proposition.⁴

In spite of this Rule, which clearly put "all such petitions and matters or things relating to . . . the improvement of the navigation of rivers" in the hands of the Committee on

1. Hinds' Precedents, IV, 790.
2. Congressional Record, Vol. 7, p. 28.
3. Annals of Congress, 22d Congress, 1st Session, pp. 1438, 1442. Also Hinds' Precedents, IV., 791.
4. House Journal, pp. 179, 180, 508. 23d Congress, 1st Session.

Roads and Canals, the House, which, it should be remembered, is the interpreter of its own rules, continued to refer most matters relating to the improvement of rivers to the Committee on Ways and Means and to the Committee on Commerce, chiefly to the latter. Some scattered bills, chiefly special bills, were referred and reported by the Committee on Roads and Canals, but none of them, it appears, were enacted into law.¹ For the first seven years following the adoption of Rule 94, the Committee on Ways and Means reported the river and harbor bills that were enacted into law.² Again, the acts of March 2, 1847, and March 3, 1853,³ were reported by this committee.

It will be observed that the period from 1828 to 1852, during which the Committee on Ways and Means reported river and harbor bills, coincides with that part of our history when the political parties were in serious conflict over the power of the Government to enter into a general plan of internal improvements. Reference of these matters were made to the Committee on Ways and Means, rather than to the Committee on Commerce, because the prevailing majority in Congress refused to recognize the Committee on Commerce as the organ and representative of a sentiment which favored a general system of internal improvements.⁴

The acts of June 11, 1844, March 3, 1845, August 30, 1852, July 22, 1854, and July 8, 1856, were reported by the Committee on Commerce.⁵ Three acts, those of March 3, 1855, July 8, 1856, and August 16, 1856, were reported from the Committee of the Whole,⁶ never going to any of the sub-committees of the House.

1. Congressional Record, Vol. 7, pp. 21, 28, 29, 30.

2. Ibid., p. 20.

3. Ibid.,

4. Ibid., p. 19. (Mr. Reagan).

5. Ibid., p. 20. 6. Ibid.

On March 2, 1865, Mr. Samuel S. Cox, of Ohio, reported an amendment creating the Committee on Appropriations. The purpose of this amendment was to relieve the Committee on Ways and Means, then overburdened with the two-fold duty of devising revenue measures and of framing the appropriation bills; and the duty of the new committee, the amendment provided, should be the reporting of the general appropriation bills.¹ Into the hands of this committee, then, went the jurisdiction over appropriations for river and harbor improvements. In fact, from 1865 to 1880 control over all appropriations of moneys from the Federal Treasury was centralized in the Committee on Appropriations, while all revenue measures were left with the Committee on Ways and Means.²

1. Hinds' Precedents, IV, Sections 4032, 4020.

Mr. Cox said, in part, in support of his resolution: "We divide the Ways and Means into three committees (Ways and Means, Appropriations, and National Banks and Currency). The Ways and Means are still preserved, and their future duty is to provide 'ways and means', that is, raise revenue for carrying on the Government. . . . The proposed Committee on Appropriations have, under this amendment, the examination of the estimates of the Departments, and exclusively the consideration of all appropriations. I need dilate upon the importance of having hereafter one committee to investigate with nicest heed all matters connected with economy. The tendency of the time is to extravagance in private and in public. We require of this new committee their whole labor in the restraint of extravagant and illegal appropriations." Congressional Globe, 38th Congress, 2nd Session, p.1312.

2. It should be noted in this connection, perhaps, that on March 2, 1865, the Committee on Banking and Currency was also created, with control over banking and currency measures, but not over appropriations for this service. --- Hinds' Precedents, IV, Sections 4020, 4082.

The Committee on Appropriations soon adopted the policy of the Committee on Ways and Means in dealing with river and harbor appropriations: it allowed the Committee on Commerce to frame and report the bills, for reference, however, to the Committee on Appropriations. On the 8th of February, 1873, Mr. Dawes, of Massachusetts, once chairman of the Committee on Appropriations, made the following statement in the House:

"My recollection is that one year, in the Fortieth Congress, I believe, when the Committee on Appropriations was busy with another matter, the Committee on Commerce was allowed to report and originate this bill. Ever since I have been in Congress, with that exception, the Committee on Ways and Means at first, and afterward the Committee on Appropriations, have had control over this bill. There was always a conflict as to which committee the subject should be first referred. Sometimes it would be referred to the Committee on Appropriations, and sometimes to the Committee on Commerce, just as gentlemen felt they had more friends in the one committee or the other.

"When I went upon the Committee on Appropriations I had a conference, with the instructions of my committee, with the Committee on Commerce. That conference resulted in the arrangement that in the beginning only we would give to the Committee on Commerce all these matters to consider and report in a bill, and then that the bill so reported should be referred to the Committee on Appropriations, which committee would report it back to the House with such recommendations as they felt the general expenditures of the country required them to make. That is the history of the matter since I have been in Congress."¹

(over)

This method of allowing the Committee on Commerce to consider and report the river and harbor bill for reference to the Committee on Appropriations, is better explained in a statement by Mr. Garfield on the 8th of January, 1880. He said:

"Let me state the practice which prevailed during the four years I was chairman of the Committee on Appropriations. That committee went over the field, and looking at all the estimates as they came from the Departments, making all the examinations we could make, we said: 'There should be appropriated for the coming year, say, \$290,000,000; we think we can cut the expenditure of the Government down to that figure; but to do this the Army must have so much, the Navy so much, and rivers and harbors so much.' Thereupon the Committee on Appropriations informed the Committee on Commerce that the Government could afford to pay, say, \$5,000,000 for rivers and harbors; and the Committee on Commerce, having that great and complex subject in hand, were asked to tell how the money ought to be distributed. The Committee on Commerce drafted the bill distributing the amount. That bill was referred to the Committee on Appropriations, and if it did not exceed the total amount which the Committee on Appropriations believed could be spared, the Committee on Appropriations reported it back and requested the Committee on Commerce to take charge of it and carry it through the House."²

1. (Preceding page) -- Congressional Globe, 42nd Congress, 3d Session, part 2, p. 1212.
2. Congressional Record, Vol. 10, p. 251.

Thus from 1831 to 1880, the non-use^t of Rule 94 rendered it practically obsolete. By this rule of 1831, the Committee on Roads and Canals had jurisdiction over "the improvement of the navigation of rivers"; by the practice of the House the Committee on Commerce exercised this jurisdiction. Previous to the Forty-fourth Congress (1877-1878) the Committee on Commerce reported the bills for reference to the Committee on Appropriations; during the Forty-fourth and Forty-fifth Congresses (1877-1880), the Committee on Commerce had exclusive and charge of the river and harbor bill.¹

In 1880 there was a general and much needed revision of the Rules. The Committee on Rules reported in favor of restoring the river and harbor bill to the Committee on Appropriations.² The Committee argued as follows:

"The 'river and harbor' appropriation bill, although not one of the 'general appropriation' bills, (see Rule 77), has for many years past been one of the regular annual appropriation bills, and has been usually reported by the Committee on Commerce

"The Committee on Rules are of the opinion, in consideration of the fact that the Committee on Appropriations are required, under the rules, 'to report the general appropriation bills', (in which class the river and harbor appropriation bill should, by reason of long custom and practice, be included,) and they should have entire charge of all those bills, in order that they might the more fairly and fully control the entire question of appropriations of revenue for carrying on the several departments of the Government.

(For notes, over)

It follows as a logical sequence that, if any other committee is to take charge of one of the general appropriation bills, the interests therein involved and considered will stand separate and apart from the interests involved and considered in the other bills, and as a further result any scheme of reduction of expenditures made necessary by a deficit of revenue for that fiscal year must be executed by the Committee on Appropriations without respect to the interests involved in the bill so taken from them, thereby leaving that particular interest to stand independent of and without any relation to the other interests, for which appropriations are made. ³ "

The House dissented from this plan of the Committee on Rules, however, and after a long debate agreed to a rule in this form, the amendment being offered by Mr. Reagan by instructions of the Committee on Commerce, of which Mr. Reagan was then chairman:

7. To commerce, Life-Saving Service, and light-houses, other than appropriations for Life-Saving Service and light-houses: to the Committee on Commerce. And the Committee on Commerce shall have the same privileges in reporting bills making appropriations for the improvement of rivers and harbors as is accorded to the Committee on Appropriations on reporting general appropriation bills. (*2)

1. (Page 13)-Congressional Record, Vol. 10, p. 200. Report of Committee on Rules.
2. (Page 13)-Rule XI, section 7, read as follows: "All proposed legislation shall be referred to the committees named in the preceding rule, as follows: namely, Subjects relating, 7. To commerce: to the Committee on Commerce, (but they shall report the bill known as the river and harbor bill for reference to the Committee on Appropriations;)"
3. (Page 14)-Congressional Record, Vol. 10, p. 200. Report of Committee on Rules.
4. Ibid., p. 663, 1261.

Thus a definite quietus was placed upon the question of jurisdiction of river and harbor bills. But the adoption of the rule is even more important as marking the initial step in the direction of decentralized control of appropriations. Of this phase of the question there will be occasion to speak later.

The Committee on Commerce was not destined to long enjoy the hard-earned privileges secured by the adoption of Section 7 of Rule XI., in 1880. The long and heated debate which this section occasioned served to call attention to the importance of river and harbor bills from the point of view of the committees. The constitutional power of the Federal Government to carry on a general system of internal improvements was, by this time, an established fact. The commerce clause of the Federal Constitution ¹ had been construed so as to give Congress control over all navigable streams, and this control extended to the improvement, and the appropriation of moneys from the Federal Treasury for the improvement, of such streams. The constitutional bars were down. Beyond lay the field of internal improvements abloom and knee-deep with clover. There was a scramble for the gate, and in 1883 a new committee was created and given the freedom of the range. It does not

1. Article I., Section 8.

require a vivid imagination to understand much of the criticism in Congress today of the work of the Committee on Rivers and Harbors, for a "pork barrel" has been well-defined as "not what you get for your own river and harbor, but what the other fellow gets for his."¹ A good many who come to Congress to criticise would, if they only could get on the other side of the stile, remain to praise.

On December 20, 1883, the Committee on Rivers and Harbors² was created and authorized as a standing committee. The resolution reported and recommended for adoption by the Committee on Rules on December 19th,³ and adopted by the House on the 20th,⁴ read as follows:

"Resolved, That the rules of the House of Representatives be amended as follows, namely:

In Rule X, after the words 'on commerce, to consist of fifteen members,' add 'on rivers and harbors, to consist of fifteen members.'

Amend paragraph 7 of Rule XI so as to read as follows:

'To commerce, life-saving service, and light-houses, other than appropriations for life-saving service and light-houses, to the Committee on Commerce.'

And insert next thereafter the following paragraph:

'To the improvement of rivers and harbors, to the Committee on Rivers and Harbors; and the Committee on Rivers and Harbors shall have the same privilege in reporting bills

-
1. Congressional Record, Appendix to Vol. 52, p. 154. (Mr. Moore of Pa., President Atlantic Deeper Waterways Association.)
 2. Congressional Record, Vol. 15, pp. 196, 214, 216.
 3. Congressional Record, Vol. 15, pp. 196, 214.
 4. Ibid., p. 216.

making appropriations for the improvement of rivers and harbors as is accorded to the Committee on Appropriations in reporting general appropriation bills.' "¹

This Committee on Rivers and Harbors, now consisting of 21 members,² has since continued to enjoy the powers and privileges thus conferred upon it in 1883. The present rule reads as follows:

"8. To the improvements of rivers and harbors -- to the Committee on Rivers and Harbors."³

The wording of this rule cannot properly be construed as giving the committee authority to report the river and harbor appropriation bill; but the authority is implied by usage under the rule as adopted in 1883 and by section 56 of Rule XI,⁴ which reads in part:

"The following named committee shall have leave to report at any time on the matter herein stated, viz.: . . . the Committee on Rivers and Harbors, bills for the improvement of rivers and harbors."⁵

The Committee on Rivers and Harbors, in framing the river and harbor bill, have greater privileges than are enjoyed by any other committee reporting appropriation bills, because the river and harbor bill is not one of the general appropriation bills, and the rule forbidding legislation on any general appropriation bill "except such as being germane to the subject matter of the bill shall retrench expenditures"⁶ does not apply.⁷ On January

1. Congressional Record, Vol. 15, p. 196, 214.
2. House Manual and Digest, 63d Congress, 3d Session, p. 287.
3. Ibid., p. 297.
4. Hinds' Precedents, IV, sec. 4621.
5. House Manual and Digest, 63d Congress, 3d Session, p. 312.
6. Rule XXI, Clause 2. House Manual and Digest, Ibid., p. 361.
7. Hinds' Precedents, IV, Sections 3896-3903.

16,1901, Mr. Albert J. Hopkins, of Illinois, acting chairman of the Committee of the Whole House, ruled as follows: "The chair will state that the rule with reference to appropriations that there shall be no new legislation does not apply to the river and harbor bill."¹ Again, on February 7, 1907, Mr. Frank D. Currier, chairman, ruled: "But the gentleman must recollect that the river and harbor bill is not a general appropriation bill within the meaning of Clause 2, Rule XXI. Legislation is proper on a river and harbor bill, and the chair overrules the point of order."²

Any subject, therefore, of which the Committee on Rivers and Harbors has jurisdiction may be included in the river and harbor bill. Thus the committee has reported on the preservation of public works for the benefit of navigation,³ and on the use of water-power on improved streams.⁴ Legislation inviting the British Government to join the Government of the United States in the formation of an international commission to investigate the conditions and uses of waters at the outlet of the Great Lakes was included in the river and harbor act of 1902⁵ and 1906.⁶ Propositions relating to the control of the flood waters on our rivers, the building of reservoirs, levees, etc., have also been referred to the Committee on Rivers and Harbors, and such matters have been provided for in sundry river and harbor acts. This anomalous character of the bill

1. Congressional Record, Vol. 34, pp. 1094, 1095.

2. Ibid., Vol. 41, pp. 2469, 2470.

3. House Report No. 1635, 51st Congress, 1st Session.

4. " " Nos. 3278, 3460, 51st Congress, 2d Session.

" " " 731, 1759, 1816, 56th Congress, 1st Session.

5. 32 Statutes at Large, 331, Act June 13, 1902, Sec. 4.

6. 34 Ibid., 626, Act June 29, 1906, Sec. 4.

will be considered at some length later.¹

Thus, from the foundation of the Government to the present time five committees of the House have reported bills for the improvement of rivers and harbors. Prior to 1865 such bills were reported by the Committee on Roads and Canals, the Committee on Ways and Means, and the Committee on Commerce; between 1865 and 1880, by the Committee on Appropriations and the Committee on Commerce; from 1880 to 1883, by the Committee on Commerce; and since 1883, by the Committee on Rivers and Harbors. Previous to 1865, all appropriations for these improvements were reported by the Committee on Ways and Means; from 1865 to 1880, by the Committee on Appropriations; between 1880 and 1883, by the Committee on Commerce; and since 1883, the Committee on Rivers and Harbors has had exclusive control of such matters.

This "pass the bill around" policy is explained, prior to the Civil War, by the unwillingness of the dominant party to recognize the constitutional authority of the Government to engage in an extended system of internal improvements by recognizing any one committee as the Government organ for this purpose. After the war the river and harbor bill became for a time the chief bone of contention between these claimant committees, a fact that becomes only too evident from a perusal of the debates on the revision of the rules in 1880.

1. See Chapter VI, pages 27-III.

CHAPTER TWO.

THE GOVERNMENTAL MACHINERY.

Congress - The War Department - The Bureau of Engineering. All waterway improvements made by the National Government are prosecuted under authority of an act of Congress and under the supervision of the War Department. Congress gives the order and makes the appropriation for its execution, but the work of construction is left to the Secretary of War, who acts, in this matter, through the Bureau of Engineering, which is under the immediate direction of the Chief of Engineers. The courts have held that the appropriation of money for river or harbor improvements confers discretionary power upon the Secretary of War as to the means by which such improvements shall be effected. "It is true," said the United States Supreme Court in the case of South Carolina vs. Georgia, "that neither of these acts directed the manner in which these appropriations should be expended (appropriations for the improvement of the harbor of Savannah, Georgia). The mode of improving the harbor was left to the Secretary of War, and the mode adopted under his supervision plainly tends to the improvement contemplated." ¹ Again, in the case of Wisconsin vs. Duluth, the Court ruled: "It is to be observed . . . that the whole system of river, lake, and harbor improvements . . . has for years been mainly under the control of that government, (the general government) and that, whenever it has taken charge of the matter, its right to an exclusive control has not been

1. 93 U.S., 4, 13. (1876)

denied. The operations of the Government in this regard have been conducted by the Bureau of Engineering, as part of the War Department, to which Congress has confided the execution of its wishes in all these matters. That department has mapped out in suitable geographical divisions the work thus imposed upon it, and placed these under the control of officers who are in charge of them. These are again subdivided, so that while the lake system, or, at all events, the western lake system, is in the charge of one general superintendent, the separate works which at different places are conducted under him have each another engineering officer, who has special charge of this work.

"For many years past, Congress has been in the habit of passing an annual appropriation bill, called the river and harbor bill, devoted to works of this class exclusively; and in these bills it appropriates specific sums to specific works, either already commenced or unfinished, or for new works thereby authorized, or sums necessary for the safety and protection of works already in existence. The money thus appropriated is expended, as we have said, under the direction of the War Department. It cannot be necessary to say that when a public work of this character has been inaugurated or adopted by Congress, and its management placed under the control of its officers, there exists no right in any other branch of the government to forbid the work, or to prescribe the manner in which it shall be conducted."¹

This somewhat extended quotation brings out these two points,

1. 96 U.S., 379, 383. (1877)

namely, that it is within the constitutional province of the General Government to engage in works of improvement for rivers and harbors, and that such projects are inaugurated by the Congress and prosecuted by the Bureau of Engineering of the War Department. It also sheds light upon the method by which the Engineer Department carries on the work.

While the mode for carrying out the improvements provided for by Congress is left to the discretion of the Secretary of War, practically to the discretion of the Chief of Engineers, it is not within his discretion to question the expediency of the expenditure, and thus refuse to carry out the wishes of Congress. The Judge Advocate General has held that "When Congress, in the exercise of its exclusive power to direct how the public money shall be employed, has appropriated a certain sum, to be devoted, without exceptions or provisos, to a certain specific internal improvement, it devolves upon the Executive Department of the Government, charged as it is with the execution of the laws enacted by the legislature, to proceed with the work under the appropriation, without entertaining any questions as to the expediency of the expenditure."¹ It has also been held that the permissive words in river and harbor acts, viz., that the "Secretary of War is authorized" or "it shall be lawful" or "is authorized and empowered", shall be regarded as equivalent to the word "may", and is mandatory in character, and that the authority so conferred should be carried into effect.² "It is a peculiarity of river and harbor legislation," says the same authority, "that the duties are imposed by the

1. Digest, J.A.G., 782, A.

2. Ibid., 783, A 1.

use of the word "may" which, in the majority of such enactments, has a mandatory signification."¹

The growing importance of waterways improvements, and the magnitude of the work, has made it necessary for Congress, in later years, to put the Army Engineers more and more at the service of the Secretary of War in the prosecution of this work. By authority of an act of March 9, 1909, the Chief of Engineers is authorized, with the approval of the Secretary of War, to employ such professional and other assistants as he may deem necessary to enable him to properly perform his duties.²

An act of June 17, 1907, authorizes the President to detail officers of the Engineer Corps of the United States Army for consultation or to superintend the construction of river or harbor improvement works.³ Retired officers of the Army or Navy may be employed by the Chief of Engineers.⁴ By an act of February 27, 1911, the Chief of Engineers is further authorized to detail for duty in charge of river and harbor districts or as members of boards of engineers any assistant engineers⁵ in the employ of the Engineer Bureau of the War Department.

In order to further facilitate the work of construction, and to furnish Congress with expert advice and information, Congress has, from time to time, provided for the creation and maintenance of a number of boards and commissions to act with and under direction of the Secretary of War. Of these, the following are now rendering service: the Board of Engineers,

-
1. Digest, J.A.G., 783. A 1.
 2. 35 Statutes at Large, 836, Section 14.
 3. 36 Ibid., 539, Section 11.
 4. 28 Ibid., 235, Section 7.
 5. 36 Ibid., 957, Section 5.

the Mississippi River Commission, the California Debris Commission, the International Waterways Commission, and the International Joint Commission.

The Board of Engineers. Section 3 of the river and harbor act of June 13, 1902,¹ provided for the organization in the office of the Chief of Engineers, United States Army, by detail from time to time from the Corps of Engineers, a board of five engineer officers, whose duties were to be defined by the Chief of Engineers, and to whom should be referred for consideration and recommendation, in addition to the other duties that the chief of Engineers might assign, and so far as the Chief should deem necessary, all reports on examinations and surveys ordered by Congress, and all projects and modifications of projects for river and harbor improvements. In the consideration of these matters the board was to have in view the amount and character of commerce existing or reasonably prospective which would be benefited by the improvement, and the relation of the ultimate cost of construction and maintenance to the public commercial interests involved, and the public necessity of such improvement, as well as the propriety of its undertaking by and ~~for~~ at the expense of the United States. The board was authorized to make personal examinations, with the sanction of the Chief of Engineers, whenever it should deem it necessary. It was also made the duty of this board, upon request of the chief of Engineers or of the Senate Committee on Commerce or of the House Committee on Rivers and Harbors, to examine any projects already undertaken by the Government, and

1. 32 Statutes at Large, 372.

to report through the Chief of Engineers the desirability of continuing or discontinuing or modifying the same.

These provisions were repeated in the act of March 4, 1913.¹
Under this act the board is now composed of seven members.

The Mississippi River Commission. The Mississippi River Commission was created by an act of Congress of June 28, 1879.² The same act provided that the commission should be composed of seven commissioners, to be appointed by the President by and with the advice and consent of the Senate. Three of these commissioners "shall be selected from the Engineer Corps of the Army, one from the Coast and Geodetic Survey, and three from civil life, two of whom shall be civil engineers."³ An act of February 18, 1901, authorizes the Secretary of War to designate the location of the headquarters and general offices of the commission.⁴

The duties of the commission are to "direct and complete such surveys of said river (Mississippi) between the Head of the Passes near its mouth to its head waters, as may be in progress, and to make such additional surveys, examinations, and investigations, topographical, hydrographical, and hydrometrical, of said river, and its tributaries, as may be deemed necessary by said commission, to carry out the objects of this act."⁵

And "It shall be the duty of said commission to take into consideration and mature such plan or plans and estimates as will correct, permanently locate, and deepen the channel and protect

1. 37 Statutes at Large, 826, Sec.4.

2. 21 Ibid., 37.

3. Ibid., Sec.2.

4. 31 Ibid., 792.

(Sec.3)

5. 21 Ibid., 37. Act June 28, 1879,

the banks of the Mississippi River; improve and give safety and ease to the navigation thereof; prevent destructive floods; promote and facilitate commerce, trade, and the postal service; and when so prepared and matured, to submit to the Secretary of War a full and detailed report of their proceedings and actions, and of such plans, with the estimates of cost thereof, for the purposes aforesaid, to be by him transmitted to Congress: Provided. That the commission shall report in full upon the practicability, feasibility, and probable cost of the various plans known as the jetty system, the levee system, and the outlet system, as well as upon such others as they may deem necessary."¹

The commission is merely an advisory body to Congress. It has no discretion to make allotments of the moneys appropriated by Congress for the improvements proposed. "Its province is to indicate to Congress what improvements are needed and how much should be appropriated therefor. It has no authority to disburse money appropriated. An allotment made by it is to be treated by the Secretary of War as a recommendation only. The Secretary may adopt the recommendation, but in the disbursement should not omit any of the works specially designed by Congress in the appropriation act."² Mr. Gibson, of Louisiana, who introduced the bill creating the commission, explained what it was expected to accomplish. "This commission is created with the hope that they may devise some plan, economical, feasible, and complete, that shall give us deep water at all seasons of

1. 21 Statutes at Large, 37. Act June 28, 1879. Sec. 4.

2. Digest, J.A.C., 789, A.

the year and prevent these destructive floods so ruinous, not only to the country through which they flow, but to the mighty commerce that carries the productions of the millions who inhabit the great valley."¹

Ostensibly the report of the commission is for the information of Congress; more particularly it is for the guidance of the Committee on Rivers and Harbors and the Senate Committee on Commerce in the framing of the river and harbor bills.

The California Debris Commission. An act of June 14, 1860,² directed the Secretary of War to cause surveys to be made, in order that some scheme might be devised to prevent further injury to the navigable waters of California, due to the deposit in these waters of debris from the mines. In order to combat these injurious deposits Congress created, by an act of March 1, 1892, a commission, known as the California Debris Commission, to consist of three members appointed by the President from officers of the Corps of Engineers, United States Army.³

It is the duty of this commission "to mature and adopt such plan or plans, from examinations and surveys already made and from such additional examinations and surveys as it may deem necessary, as will improve the navigability of all the rivers comprising said systems, (the Sacramento and San Joaquin systems), deepen their channels, and protect their banks.

1. Congressional Record, Vol. 9, pt. 2, p. 2282.

2. 21 Statutes at Large, 196.

3. Ibid. 27 Ibid., 507.

Such plan or plans shall be matured with a view of making the same effective as against the encroachment of and damage from debris resulting from mining operations, natural erosion, or other causes, with a view of restoring, as near as practicable and the necessities of commerce and navigation demand, the navigability of said rivers to the condition existing in eighteen hundred and sixty, and permitting mining by the hydraulic process, as the term is understood in said State, to be carried on, provided the same can be accomplished without injury to the navigability of said rivers or the lands adjacent thereto."¹

The Commission exercises these powers under the supervision of the Chief of Engineers and the direction of the Secretary of War.² It is required to submit to the Chief of Engineers, for the information of the Secretary of War, an annual report of ~~the~~ its labors and transactions, with plans for the construction, completion, and preservation of public works on the river systems under its jurisdiction, together with estimates of the cost thereof. These reports are thereupon submitted by the Secretary of War to Congress,³ and constitute part of the information laid before the Committee on Rivers and Harbors to guide it in the framing of the river and harbor bill.

1. 27 Statutes at Large, 507. Act March 1, 1892. Sec.4.
2. Ibid., Sec.1.
3. Ibid., Act March 1, 1892, Sec.7.

The International Waterways Commission. Under Section 4¹ of the river and harbor act of June 13, 1902, the President was requested to invite the Government of Great Britain to join in the formation of an international commission, to be composed of three members from the United States, and three to represent the Dominion of Canada, and whose duty it should be to investigate and report upon the conditions and uses of the waters adjacent to the boundary lines between the United States and Canada, including all of the waters of the lakes and rivers whose natural outlet is the St. Lawrence River to the Atlantic Ocean, and to make such recommendations for improvements and regulations as should best observe the interests of navigation in said waters. The President, in selecting the United States Representatives on the Commission, was authorized to appoint one officer of the Corps of Engineers of the Army, one civil engineer well-versed in the hydraulics of the Great Lakes, and one lawyer of experience in international and riparian law, and the Commission was authorized to employ such assistants as it should deem necessary.

The recommendations of this well-balanced commission as to improvements of waters adjacent to the Canadian boundary line are, therefore, before Congress when it considers the river and harbor bill.

1. 32 Statutes at Large, 373.

The International Joint Commission. The seventh article of the treaty with Great Britain "relating to boundary waters between the United States and Canada", signed January 11, 1909 and proclaimed May 13, 1910,¹ provides for the establishment and maintenance of an International Joint Commission of the United States and Canada composed of six commissioners, three to represent the United States and appointed by the President, and three to represent the United Kingdom and appointed by His Majesty on the recommendation of the Governor in Council of the Dominion of Canada. This Commission is given jurisdiction over and power to pass upon all cases involving the use or obstruction or diversion of boundary waters.

This Commission effects river and harbor legislation in the United States in so far as its approval must be secured before Congress can construct, on this side of the boundary line, any remedial or protective works or dams or other obstructions in boundary waters or in waters flowing therefrom or in waters below the boundary in rivers flowing across the boundary.²

1. 36 Statutes at Large, 2448.
2. Ibid. Treaty, Article VIII.

CHAPTER THREE.

METHOD OF CONSTRUCTING AND FINANCING THE
IMPROVEMENT OF WATERWAYS IN THE
UNITED STATES.

In its preliminary report,¹ dated January 24, 1910, the United States National Waterways Commission points out three general policies for making river and harbor improvements.

(1) -- "That under which these improvements are left to individual or local enterprise, with the right to impose tolls upon the boats which utilize them".² This is best illustrated in Great Britain where the improvement of inland waterways, with few exceptions, is prosecuted by private corporations or navigation companies.³ "The result is altogether unfavorable", says Mr. E. O. Merchant. "The existing canals and rivers, with few exceptions, are in a seriously neglected condition. More than one third of the waterways in the United Kingdom are under the control of the railways, and consequently are not managed with a view to their development as a means of transportation. The present system has no unity. Throughout England and Wales there are scarcely two canals with a common gauge, and there are sometimes two or three gauges of locks on the same canal."⁴

(2) "That under which the General Government prosecutes improvements and levies tolls".⁵ This is well illustrated by certain harbor improvements in France.⁶ It is still the general policy in Belgium, and was the policy of France between 1879 and 1903, and, to a less extent, of Germany until 1905.⁷

(Notes on next page)

In all these countries, this method has been accompanied by a national plan of developing and unifying the waterway system.

(3) "That in vogue in the United States, under which the General Government improves rivers either by open-channel work or by the construction of locks and dams, and charges no toll therefor, rendering navigation entirely free."

In other words, in the United States all improvements of

-
1. Senate Documents, No.301. 61st Cong.2d Session.
 2. Ibid., p.17.
 3. Ibid.
 4. Ibid. Based on Forbes and Ashford, "Our Waterways", p.224.
 5. Ibid., p.18.
 6. Ibid.
 7. Ibid., p.60. Report of E.O.Merchant.
 8. Ibid.
 9. Ibid., p.18. Mr.E.O.Merchant approaches the subject a little differently and points out three European methods, the two first-mentioned above, and a third which lies between these two extremes. This third method is the policy of Austria-Hungary and of France and Germany in recent years, of co-operation between the Government and the provinces and localities concerned. The improvement is still carried on according to a definite national program. In France, under the new law, the State can only provide one-half of the necessary capital. In Germany the State bears the larger share of the expense for new projects, but the provinces and corporations guarantee the cost of maintenance and administration, three per cent. interest on about one-third of the capital expended, and one-half per cent. toward the sinking fund from the sixteenth year. In Austria the State contributes anywhere from one-third to the whole of the capital invested. Ibid., pp.60.61.

navigable waterways are carried on under the supervision and direction of the Federal Government, and generally at its expense, although in recent years considerable sums have been disbursed from funds contributed by States, municipalities, and private parties.¹ In 1906 the total of these disbursements was \$36,455.04; in 1907, \$10,883.19; in 1908, \$111,856.30; in 1909, \$167,975.63; in 1910, \$191,263.22; in 1911, \$54,164.54; in 1912, \$132,809.42; in 1913, \$818,270.28; in 1914, \$1,645,234.77.²

The work of improvement is generally carried on either directly by the Government or under contract^t to the highest bidder, usually under contract. An act of July 25, 1912, provides that "all works of improvement herein or hereafter authorized to be prosecuted or completed under contracts may, on discretion of the Secretary of War, be carried on by contract or otherwise,³ as may be most economical or advantageous to the United States."

However, "Any person or persons, corporations, municipal or private, who desire to improve any navigable river, or any part thereof, at their or its own risk and expense may do so upon the approval of the plan and specifications of said proposed improvement by the Secretary of War and Chief of Engineers of the Army. The plan of said improvement must conform to the general plan of the Government improvements, must not impede navigation, and no toll shall be imposed on account thereof, and said improvement shall at all times be under the control and supervision of the Secretary of War and the Chief of Engineers."⁴

canals.

1. In an earlier period the States spent large sums on
2. Senate Reports, No. 958, 63d Cong. 3d Sess. pp. 4-6. (over)

The constitutional authority of the General Government to engage in river and harbor improvements is derived from the commerce clause of the Federal 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."¹ This commerce power "authorizes all appropriate legislation for the protection or advancement of either interstate or foreign commerce, and for that purpose such legislation as will insure the convenient and safe navigation of all the navigable waters of the United States."² In the case of *Gilman vs. Philadelphia*,³ the Supreme Court said: "The power to regulate commerce comprehends the control for that purpose, and to the extent necessary, of all navigable waters of the United States which are accessible from a State other than those in which they lie. For this purpose they are the public property of the nation, and subject to all the requisite legislation of Congress."⁴ Again, in the case of *South Carolina vs. Georgia*,⁵ the Court used this very explicit language: "That the power to regulate inter-State commerce, and commerce with foreign nations, conferred upon Congress by the Constitution, extends to the control of navigable rivers between States ---- rivers that are accessible from other States, at least to the extent of improving their navigability,---- has not been questioned during the argument, nor could it be with any show of reason. From an early period in the history of the Government, it has been so understood and determined."

P33) 1. 37 Statutes at Large, 222.

2. 32 Statutes at Large, 371. Act of June 13, 1902.

34) 3. Art. I, Clause 8 of Section 8. 3. 3 Wallace 724.

4. *The Daniel Ball*, 10 Wallace 557. (For 4 and 5, over)

This interpretation of the commerce clause limits the General Government, in the making of river and harbor improvements, (1) to the improvement of "navigable waters" only, and (2) to the making of such improvements alone as will subserve the interests of commerce and navigation.

However, the courts have construed the term "navigable waters" so liberally as to virtually give the Government exclusive control over all waters that have any commercial importance. "The capability of use by the public for purposes of transportation and commerce," said the United States Supreme Court in 1874, "affords the true criterion of the navigability of a river, rather than the extent and manner of that use. If it be capable in its natural state of being used for purposes of commerce, no matter in what mode the commerce is conducted, it is navigable in fact, and becomes in law a public river or highway. Vessels of any kind that can float upon the water, whether propelled by animal power, by the wind, or by the agency of steam, are, or may become, the mode by which a vast commerce can be conducted, and it would be a mischievous rule that would exclude either in determining the navigability of

(From preceding page):

4. In *Gibbons vs. Ogden*, 9 Wheat. 1, 194, the Court said: "The power of Congress to regulate such waters ("Navigable waters of the United States") is not expressly granted in the Constitution, but is a power incidental to the express power 'to regulate commerce with foreign nations, and among the several States and Indian tribes.'"

5. 93 U.S. 4, 9, 10. (1876)

(This page)

a river."¹ In 1870, in the Case of the Daniel Ball, the Court held that "the doctrine of the common law as to the navigability of waters has no application in this country. Here the ebb and flow of the tide do not constitute the usual test, as in England, or any test at all of the navigability of waters . . . Those rivers must be regarded as public navigable rivers in law which are navigable in fact. And they are navigable in fact when they are used , or are susceptible of being used, in their ordinary conditions, as highways for commerce, over which trade or travel are, or may be conducted in the customary modes of trade or travel on water. And they constitute navigable waters of the United States, in contradistinction from the navigable waters of the States, when they form in their ordinary condition by themselves, or by uniting with other waterways, a continued highway over which commerce is or may be carried on with other States or foreign countries in the customary modes in which such commerce is conducted by water."²

As to the purpose for which the Federal Government may prosecute waterways improvements, an early act, a resolution of July 27, 1868, laid down the law on this matter as follows: "The Secretary of War shall cause to be prepared and submitted to Congress, in connection with the reports of examinations and surveys of rivers and harbors hereafter made by order of

1. The Montello, 20 Wallace, 441-2.

2. 10 Wallace, 557. Other cases: Gibbons vs. Ogden, 9 Wheaton 1; Leavy vs. U.S., 177 U.S. 621; St. Anthony Falls Waterpower Co. vs. Water Commissioners, 168 U.S. 349.

Congress, full statements of all existing facts tending to show to what extent the general commerce of the country will be promoted by the several works of improvements contemplated by such examinations and surveys, to the end that public moneys shall not be applied excepting where such improvements shall tend to subserve the general commercial and navigation interests of the United States."¹

In practice this rule is pretty much a legal fiction, for the Government has adopted many projects which primarily serve other purposes than navigation. This phase of river and harbor legislation will be developed in another connection.

The United States Government has no definite unified national system of making river and harbor improvements. Ours has always been pretty much of a piecemeal policy. Promising beginnings in the direction of a general or definite plan have been made in the last twenty-five years, but as yet our whole policy is strikingly lacking in unity.

In the river and harbor act of 1890,² the "continuing-contract" provision was first introduced, applying to but five items in that act, but to increasing numbers in subsequent bills, excepting the act of 1894, which contained no such provision.³ The application of this continuous contract system

1. R.S. Sec.231, Res.No.76, Vol.15,p.262.

2. 26 Statutes at Large, 426. Act Sept. 19,1890.

3. Senate Reports,No.954. 63d Congress,3d Session, p.2.

to a particular work "involves the establishment of a limit of cost in the act authorizing it to be undertaken, and authorization of the execution of contracts for the whole or a part of the work of construction, subject to the restriction that the amount expended in any fiscal year shall not exceed the sum specifically appropriated by Congress, such sum being in general a certain per cent. of the entire estimated cost of construction."¹ Or, in the words of former Senator Burton, of Ohio, : "Under what is known as the 'continuing contract' a cash appropriation is made in the bill, and then follows a provision in substantially these words: 'The Secretary of War is authorized to enter into a contract or contracts for the completion of said work, to be paid for as appropriations may from time to time be made by law, to an amount not exceeding' so and so, 'exclusive of the amount herein' or 'heretofore appropriated'-'herein appropriated', if it is adopted in the pending bill and 'herein and heretofore' if prior appropriations have been made upon it. That is, if the work costs \$2,000,000 there is a cash appropriation, say, of \$200,000, and an authorization for the making of contracts to an amount not exceeding the remaining \$1,800,000 is paid out as it is earned by the contractor in doing the work. Appropriations for deferred payments are made in the sundry civil bill."² Prior to the adoption of

1. House Document No.1491, 62d Congress, 3d Session, Vol.3, p. 67.
2. Congressional Record, Vol.45,p.4797. Speech of April 15-16, 1910.

this system, favor-seeking members could more easily secure the adoption of injudicious and wasteful projects, since it is quite easy to get a first appropriation of \$50,000, if Congress does not know that the project will require \$2,000,000 to complete. When once started, annual appropriations can readily be gotten, as Congress is not likely to throw away the first appropriation; and thus the chain of wasteful links begin to lengthen.

Since the inauguration of annual river and harbor acts in 1909 the number of items put under continuing contracts has decreased.¹ In the bill of 1915² there was but one such item, the Ohio River.³

Beginning with the act of 1896,⁴ Congress practically committed itself to the policy of improving all the commerce-bearing streams and harbors of the country to their full navigable capacity, as rapidly as Treasury conditions would permit. This was followed by large and generous appropriations for rivers and harbors. The public sentiment in favor of this new policy was growing in strength and volume. It was voiced by commercial bodies and newspapers all over the country, by campaign orators, by Members here and in the other branch of Congress; and particularly was it proclaimed in the party plat-

1. Senate Report No. 954, 63d Congress, 3d Session, p. 2.
2. House of Rep. 20189, " " " "
3. Senate Report No. 954, " " " " , p. 2.
4. 29 Statutes at Large, 202. Act June 3, 1896.

forms of the two great parties; the Republicans always pointing with pride to the great record they were making in carrying on this class of work, and the Democrats promising that if they were placed in power they would do likewise, or possibly a little better. All this went on until 1910, when we embarked upon the annual bill feature. This was done for the purpose of responding to and meeting this great demand for more rapid river and harbor improvement, and with a view of carrying out as rapidly as possible the policy under which the work was being done.¹"

What a splendid opportunity for favor-seekers; yes, and for would-be civic purists! Due chiefly, perhaps, to the immoderate activities of these two types of time-serving individuals the "pork-barrel" has grown to immense proportions in the eyes of the public ⁱⁿ ~~of~~ later years, and sentiment is turning against river and harbor improvements so strongly that it may be difficult to secure funds for even the maintenance of our worthy projects.

1. Congressional Record, Vol. 52, p. 1373.
Mr. Sparkman, of Florida.

CHAPTER FOUR.

HOW A RIVER AND HARBOR PROJECT
IS LEGALLY AUTHORIZED.

If a certain locality desires some river or harbor improvement, the usual method of securing it is for the Member or Members in Congress representing that locality to go before either the House Committee on Rivers and Harbors or the Senate Committee on Commerce and ask that the Engineer Corps of the Army be authorized to make a preliminary survey and report upon the proposed improvement. Such requests made by a Member are usually granted. Although, as already stated, the usual method is for some Member of Congress to ask the committee for this survey, anybody interested may appear before either of the above-mentioned committees and urge the proposed improvement, independent of his Senator or Representative. However, a project that is not backed by a Senator or Representative from the community interested would have small chance of success.¹ An order for the survey would then be made by the committee, and incorporated in the regular river and harbor bill; or, the order can be made as a joint resolution of the two Houses. In every case, a survey must be authorized

1. Congressional Record, Vol. 51, p. 15074. According to Senators Kenyon and Ransdell.

by an act of Congress. The law on this point is found in an act of March 3, 1899,¹ which provides that "no preliminary examination, survey, project, or estimate for new works other than those designated in this or some prior act or joint resolution shall be made." This provision has been repeated in subsequent acts,² and effectively restrains the Engineers from the exercise of any discretion in the initiation of any projects, or in the formulation of a general policy of river and harbor improvements.

Congress having issued the order for the preliminary survey,^{it} it devolves upon the Army Engineers to carry into effect. The law governing such surveys is found in the river and harbor acts of July 13, 1892,³ and August 18, 1892,⁴ which provide, "That the preliminary examinations ordered in this act shall be made by the local engineer in charge of the district, or an engineer detailed for the purpose; and such local or detailed engineer and the division engineer of the locality shall report to the Chief of Engineers, first, whether in their opinion, the harbor or river under examination is worthy of improvement by the General Government, and shall state in such report fully and particularly the facts and reasons on which they base such opinions, including the present and prospective demands of commerce; and second, if worthy of improvement by

-
1. 30 Statutes at Large, 1149. Sec.2.
 2. 37 Ibid., 821. Sec.3.
 3. 27 Ibid., 115. Sec.7.
 4. 28 Ibid., 338. Sec.11.

the General Government, what it will cost to survey the same, with the view of submitting plan and estimate for its improvement; and the Chief of Engineers shall submit to the Secretary of War the reports of the local and division engineers, with his views thereon and his opinion of the public necessity or convenience to be subserved by the proposed improvement; and all such reports of preliminary examinations, with such recommendations as he may see proper to make, shall be transmitted by the Secretary of War to the House of Representatives, and are hereby ordered to be printed when so made." This provision for making preliminary examinations¹ has been re-enacted in subsequent river and harbor acts, and has come to be the accepted method, with the modification² provided by Section 3 of the act of June 13, 1902, creating and defining the duties of the Board of Engineers, and by Section 4 of the act of March 4, 1913,³ repeating the provisions of the act of 1902. The modification made by the last named acts is to the effect that all reports on examinations and surveys authorized by law shall be reviewed by the Board of Engineers for Rivers and Harbors, and by them transmitted, with their recommendations, to the Chief of Engineers. The object of this board is to secure uniformity in recommendations before⁴ projects are adopted.

1. 22 Statutes at Large, 372. Act August 17, 1894;
29 Ibid., 234. Act June 3, 1896.

Similar provisions in acts of August 2, 1882
(22 Ibid., 213); July 5, 1884 (23 Ibid., 153);
August 5, 1886 (25 Ibid., 433); September 19,
1890 (26 Ibid., 464.)

2. 32 Statutes at Large, 372. Sec. 3.

3. 37 Ibid., 826. Sec. 4. 4. Preliminary Report of U.S.

Waterways Comm. Senate Doc. No. 301, 61 Cong. 2 Sess. p. 4803

The local engineer makes a preliminary reconnoissance¹ rather than an actual survey. He goes over the project carefully, inspecting it in person, and visiting the various communities interested, and then makes his preliminary report² to his division officer, a man usually with the rank of Colonel. The division engineer examines this report, makes any independent investigation he sees fit, and then refers the preliminary report, with his approval or his disapproval, to the Board of Engineers for Rivers and Harbors, known as a "Board of Review". This board is located in the city of Washington, and is composed of seven distinguished officers of the Engineer Corps, usually with the rank of colonel, though sometimes there is a major on the board.³ This board is required to go into the project with the greatest care.⁴ Sometimes, particularly in the case of expensive projects, they send some of their own members into the field to look into the situation,⁵ entirely independent of the local and division engineers. Usually they hold hearings in regard to the proposed project, allowing anybody to appear before them and express his views for or against it.⁶ "In substance the members of this board sit as a court of justice, ascertaining everything they possibly can

-
1. Congressional Record, Vol.51,p.15073. Senator Ransdell.
 2. Ibid.
 3. Ibid.
 4. 32 Statutes at Large,372. Act June 13, 1902.
 5. Congressional Record, Vol.51,p.15073.
 6. Ibid.

in regard to the proposed waterway improvement, and then make their report, which goes to the Chief of Engineers for final consideration."¹ The Chief of Engineers makes his report to the Secretary of War.

If, upon this preliminary examination, the proposed improvement is not deemed advisable, no further action is taken thereon without the further direction of Congress; but, if the preliminary report is favorable, the Secretary of War is authorized, in his discretion, to cause surveys to be made, and the cost and advisability to be reported to Congress.² Such report shall further contain (1) a statement as to the rate at which the work should be prosecuted, (2) full information regarding the present and prospective commercial importance of the project, (3) data regarding the existence, location, description, adequacy, and efficiency of both public and private terminal and transfer facilities, (4) data regarding the development and utilization of water power for industrial and commercial purposes, and (5) information on such other subjects as³ are properly connected with such project. But the investigation and study of these questions "shall be given only to their bearing upon the improvement of navigation, to the possibility and desirability of their being co-ordinated in a logical and

-
1. Congressional Record, Vol. 51, p. 15073. Senator Ransdell. September 14, 1914.
 2. 37 Statutes at Large, 825. Act March 4, 1913.
 3. Ibid.

proper manner with improvements for navigation to lessen the cost of such improvements and to compensate the Government for expenditures made in the interest of navigation, and to their relation to the development and regulation of commerce."¹

This final survey, ordered by the Secretary of War in case the preliminary examination and report are favorable, is made by the same body of Engineers and in the same order as the preliminary examination. But whereas the preliminary examination is sketchy and tentative, the final survey is very searching and detailed, and often elaborate in the extreme, and, therefore, quite expensive.² If this final survey and report are favorable, it is considered that a basis exists for the making of an appropriation for the proposed improvement; but, if the Board of Engineers and the Chief of Engineers report unfavorably upon the project,³ "in ninety-nine cases out of a hundred that settles it." Every improvement adopted must run the gauntlet of these two surveys by ten Engineer officers, and a project is not thought to have legislative status unless the reports on these two surveys are both favorable.⁴ Of course, the recommendations of the Engineer officers are not necessarily binding upon Congress, but since the passage of the law creating the Board of Engineers the rule has been adhered to

-
1. 37 Statutes at Large, 825. Act March 4, 1913.
 2. Congressional Record, Vol. 51, p. 15074.
 3. Ibid., Senator Ransdell.
 4. Ibid.

as a fixed policy that no project should be undertaken by the General Government or appropriated for out of the Federal Treasury which does not have the recommendations of the Board of Engineers and the Chief of Engineers.¹

The combined reports and recommendations of these ten engineers are sent to the Secretary of War by the Chief of Engineers, and constitute a part of the Chief's annual report. They are then transmitted by the Secretary of War to Congress as part of the annual report of the War Department. Congress, in turn, lays them before the House Committee on Rivers and Harbors and the Senate Committee on Commerce, respectively, and they constitute the most important information in the possession of these committees for the framing of the annual river and harbor bill.

Having secured the two surveys and the recommendations of the Engineers, the sponsors for the proposed project then turn their attention to persuading the House Committee on Rivers and Harbors to incorporate the improvement in the river and harbor bill; for the recommendations of the Engineers are merely advisory, and although Congress has virtually committed itself not to adopt a project which is not recommended by the Engineer Corps, yet Congress is under no obligations to adopt all

1. Senate Document No.301, 61st Congress, 2d Session.
Preliminary Report of U.S. Waterways Commission.

the projects so recommended. In 1880, Mr. McLane, of Maryland, declared that "there never was in the history of any Congress a river and harbor appropriation bill passed that was not reduced in amount from the estimates, whether that reduction refers to particular works or to the general number of works for which surveys have been ordered, which are always in excess of the number of works ultimately appropriated for and sanctioned by the committee."¹ On January 11, 1915, Mr. Sparkman, chairman of the Committee on Rivers and Harbors, stated that approximately one hundred new projects, calling for, to complete, \$101,000,000 in round numbers, had been favorably reported by the Engineers but had not yet been adopted.²

If this new project fails of adoption by the Committee on Rivers and Harbors, its friends may propose it as an amendment to the river and harbor bill upon the floor of the House. But, as the House generally follow the Committee as "sheep follow the bellwether,"³ the House is not likely to adopt the project. A river and harbor bill is seldom amended upon the floor of the House. The statement of Mr. Vinson, of Georgia, that he was informed that "but once in the history of the River and Harbor Committee has its bill been amended upon the floor of the House,"⁴ is not far amiss. For a long time the river and harbor bills were passed ~~with~~ under a suspension

1. Congressional Record, Vol. 10, p. 325.

2. Ibid., - - - - - Vol. 52, p. 1374.

3. Ibid., p. 1715. Quotation from Mr. Callaway of Texas.

4. Ibid., p. 1910. Statement made in the House on January 19, 1915.

of the rules, which allowed only forty minutes' debate and no opportunity for amendment.¹ "My experience as a member of this House", said Mr. Lapham, of New York, on January 13, 1880, "began with the Forty-fourth Congress, and each of the river and harbor appropriation bills which has been passed since that time has been passed under a motion to suspend the rules, without opportunity for discussion or amendment."² In fact, as late as 1896 a bill which saddled upon the Federal Treasury obligations exceeding \$70,000,000³ was passed under a suspension of the rules.⁴ In this connection, Mr. Hepburn, of Iowa, addressed himself to the House in the following characteristic language: "You passed the bill without debate, and I make the affirmation here now that not one section has been considered in this House. Why, Mr. Speaker, was there ever anything known in all the history of villainous legislation like this? Seventy-five million dollars in round numbers taken out of the Treasury of the United States, and not one section of the bill has yet been read for amendment. Not one paragraph had a moment's deliberate consideration. There was not an opportunity to say a word in opposition to the multiplied iniquities of the measure."⁵

-
1. In the course of the debate on the revision of the rules in 1880, Members repeatedly defended the practice of passing river and harbor bills under a suspension of the rules. See Congressional Record, Vol. 10, pp. 326, 338.
 2. Congressional Record, Vol. 1, p. 306.
 3. Act of June 3, 1896. (Statutes at Large, Vol. 29, Ch. 314.) The bill carried cash and continuing contract appropriations amounting to \$72,338,204.91. See Congressional Record, Vol. 28, p. 6010.
 4. Congressional Record, Vol. 28, pp. 36287-3641.
 5. Ibid., p. 5568.

From the floor of the House, the fight for the adoption of the improvement may be carried over to the Senate Committee on Commerce, the committee that has charge of the river and harbor bill in the Senate. As this committee has the power of amendment, and as its general policy seems to be to make liberal changes in the House bill, this is a good place to get the project into the bill. Furthermore, under rules that put no limitation upon debate, it is possible to secure amendments to the bill upon the floor of the Senate. But, even after its adoption by Congress, the project may be lost through the Presidential veto of the entire river and harbor bill, a danger that is a possibility rather than a probability, however.

Every project, therefore, must secure the approval of the Engineers, the two Houses of Congress, and the Executive before it gets legal status and before it can be said to have been adopted by the Government. Yet, in spite of the evident effort of the Government to make the path over which the river and harbor improvement projects must find their way to the Federal Treasury as long and tortuous as possible, the annual river and harbor bill has come to be known as the chief "pork barrel". Changes in method, considered with a view to the elimination of the real and imaginary abuses which have given rise to the regrettable charges of graft, are considered elsewhere.

CHAPTER FIVE.

DECENTRALIZATION OF JURISDICTION OF
APPROPRIATION BILLS.

"Years of investigation have convinced me", said Mr. J. J. Fitzgerald, of New York, in 1913, "that one change is essential in the methods of this House preliminary to reform of any other sort. Unless this step be taken, all other attempts at reform are futile. It is necessary to return to the practice of the House during the first 93 years of the Union and to concentrate in one committee control of all the general appropriation bills. The present method under which the appropriation bills are distributed among eight independent committees of the House is universally condemned by disinterested students of our Government."¹

Prior to 1865 the Committee on Ways and Means had exclusive jurisdiction in the framing of all revenue and appropriation bills.² In 1865 a movement was initiated to divide the jurisdiction of this committee.³ This resulted in the creation of the Committee on Appropriations, to which was given

1. Congressional Record, Vol. 50, p. 2157.

2. Ibid., p. 2154; Vol. 46, (Appendix) Part 5, p. 233; Vol. 49, p. 4351.

3. Ibid., Vol. 50, p. 2154.

jurisdiction of all the appropriation bills, and a Committee on Banking and Currency, with jurisdiction over banking and currency legislation.¹ In 1880 an effort was made to further break up the centralized control over appropriations, with the result that the agricultural appropriation bill was given to the Committee on Agriculture, and the river and harbor bill to the Committee on Commerce.² This came about through a general revision of the rules of the House. In the course of the extended debate which this revision of the rules occasioned, Members argued at length that the Committee on Appropriations was not as competent to report to the House bills on any particular subject as the committee to whose special charge that subject had been given.³ The ruling consideration, however, seems to have been a growing envy of the overshadowing importance of the Committee on Appropriations, rather than parliamentary efficiency. The members of the other committees objected to being "merely clerks to the Committee on Appropriations, merely sub-committees to examine subject-matters referred to them."⁴ Said Mr. Garfield, of Ohio, on January 29, 1880: "Mr. Chairman, since the days ~~of~~ when the mother of James and John asked for an important appointment for those two apostles, one on the right hand and the other on the left, when the Master came into

-
1. Congressional Record, Vol. 50, p. 2154.
 2. Ibid., Vol. 49, p. 4351.
 3. Ibid., Vol. 10, pp. 306, 307, 612, 613, etc.
 4. Ibid., Vol. 10, p. 614. Statement by Mr. Wright.

His Kingdom, until now, the question of who shall be greatest has been one of the most difficult and troublesome which men have ever encountered. And that is really the essence of this question. Men object to the greatness and importance and privileges of the Committee on Appropriations. The Committee on Appropriations do have great privileges and great power, and it is a committee which any man may well have an ambition to serve on. But there is a primacy in the order of things in this House and in Congress which cannot be overlooked."¹

In 1883, on the 20th of December, the Committee on Rivers and Harbors was created and given the same privilege in reporting bills making appropriations for the improvement of rivers and harbors as was accorded to the Committee on Appropriations in reporting general appropriation bills.² This was followed in 1885, under the leadership of Mr. Morrison of Illinois, by vesting appropriation jurisdiction in five other committees of the House.³ To the Committee on Military Affairs was given authority to report the army appropriation bill and the bill for the support of the Military Academy; to the Committee on Naval Affairs the naval appropriation bill; to the Committee on Post-Offices and Post Roads, the Post-Office appropriation bill; and to the Committee on Indian Affairs, the Indian appro-

1. Congressional Record, Vol. 10, p. 613.

2. Ibid., Vol. 15, p. 216.

3. Appendix to Congressional Record, Vol. 46, part 5. 61st Congress, 3d Session. Page 233. (Mr. Tawney).

prison bill.¹

Under the present assignment of appropriation bills, therefore, eight separate independent committees of the House consider departmental estimates and prepare appropriation bills for the consideration of the House; and there are in the House "eight different highways to the Treasury, and as many lanes and by-ways as there are individual members of these eight committees."² "The result is inevitably bad," said Mr. Fitzgerald of New York, on September 13, 1914. "Committees that have legislative authority should not recommend appropriations; they inevitably become biased in favor of the services over which they have legislative control."³ And, "while such an illogical, unscientific, and universally condemned system prevails attempts at reform will be futile, and an effective remedy for the resulting evils is impossible."⁴ "Ours is the only Government on earth which tolerates such a system of divided responsibility ---- the only Government which has established and maintains such a system of utter irresponsibility with reference to the initiation of authority for drawing drafts upon the Public Treasury for public expenditure. This system, too, has begotten extravagance and a wide difference in the measure of authorized expenditures between the respective branches of the

1. James A. Tawney in Review of Reviews, September 1910.

2. Congressional Record, (Appendix), Vol. 46, part 5, page 233.

3. Ibid., Vol. 51, p. 15047.

4. Ibid., Vol. 50, p. 2155. Mr. Fitzgerald, of New York.

public service -- a difference which is actually grotesque in its inequality."¹

This whole process of dividing the jurisdiction over appropriations between eight committees of the House is but another manifestation of American political theory. Our theory of checks and balances operating between the three departments of government, and between the two branches of one department, the legislative; our theory of delegated and reserved powers to the Federal and State governments, respectively; and our deep-rooted faith in local self-government,--- all tend towards decentralization of governmental authority and of governmental functions. We fear that power, if centralized, will be abused; we believe that centralization will destroy the political vitality of the masses, which is the very essence of democracy; and we often err in thinking, as so many do, that liberty is measured by the degree to which the government does not interfere with the affairs of the individual.

So, when Congressmen, in the interest of common sense business efficiency, would return to the earlier practice of the House and concentrate in one committee control over all general appropriation bills, they find that their policy arouses not only the antagonism of the members of the other committees, but also the fears and suspicions of their constituencies, a fact

1. Congressional Record, (Appendix), Vol.46,p.233.
Mr.Tawney, of Minnesota. Speech in House,
March 4, 1911.

that complicates the problem considerably. This reform, taken in connection with a general scheme for a national budget,¹ is a "consummation devoutly to be wished." That it would result in economy and a higher degree of business efficiency is a fair deduction from a consideration of the following facts. On January 29, 1880, before the powers of the Committee on Appropriations had been divided between the various committees of the House, Mr. Blackburn, of Kentucky, said: "It (the Committee on Appropriations) is the only committee of this House that at the conclusion of each session of Congress finds its table cleared of work, and all the service done which has been imposed upon it by the House. I call upon the chairman of any one of the committees of the Forty-fifth Congress, to which it is now proposed to send these general appropriation bills, to rise in his place and say, if he can, that when that Congress ended its session the work sent to that committee by order of this House had been completed and its labors finished. The Committee on Appropriations stands alone, of all the committees of this House which ever has any work to do, in completing and finishing that work at each and every session of Congress."² Of course, allowance must be made for the fact that the Committee on Appropriations was a privileged committee that could, and did, bring

-
1. Perhaps, if the budget were introduced by the administration and immediately given the status of a bill reported from a committee, no appropriation committee would be necessary.
 2. Congressional Record, Vol. 10, p. 612.

its business before the House at any time, while the business of the other committees had to wait. Nevertheless, the Committee on Appropriations seems not to have been overburdened with work at the time when it had exclusive control over appropriations; it has always been maintaining a standard of business efficiency which the other committees have not equalled. On the 4th of March, 1911, Mr. Tawney, of Minnesota, called the attention of the House to the fact that the appropriations reported from the Committee on Appropriations during the first regular session of that Congress were \$16,933,925.24 less than the estimates submitted by the departments, while the appropriations reported by all the other appropriating committees were \$27,931,402 in excess of the estimates submitted for their consideration. The Committee on Appropriations has jurisdiction of the legislative, executive, and judicial appropriation bill, the District of Columbia bill, the sundry civil, the pension, the fortification, and the deficiency bills. These six bills carry approximately one-half of the total annual appropriations made by Congress. "It is fair to assume, Mr. Speaker," said Mr. Tawney on this occasion, "that if that committee had control of the seven other appropriation bills it would not only have saved to the people the \$27,931,402 which the six other committees added to the estimates, but would have reduced those estimates by an amount at least equal to the saving effected on the six bills over which it now has control. There would, therefore, have been

1. Congressional Record, (Appendix), Vol. 46, p. 233.

a saving at that session of Congress on the seven bills now reported by other committees of practically \$45,000,000. This sum, together with the reduction of \$17,000,000 in the bills reported by the Committee on Appropriations, would have made a total initial saving of \$62,000,000.¹"

A similar comparison was made by Mr. Fitzgerald, of New York, on September 12, 1914. He said: "The bills over which the Committee on Appropriations had jurisdiction as enacted for the fiscal year 1914 aggregated \$376,944,862.82; for the fiscal year 1915, during the present session, \$358,014,263.19, a reduction of \$18,930,379.63; and \$25,712,468.32 less than the estimates for 1915.

"The bills from the other committees with jurisdiction over appropriation bills were increased from \$558,746,770.24 for the fiscal year 1914 to \$594,198,087.07 for 1915, an increase of \$41,451,316.83, and an increase over the estimates submitted by the departments of \$9,705,863.56. The same results are apparent during the three years the House has been under its present control.

"During these three years the Committee on Appropriations, in the amounts as finally enacted in their bills, reduced the estimates \$74,077,059.69, while the other committees enacted the bills over which their jurisdiction extended \$9,644,654.40 in excess of the estimates submitted for the consideration of

Congress."¹

Again, on March 4, 1915, Mr. Fitzgerald submitted another set of statistics in support of his proposal to centralize control over appropriations in one committee of the House,--- in a committee that has no legislative authority. "The total appropriations made in the seven annual appropriation acts (including the river and harbor) providing in part for the support of the Government, and prepared by the Committees on Agriculture, Military Affairs, Foreign Affairs, Naval Affairs, Indian Affairs, and Post-Office and Post Roads, respectively, for the four-year period 1913-1916, amounted to \$2,265,723,864.71; for the corresponding four-year period 1909 to 1912 they amounted to \$1,979,452,398.68, an increase for the former period over the latter of \$286,271,466, or more than 12½ per cent.

"The total estimates regularly submitted to Congress during the period 1913 to 1916, and on which the foregoing acts for those years were based, amounted to \$2,254,208,423.08, or \$11,515,441.63 less than was actually appropriated by Congress.

"The appropriations made in the four regular annual appropriation acts (including the pension act) and in all deficiency acts providing for the support of the Government and prepared by the Committee on Appropriations for the four-year period 1913 to 1916 amounted to \$718,539,187.25; for the corresponding four-year period 1909 to 1912 they amounted to \$799,290,112.75, a reduction actually made during the later period (1913 to 1916) under the earlier period (1909 to 1912) of \$80,750,925.50, or more than 10 per cent.

1. Congressional Record, Vol. 51, p. 15047. . . .

"The estimates regularly submitted to Congress during the first period (1913 to 1916), on which all of those acts were based, amounted to \$819,489,223.26, or \$100,950,036.01 more than Congress appropriated in all of the bills controlled by the Committee on Appropriations."¹

The estimates submitted to Congress by the Department of Agriculture for the four fiscal years, 1913 to 1916, amounted to \$75,288,027; the appropriations actually made amounted to \$77,476,055, an excess of \$2,188,028 over what was asked. For these same fiscal years, the Post-Office Department asked for \$1,147,038,252; the appropriations made amounted to \$1,183,535,204, an excess of \$36,496,952.² On the other hand, the estimates submitted to the Committee on Appropriations for the Sundry Civil bill for the fiscal years 1913, 1914, 1915, 1916, aggregated \$553,879,363.79, whereas the bills as reported to the House carried \$456,473,806.63, or \$97,406,057.16 less than the estimates.³

It can be urged, by way of objection to the foregoing statistics, that whereas the appropriating committees, other than the Committee on Appropriations, may have increased the aggregate appropriations over and beyond the departmental estimates, still individual committees have done quite the contrary.

-
1. Congressional Record (Appendix), Vol. 52, p. 728.
 2. Ibid.
 3. Ibid.

For instance, the estimates of the War Department for the improvement of rivers and harbors are, as a general thing, in excess of the appropriations reported by the Committee on Rivers and Harbors. These estimates for the fiscal year ending June 30, 1914, were \$43,829,010, while the bill¹ reported from the Committee on Rivers and Harbors carried \$40,872,958.² The estimates for the fiscal year ending June 30, 1915, exclusive³ of continuing contract works, was \$34,266,395, and the bill reported by the Committee carried \$39,221,504 in cash appropriations.⁴ In this case the committee report was in excess of the estimates, but in 1915 the reverse was true. The estimates, exclusive of continuing contract works, for the fiscal year ending June 30, 1916, were \$49,033,018,⁵ and the committee bill carried cash appropriations aggregating \$31,638,580, or \$17,394,438 less than the estimates.⁶⁷

It may be argued further that an increase in appropriations is to be expected as an incident to national growth and development. To meet this objection, Mr. Fitzgerald submitted two interesting tables. One gives the per capita appropriations and values under the same titles for the respective periods 1901

-
1. House of Representatives, 28180. 62d Congress, 3d Session.
 2. House Report No. 1341. 62d Congress, 3d Session, p. 1.
 3. House of Representatives, 13811. 63d Congress, 2d Session.
 4. House Report No. 300, part 1. 63d Congress, 2d Session, p. 1.
 5. Book of Estimates of Appropriations, 1916, p. 560.
 6. House of Representatives, 20189. 63d Congress, 3d Session.
 7. House Report No. 1230. 63d Congress, 3d Session, p. 1.

to 1912 and 1875 to 1886, twelve-year periods after and before the distribution of the appropriating authority. The other gives the increase in the later period over the earlier.

Per Capita Appropriations and Values

	Period ending 1912	Ending 1886
Total regular annual appropriations	103.27	47.57
Total regular annual appropriations (except pensions)	81.93	35.67
Wealth	1,234.51	967.79
Farms and farm property	358.40	240.22
Capitalization of National banks	9.80	10.37
Deposits in savings banks	40.66	20.59
Imports of merchandise	14.15	11.65
Exports of merchandise	21.54	11.89
Domestic exports	21.18	11.62

Increases of Period 1901-12 over 1875-86.

Total regular appropriations	\$ 6,461,290,923.20	or 270.8
Same, (exclusive of pensions)	5,232,910,707.66	or 292.5
Population	35,546,750.00	or 70.9
Wealth (true valuation of real and personal property.	43,471,214,000.00	or 80.0
Farms and farm property	20,152,995,484.00	or 190.8
Capitalization of natl. banks	319,305,959.00	or 61.4
Deposits in savings banks	2,452,293,671.00	or 237.4
Imports of merchandise	653,997,764.00	or 111.9
Exports of merchandise	1,249,559,929.00	or 209.5
Domestic exports	1,232,767,003.00	or 211.6
Miles of steam R.R. in operation	123,293	or 117.2

1. Congressional Record, Vol. 50, p. 2158.
2. Ibid.

"Careful study of these statistics," he adds, "makes it clear that, considered from any standpoint of the growth and development of the country during the periods mentioned, the increase in expenditures of the Federal Government are out of all proportion to the country's growth."¹

It is inevitable that where the same group of men formulate the legislation that determines the activity of a service, and determine the appropriations for the administration of that service, they are keen to be very liberal rather than critically judicious in the use of public funds. On the other hand, a committee with no authority to legislate for a particular department, but charged with the duty of assembling and weighing the claims of many and diverse services, becomes detached from each and all of them and acts more impartially and more disinterestedly than if dealing with a single service.² Under the existing system each one of the eight appropriating committees with legislative powers is interested in getting just as much as possible for its particular service, for there is little probability that any one of them will retrench as long as it has no assurance that the other seven will not ask for as much as they think they can get. These committees act without coordination or a common purpose. Not only is this true, but there is little effective correlation of the work of the appropriating

1. Congressional Record, Vol.50, p.2159.
2. Ibid., Vol.51, p.15047.

committees, and the committee charged with formulating plans for raising revenue, the Committee on Ways and Means. As pointed out by President Taft in a message of February 26, 1913; "There is little provision made for giving coincidence of time to their action or for correlating the results of their work, and in many instances what is attempted to be done through appropriation bills prepared by one committee is undone through the appropriation bills prepared by another." ¹ The further very evident result of this lack of cooperation between these committees is either the piling up of surpluses in the Treasury, that are a constant invitation to extravagance, or the failure to provide sufficient revenues to meet the expenses of the Government.

Besides the plan to concentrate the control over appropriation bills in the House Committee on Appropriations, as heretofore considered, several other remedies for this "illogical, unscientific, and universally condemned system" of decentralization have been proposed in and out of Congress. Mr. Shirley, of Kentucky, presented the following resolution to the House on February 28, 1913:

"RESOLVED, that the following rule be added to the rules of the House, and to be known as section 6 to Rule X.

"6. There shall be a committee on estimates and expenditures, whose personnel shall consist of the following members: The Chair-

1. Senate Document No. 1113, 62d Congress, 3d Session, p. 48

man and three ranking majority members of the Committee on Ways and Means and Appropriations; and the chairman and the ranking minority members of the Committees on Rules, Agriculture, Foreign Affairs, Military Affairs, Naval Affairs, the Post-Office and Post Roads, Rivers and Harbors, and Indian Affairs. The chairman of said committee shall be selected by the members thereof. Said committee shall, as soon after the convening of each regular session of Congress as may be, report to the House the amount of revenue probably available for appropriation for the next fiscal year, and apportion the amount to the several appropriation bills within the jurisdiction of the committees empowered by the rules and practice of the House to report appropriations from the Treasury. This report, or supplementary reports ~~from them~~ to meet exigencies of the public service, may be made on any legislative day after the reading of the Journal, and when agreed to by the House shall limit the totals of the appropriations reported by the several committees.¹"

In explanation Mr. Shirley said: "The proposal is substantially this: That instead of undertaking what I believe to be the impossible task of bringing back to the Committee on Appropriations jurisdiction of all the supply bills, to create a committee composed in its personnel of the heads of the various appropriating committees"

"This committee would consist of 16 majority Members and 10 minority Members. It is urged that that is too large a mem-

1. Congressional Record, Vol. 49, p. 4351.

bership, but I desire to suggest to the House that it is really two committees, because the majority members would necessarily come to their conclusions in private, just as the majority members of the Committee on Ways and Means now do, and they would then present to the minority members their proposal. A counter proposal of the minority would be made, and those two proposals would come to the House for adoption or modification."

Mr. Shirley's plan does not differ greatly from a plan tried in the Senate some years ago, on the recommendation of Senator Clapp, of Minnesota. Speaking of this experiment, on September 9, 1914, the Senator said: "I finally (in 1909) prevailed upon him (Senator Aldrich) to appoint a committee that should consist of the chairmen of the committees that handled appropriations, to the end that that committee might say, 'We have so much to spend; so much for the Army, so much for the Navy, so much for Indian Affairs, and so much for the other different purposes,' so that the chairman of each committee, when the members of his committee began to overabound him with proposed appropriations, could say, 'Gentlemen, I am sorry, but we are only allowed so much, and if any more is put on the appropriations, it will go off on the floor.'" Mr. Aldrich appointed such a committee in March, 1909, composed of twenty members, which was immediately divided into small committees, thus destroying the

-
1. Congressional Record, Vol. 49, p. 4351.
 2. Ibid., Vol. 51, p. 14842.
 3. Ibid.

efficacy of the centralized committee, and, in fact, defeating the whole purpose of the committee.¹ Senator C&app advocated a committee on estimates composed of the chairmen of the various appropriation committees of the two Houses of Congress.²

A committee on estimates and expenditures constituted in the manner of either of the two foregoing plans, would have much the character of an ex-officio committee: the primary service of its members would be upon other committees, as chairmen and members thereof, unless this new committee should arrogate the more important functions of the other committees, which is the very thing that Mr. Shirley would seem to wish to guard against. Would not each one of the members of this central committee, therefore, be the special representative of a particular committee having charge of a particular service; and would not the claims of each lead to log-rolling within the committee, with the results that the estimates agreed upon would be greater than Treasury conditions and the merits of the services provided for would warrant? Furthermore, would the estimates of the central committee be binding upon the several committees? If binding, what would prevent the House from increasing the bills reported by these committees within the limitation determined upon by the committee on estimates and expenditures? "Before any committee having jurisdiction of an appropriation bill can do its work," said Mr. Fitzgerald on January 24, 1913, in discussing Mr. Shirley's plan, "the proposed committee on estimates and expenditures must report a resolution, which must be acted upon by the House, defining

1. Congressional Record, Vol. 51, p. 14842.
2. Ibid.

the sum that the appropriation bills may carry. I express the opinion, based upon 14 years of service in this House, all of the time upon committees which have had jurisdiction of appropriation bills, and during eight of the years upon the Committee on Appropriations, that no one, and no committee, at the outset of any session of Congress, without careful investigation involving extensive hearings, can even approximate what the annual supply bills should carry. If the proposed committee is to have hearings upon the proposal to distribute the revenue, then it will determine all of the important questions to be solved by the committees making up the bills, and leaving to those committees merely the routine and drudgery to do."

It would seem that this criticism would lose most of its force if Mr. Shirley's plan were to be considered in connection with a budgetary system which, it seems, Mr. Shirley intended it should be. February 28, 1913, he declared that "the great reform to be made is, as I have said, to compel consideration by the Executive and his cabinet of the estimates as a whole. It may be that Congress will insist on having the original estimates of departmental chiefs, though I do not believe it need to, but certainly, if possible, the Executive should be required to assume the responsibility of a budget proposal, and Congress can then take the responsibility of granting, curtailing, or enlarging such proposal."

-
1. Congressional Record, Vol. 50, p. 2161.
 2. Ibid., Vol. 49, p. 4350.

CHAPTER SIX.

THE CHARACTER OF RIVER AND HARBOR LEGISLATION,
AND SOME CONSIDERATIONS THAT ENTER INTO
THE FRAMING OF THE RIVER
AND HARBOR BILL.

Of the thirteen supply bills annually passed by Congress,¹ the river and harbor bill has, in later years particularly, received the lion's share of adverse criticism. Newspapers, periodicals, and men in and out of Congress, have voiced their disapproval. Some of this criticism is dispassionate and constructive; but much of it is general and unintelligent popular fault-finding, capitalized by some for not wholly unselfish purposes. There is little to be gained, however, from a consideration of the controverted literature on the subject. It is thought more profitable to examine into the character of the river and harbor bill itself, and into some of the considerations that enter into the make-up of the bill, and into the prosecution

-
1. Agriculture, Army, Diplomatic and Consular, District of Columbia, Fortifications, Indian, Legislative, etc., Military Academy, Navy, Pension, Post-Office, Rivers and Harbors, and Sundry Civil.

of the work which the bill contemplates, with a view to exposing some of the illogical and wasteful features of our present financial system.

These charges of prodigality and incompetence on the part of the Government are merely the advance rumblings of national economic unrest. The working of the inexorable economic law of diminishing returns, aided and abetted by man-made laws that impose their unequal burdens, has brought home to Americans, in a very familiar way, the need of conserving the nation's physical resources, the need of fortifying the republic against the inevitable consequences of its spendthrift youth. We have recognized our problem, but as yet we have shown little inclination towards an intelligent cooperation in its solution.

The Demands of Localities for Large Appropriations: The favorite line of attack upon river and harbor bills is to charge discrimination in favor of the States represented on the Committee on Rivers and Harbors. On March 3, 1899, while discussing the river and harbor bill of that year, Senator Warren, of Wyoming, made the following observation on the Committee on Rivers and Harbors: "There is one thing very remarkable in considering this committee and its work, and that is, first, that 30 States, including, of course, the neglected West -- exactly two-thirds of the whole number in the Union -- have only about \$6,000,000 set apart for their benefit. The other ^{one-third} has something like \$25,000,000, and it remarkable that the \$25,000,000 fall pretty largely into the States which have Representatives

of the House on the Committee on Rivers and Harbors. In fact, the large share of this \$6,000,000 as well is to the States represented on the House committee. A grab game, surely! "¹

On February 23d of that same year, Senator Frye, of Maine, made this interesting comment: "The Senator from Ohio (Mr. Foraker) has a chairman of the committee in the House (Mr. Burton) knowing all about the Ohio appropriations, and the bill came over here with Ohio treated in it as anybody might naturally expect it would be treated, with the chairman of the committee representing the State."²

Again, in the course of the debate on the bill of 1915, on January 14, Mr. Caraway, of Arkansas, said: "States which are fortunate enough to have representation on the committee have been liberally, yes, more than liberally, treated, while States which are not so fortunate as to have representation on the committee have been denied practically any relief whatever. It is both interesting and instructive to examine the make-up of this committee and the States from which the members come, their length of service, the number of miles of navigable streams or coast lines within their respective States, and the amounts of the appropriations contained in this bill for improvement thereto. Also, it is both interesting and instructive to observe how closely, nay, slavishly, the appropriations herein recommended follow the engineers' estimates in those States from which the members of the committee come,

1. Congressional Record, Vol. 32. 55th Congress, 3d Session, page 2821.

2. Ibid., page 2215.

and how utterly they are disregarded in most States without representation on this committee."¹ On the 19th of January, Mr. Goodwin, of Arkansas, submitted to the House a tabulated statement of appropriations made under the proposed bill, showing that of a total of \$34,138,580, sixteen of the States represented on the committee got \$20,479,460, and that after deducting an appropriation of \$6,935,000 for the Mississippi, the remaining thirty-two States and Porto Rico and Hawaii got only \$6,722,120.²

On their face, these figures, and others that might be quoted, would seem to substantiate the charge of discrimination on a large scale, and this seems to be the view taken by most of our popular writers on the question. These writers manifest an eager haste in arriving at their conclusions which is mischievous in its result if not in its intent. In considering figures like the foregoing, one should keep in mind the fact that the members of the Committee on Rivers and Harbors are selected, and properly so, from the States that are most interested in waterways improvements, and for that reason one would expect the States so represented to get the bulk of the appropriations. Furthermore, if the committee was guilty of gross discrimination in the proposed bill of 1915, it would seem that the Secretary of War is open to the same charge in making allotments from the

1. Congressional Record, Vol. 52, p. 1574.

2. Ibid., p. 1846. It should be remembered that this refers to the House bill, which was amended and finally talked to death in the Senate. The bill that finally passed carried a lump-sum appropriation of \$30,000,000.

appropriation for the fiscal year ended June 30, 1915. The river and harbor act of October 2, 1914, appropriated \$20,000,000¹ to be expended under the direction of the Secretary of War.² Of this sum, the same sixteen States named by Mr. Goodwin, and the Columbia, Mississippi, Missouri, Ohio, and Tennessee rivers, which Mr. Goodwin apparently included in his estimates, received nearly \$18,000,000, leaving approximately \$2,000,000³ for the remaining thirty-two States. This would seem to lend force to the contention of the committee that "we do not make appropriations by States, and are not governed at all by State lines. We deal only with projects."⁴

Possibly there has been discrimination by the committee. The Members on the committee are no less human than the Members who fight for their particular local projects on the floor of the House. Furthermore, as almost absolute power in the framing of the bill, as far as the House is concerned, is put in their hands,⁵ tremendous pressure is brought to bear upon them by the interested parties from their own States. If there is favoritism shown in these appropriations, it is not because the members of the Committee on Rivers and Harbors are less able or less honest than the other Members of the House; it is rather because there is something fundamentally wrong with the system

-
1. 35 Statutes at Large, 725. (Act Oct. 2, 1914.)
 2. Page 72, supra.
 3. House Document No. 1331. 63d Congress, 3d Session.
 4. Personal correspondence with Chairman S. M. Sparkman, under date of December 3, 1915.
 5. The House usually accepts the committee bill without amendment.

of making the appropriations. The same regrettable condition of affairs which has exposed the committee to charges of favoritism and given the river and harbor bill its unsavory reputation, has brought counter-complaints of injustice from members of the committee. On January 15, 1915, Mr. Burgess, of Texas, undoubtedly voiced the grievances of the whole committee when he said: "It makes me sorry that I am in Congress, sorry that I am on any committee. I get disgusted, when a man tries to do his best and serve his country faithfully, when I come here and get abused and called a 'grafters', and all that kind of thing. I tell you it is wrong."¹

The trouble lies deeper than the cupidity of members of the committee, or of Congress; it is innate in the American idea that a representative in Congress represents local rather than national interests. "There has grown up a system of appropriations in this country", said Senator Kenyon, of Iowa, "that we might term unfortunate; we cannot term it dishonest. The people are largely responsible for it, because they ask their Senators and Representatives that they secure certain appropriations. They sometimes glory in the fact that their Congressman has secured an appropriation."² With the opinion of Senator Kenyon should be associated that of Senator Burton, of Ohio, in view of the fact that these two gentlemen engineered the Senatorial filibusters which defeated the House river and

1. Congressional Record, Vol. 52, p. 1642.
2. Ibid., Vol. 51, p. 15148.

harbor bills of 1914 and 1915, and, in so doing, gave the whole question of river and harbor legislation a thorough airing before the country. On July 9, 1914, Senator Burton said:

"After all, it is not so much the fault of Senators and Representatives. They are expected to represent their constituents; they can hardly rise above the ideals and opinions of the voters who elect them. . . . It is demanded by a locality that their Representative in Washington obtain appropriations for improvement of rivers and creeks and harbors; and I may say, Mr. President, with the utmost confidence that that pressure has been stronger, that insistence has been greater, that hounding of the Representative has been more severe just about in proportion as the project has been objectionable."¹

Mr. Burton should know the force of this outside pressure, having served as chairman of the Committee on Rivers and Harbors and as chairman of the National Waterways Commission.

On September 9, 1914, Senator Thomas, of Colorado, voiced a similar opinion. "These extravagant appropriations," he said, "are largely the outgrowth of a public demand. People all over the country are clamoring for wholesale appropriations. . . . The people primarily are responsible for these enormous appropriations; and whenever public opinion, which represents public sentiment and which speaks for the country, declares that this shall be no longer, then and not till then, in my judgment, will there be a limit to these extravagant appropriations."

1. Congressional Record, Vol. 51, pp. 11857-8.

Every congressional district in which there is a questionable item in this bill wants to see that particular item enacted into law, and so far as economy is concerned, the people of that district are for economy with that particular item excepted. Multiply that by 35 or 40 States, and you get the river and harbor bill."¹

"Get everything you can get. That is the whole theory of this river and harbor bill and the way it is made up," said Mr. Calloway, of Texas.² He then quoted Captain Ellison as saying, while secretary and treasurer of the River and Harbor Congress: "It is not his (the representative in Congress) fault as I see it, but our fault, and I use the word 'our' in a nationwide sense. We send him here to legislate for the nation, theoretically, but actually to get all he can for us; and if he does not get our share, and then some, we do our best to replace him with some other man, who takes better care of our particular congressional district."³

Supplementing the demands of the localities for large appropriations are the far-reaching activities of such organizations as the National Rivers and Harbors Congress. The membership of this Congress consists of "commercial, manufacturing, and kindred interests, waterway improvement associations, corporations, companies, and individual citizens engaged or interested in commercial or industrial enterprises."⁴ Its avowed objects are the "collection, preparation, and presentation to the Congress of the United States of such statistics and other information bearing upon the question of the improvement of the rivers and harbors of all the Nation as will secure for such

1. Congressional Record, Vol. 51, p. 14839. 2. Ibid., Vol. 52, p. 1665.
3. Ibid. 4. World Almanac, 1915, p. 220.

purpose an annual appropriation by the said Congress of not less than fifty million dollars. To educate the people to the importance of the fact that the National Government, having assumed the control and improvement of the rivers and harbors of the country, is unequivocally bound to discharge these obligations promptly and by sound business methods, chief among which is the placing of annual appropriations for rivers and harbors on a parity with other great appropriation bills.¹

This Congress is in a peculiarly strong position today (1916) owing to the fact that its present president is the Honorable Joseph E. Ransdell, of Louisiana, who is also the chairman of the Senate Committee on Commerce, the committee in charge of the river and harbor bill in the Senate.

In 1907, the Trans-Mississippi Commercial Congress at Muskogee adopted as its slogan: "An annual appropriation of at least \$50,000,000 for rivers and harbors."² It also declared that "it is the sense of this Congress that it is desirable that the Government shall issue its 2 per cent bonds to the extent of \$500,000,000 more to carry forward the work which has already been approved by the engineers of the army."

1. World Almanac, 1915, p. 220.

2. Senate Document No. 101, 60th Congress, 1st Session, pp. 1-7.

Demands for an Extension of Federal Powers and Activities:

Then there is another phase to this growing demand upon the Federal Treasury: the demands -- and these are not necessarily local, but may come from business organizations with interests in many States -- for the extension of the Federal powers to new fields of activity. "One of the very important reasons for increased appropriations," according to Mr. Tawney, of Minnesota, "is the continued demand for an increase in the powers of the Federal Government. An extension of powers and services necessarily means increased appropriations." ¹ Many of these demands are the legitimate expressions of normal national growth, and it is the clear duty of the General Government to cheerfully assume all the obligations that are incident to the national development; but many others are fathered by the desire to shift burdens upon the Federal Treasury which properly belong elsewhere. "From every section of the country," said Mr. Fitzgerald, of New York, on September 12, 1914, "from every business and industry, from the capitalist and the wage-earner, flow incessant demands that the powers of the Federal Government be enlarged, that its activities be extended, that its agents be empowered to invade fields never contemplated by the founders of the Government; and these demands are based chiefly upon the desire to shift to the Federal Treasury burdens which properly be-

1. Congressional Record, Vol. 51, p. 15047. May 30, 1908.

long elsewhere.

"Unless intimately connected with the work of investigating the estimates for the support of the Federal Government, it is almost impossible for anyone to have any adequate conception of the magnitude of the work or to realize the extent of the pressure, from every conceivable source, for lavish grants from the Treasury.

"The protection of the Treasury against the attempts to shift burdens properly belonging elsewhere is not a partisan matter. It requires the co-operation of man regardless of party, and it calls for courage and determination seldom appreciated by the public. Supplications of friends, threats of political oblivion, abuse from disappointed advocates, denunciation from unsuccessful pleaders, must all be ignored, and the welfare of the whole people and the true functions of the Federal Government alone considered in reaching conclusions."¹

That river and harbor legislation has been influenced by these demands is evident from the increasing importance of the words "and for other purposes" contained in the titles of all general river and harbor acts, a phrase which conveniently covers waterways improvements which primarily subserve interests other than the interests of navigation and commerce.

This attitude of the American people towards governmental favors presents a serious problem to the student of government,

1. Congressional Record, Vol.51, p.15045.

and constitutes one of the weakest of the many weak links in the chain of our fiscal policy. In his message of May 29, 1896, vetoing the river and harbor bill of that year, President Cleveland discussed this matter in his characteristically frank manner. He said: "To the extent that the appropriations contained in this bill are instigated by private interests and promote local or individual projects, their allowance cannot fail to stimulate a vicious paternalism and encourage a sentiment among our people, already too prevalent, that their attachment to our government may properly rest upon the hope and expectation of direct and especial favors, and that the extent to which they are realized may furnish an estimate of the value of governmental care.

"I believe no greater danger confronts us as a nation than the unhappy decadence among our people of genuine and trustworthy love and affection for our Government as the embodiment of the highest and best aspirations of humanity, and not as the giver of gifts, and because its mission is the enforcement of exact justice and equality and not the allowance of unfair favoritism."¹

A correction of this evil in our representative system would be an important step in the direction of a more economical and efficient administration of our National Government. The problem challenges our patriotism quite as much as our resourcefulness. Perhaps a reasonably effective solution would be

1. Congressional Record, Vol.28, p.5918.

a change in the mode of selecting members of Congress. A given proportion of them might be elected at large, with a view to getting a body of men in each of the two houses of Congress who would be, in a measure, independent of localized constituencies, and who would not have the local point of view. These groups of men, it is thought, would check-mate local and sectional inroads upon the Federal Treasury: These are, in substance, the views expressed by Senator Lane, of Oregon, on September 15, 1914. "I do not think it will be remedied," he said, "until a certain proportion of the Members of both Houses are elected at large. Cities have found that where members of the council were elected from wards, each member of a ward was trying to loot the treasury of the city, not from any motive of robbery at all, but to secure a particular advantage and benefit to the ward in which he lived. He was expected by the people who elected him from that ward, and whom he represented, to do so. . . . I do not think we will ever get rid of these fraudulent or exaggerated appropriations until the Government recognizes the fact, which many cities have recognized, that it will be necessary to send here a certain proportion at least of the representatives who have been elected at large to look out for the general welfare of the entire community, regardless of local pressure ----- men who are placed above it and free from it, who do not have to depend upon it. Until you do that there always will be this contest of skill and wits."

1. Congressional Record, Vol.51, p.15149.

A more effective method would be to remove the constitutional residence qualifications entirely, and let each Congressional district and State select their respective Representatives and Senators without respect to district or State lines. This change would tend to obliterate State and district lines in all matters of national concern; and it would give the political parties an opportunity to use their ablest men, whereas under the present system of selection they are often forced to put second-rate men in nomination simply because such men chance to be the only available candidates residing within the State or district lines. In so far, then, as this change would nationalize Congress and secure the election of better qualified Members, it could not fail to improve the general tenor of our national legislation, and to safeguard, in no negligible measure, the Federal Treasury.

Waterway Improvements to Regulate Freight Rates: "It has repeatedly been urged that rivers should be improved because of the tendency of such improvements to lower railroad rates. This tendency cannot be denied. It is very manifest in every portion of the country where rivers have been improved; and so considerable has been the effect that it has frequently been argued that even if a river channel should not be used at all, it would be profitable to spend money upon it solely for the effect upon railroad rates."¹ A reading of the debates in Congress on the later river and harbor bills fully substantiates the findings of the National Waterways Commission quoted above. In 1910, Senator Burton said of the river and harbor bill of that year that he was "afraid that there are some items in this bill that were put in for that purpose."² Later, in 1914, he said: "We are confronted with the proposition, 'Improve the rivers, dig the holes in the ground, build monuments of folly in the shape of locks and dams, just to make the railroads charge a rate that will suit you.'³"

For the Federal Government to finance such improvements is constitutionally questionable and otherwise vicious. The policy is extravagantly wasteful, and it recognizes an impotence in the Government in attempting to regulate the railroads through its

-
1. Senate Document, No.301, 61st Congress, 2d Session, Preliminary Report of National Waterways Commission,p.10
 2. Congressional Record, Vol.45,p.4800.
 3. Ibid., Vol.51,p. 14720-1.

legally constituted agency, the Interstate Commerce Commission. Once lower competitive rail rates have been secured through these improvements, traffic is again diverted to the railroad, "but in such cases the object desired by the community -- the¹ reduction of the cost of transportation -- has been secured."

But at what cost has this reduction been secured? The Government has thus "wasted just so much money in an improvement which is not used, and in addition to that, the people along the banks have gained the benefit of lower rates, which lower rates must be counterbalanced by higher rates elsewhere and heavier burdens placed on people remote from waterways,"² since railroads must have an adequate return on the capital invested.

On the judgment of President Hadley, of Yale University, this "is a pretty expensive way for the United States Government to regulate freight rates, and that an equally good or better result could be obtained by an expenditure of one one-hundredth part of the money on the increase of salaries of judicial officers and other methods of improving the efficiency of the courts. If the nation attempts to regulate a railroad by constructing a canal on which no traffic is carried, it usually means a large expenditure of public money for the benefit of a relatively small number of individuals."³ According to Senator Kenyon, "We have spent enough money on the Mississippi River from its source to

-
1. Senate Document No.301, 61st Congress, 2d Session, Memorandum of Board of Engineers, p.38.
 2. Congressional Record, Vol.51, pp.14720-1.
 3. Ibid., Vol.45, p. 4800.

its mouth to build a railroad on each side of the river. So, if we are doing this work to control railroad rates, we are engaging in the most expensive way possible of doing it. To say that we must expend these enormous sums of money to control railroad rates when the Government is committed to a policy of regulation by a commission is to confess the weakness of the power in the commission and the weakness of the Government in the exercise of its control. That is an exploded argument, but millions have been secured from the Public Treasury by preaching the doctrine that waterway improvements are necessary to control railroad rates.¹ This whole policy rests, in the first instance, upon the "transparent fallacy that the railways constitute an entrenched and uncontrollable monopoly which cannot be reached by legislation or other orderly and legal methods; that the only way in which to compel them to charge lower rates is by the expenditure of large sums of money in the improvement of channels, which are to remain wholly or partially unused. . . . the fundamental criterion should be whether a railway or waterway, when constructed or improved, will be a profitable investment of capital."² If the principle of this policy is adopted there can be no judicious standard for the selection of waterway improvements. If the railroad rates are forced below what is a reasonable return on railway capital, it is confiscation; if they are not now reduced to the proper figure, it is because our commissioners and courts³ are failing in their duty.

-
1. Congressional Record, Vol.51, p.15100.
 2. Senate Document No.301, 61st Congress, 2d Session. Preliminary Report of the U.S. National Waterways Comm.
 3. Congressional Record, Vol.45, p.4800.

Piecemeal Appropriations: The most apparent defect in the method of making river and harbor improvements in the United States is the lack of a general or national plan. "River transportation has not been studied as a science," said Senator Newlands in 1910, "comprehensive plans have not been formed, and the nation has not worked with any definite purpose. No department has been charged with initiative in the matter, the Engineer Corps of the army being expressly forbidden by law to make suggestions or recommendations other than upon specific questions submitted by Congress,¹ and consequently, for the most part, the river improvements have involved unrelated works, largely the result of the spoils system, which made success in the adoption of a project the result of the industry and persuasion of an individual or of a delegation from a particular locality."²

Instead of dealing with all our navigable waterways under one unified plan, which would aim to complete the improvement of the more important and related commerce-bearing streams, as fast as possible, we have pursued a piecemeal or "dribbling policy" of making partial appropriations for a multitude of improvements without provision for their completion. The river and harbor bill of 1910³ contained 407 items as it came from the House. Of these, 278 were for projects under way. One hundred and

-
1. Forbidden under 30 Statutes at Large, 1149. Sec. 2.
 2. Senate Report No. 527, pt. 2. 61st Congress, 2d Session. Minority Report by Senator Newlands from the Committee on Commerce.
 3. House of Representatives, 20686. 61st Congress, 3d Session. Act June 25, 1910.

forty of these 278 were left incomplete. In the Senate the Committee on Commerce added 45 new projects to the bill, and made provision for the completion of but 33 of them.¹ The House bill of 1912² contained 261 items of appropriations. Of these 105 were for maintenance, amounting to \$1,197,450; 102 for continuation of work on projects already adopted, appropriating \$20,588,000; and 54 for new projects, amounting to \$4,477,040.50.³ The House bill of 1913⁴ carried appropriations for about 150 old projects, amounting to \$38,854,010; and for 21 new projects, amounting to \$2,018,948, but requiring \$9,183,220 to complete.⁵ The bill of 1914⁶ provided for 245 old projects and 76 new projects.⁷ In the bill of 1915⁸ there were 252 items making appropriations for old projects; no new projects were adopted.⁹

-
1. Senate Report No. 527, part 3. 61st Congress, 2d session. Minority Report by Senator Burton, from Committee on Commerce.
 2. House of Representatives, 21477, 62d Congress, 2d Session.
 3. House Report No. 395, " " " "
 4. House of Representatives, 28180, " " 3d "
 5. House Report No. 1341. " " " "
 6. House of Representatives, 13811, 63d Congress, 2d Session. All items replaced by lump sum appropriation of \$20,000,000 in Senate.
 7. House Report No. 300, part 1. 63d Congress, 2d Session.
 8. House of Representatives, 20189. " " " " All items replaced by lump sum appropriation of \$30,000,000 in Senate.
 9. House Report No. 1230. 63d Congress, 3d Session.

As illustrations of this method of making piecemeal appropriations for a large number of unrelated works, the following examples are not exceptions but rather typical of our great projects.

"In 1890 work was commenced upon a canal and lock at what is called the Colbert and Bee Tree Shoals, above Riverton, on the Tennessee River. This improvement was not finished until 1911, twenty years later. Naturally the work was of no value as a means of transportation until its completion. The sum of \$2,313,000 was appropriated for the construction of this canal ----- at the rate of \$110,000 a year."¹ Also, the existing project for improving the James River, Virginia, up to Richmond, was begun in 1884. It is still but two-fifths finished. The estimated cost of completion is \$3,030,000; and at the rate at which appropriations have been made for this item, it will require another thirty years to complete it.²

In 1877 work was begun on the Columbia and Lower Willamette Rivers below Portland, Oregon. \$3,277,158 have been expended on the work to date. Yet, after the lapse of thirty-eight years, it is now estimated that \$2,315,000 more will be required to complete the project.³

-
1. Munsey, January 1916. P. 551. Statement by Theodore E. Burton.
 2. Ibid.
 3. Ibid.

The project for a lock and dam at Meeker's Island, in the Mississippi River between Minneapolis and St. Paul, is another good example. As early as 1857 the territorial legislature of Minnesota incorporated the Mississippi River Improvement and Manufacturing Company and authorized it, "for the purpose of improving the navigation of the Mississippi River below and near the Falls of St. Anthony, to construct and maintain across said river at point herein specified, a dam, together with a Lock or Locks," etc.¹ In 1868, Congress made a grant of 200,000 acres of public lands to the State of Minnesota to aid the State in constructing a lock and dam at Meeker's Island.² In 1873 Congress made an appropriation for such a lock and dam, on condition that the State relinquish its rights to the 200,000 acres of land granted in 1868.³ The required relinquishment was not made, however, and the appropriation did not become available. Beginning with the river and harbor act of 1888,⁴ work was done at Meeker's Island under allotments from appropriations for improving the Mississippi River from the Washington Avenue Bridge, Minneapolis, to the Des Moines Rapids; in 1894 a separate project was adopted for the Mississippi River between St. Paul and Minneapolis;⁵ and in 1910 the present plan of improvement was adopted.⁶ The total amount expended on these projects to

-
1. Session Laws of the Territory of Minnesota, 1857, p. 230.
 2. 15 Statutes at Large, 169.
 3. 17 Ibid., - - " - - " - 560.
 4. 25 Ibid., 400. (Act August 11, 1888).
 5. 28 Ibid., 338, 357. (Act August 18, 1894.)
 6. 36 Ibid., 630, 659. (Act June 25, 1910.)

June 30, 1914, was \$2,017,728.78, and, at that time, the present project was 77 per cent. completed.¹ This improvement is not yet (May, 1916) finished.

This system of small and irregularly voted appropriations delays indefinitely the full use of the improvements, and it involves "the alternate disorganization and reorganization of working parties, damage to unfinished work, extra superintendence, deterioration of plant,"² and, in consequence, a material increase in the total expenditure for each project. During the long period of construction, which this piecemeal method involves, the earlier works deteriorate appreciably, and may become partially, if not wholly, obsolete or inadequate. This is well illustrated by the Meeker Island project. Prior to 1910 the work was done on the basis of two locks and dams, and Lock and Dam No.2 were completed in 1906.³ The river and harbor act approved June 25, 1910, modified the project by providing for an increase in the proposed height of Lock and Dam No.1, with a view to abandoning Lock and Dam No.2 when the high dam should be completed. That is, before the project was completed, the plan of the improvement became obsolete and had to be modified at considerable loss to the Government. Lock and Dam No.2 have been discarded, and there is work still to be done on the high dam.

-
1. Senate Report No.958. 63d Congress, 3d Session, p.278.
 2. House Executive Documents, 51st Congress, 2d Session. Vol.4, p.1146. Report of Chief of Engineers, 1890-1.
 3. Annual Report of Chief of Engineers, 1912, Vol.2, p.817.

Federal Expenditures for Waterways Improvements: The total amount of the river and harbor bill is not necessarily objectionable. It is not so much the amount expended as the manner in which it is spent that is questionable. According to the annual reports of the Chief of Engineers, the annual expenditures for river and harbor improvements since 1895 have been as follows:¹

1896	- - - - -	\$ 17,039,731.00
1897		13,461,395.00
1898		17,161,799.00
1899		15,167,294.00
1900		18,671,340.00
1901		19,621,227.00
1902		15,301,148.00
1903		18,251,217.00
1904		23,843,304.86
1905		24,648,697.00
1906		24,115,597.00
1907		23,092,070.00
1908		28,251,972.00
1909		36,753,285.00
1910		29,685,583.00
1911		32,457,012.00
1912		35,643,918.00
1913		40,953,568.09
1914	<hr/>	49,320,425.55

1. Senate Report No.958. 63d Congress,3d Session,p.4.

The aggregate expenditures for rivers and harbors from the establishment of the Government to the close of the fiscal year ended June 30, 1913, was \$705,019,693.65, exclusive of the Panama Canal, as follows:¹

For rivers and harbors, by States - - -	\$ 364,539,506.27
For general and joint improvements not separable by States, such as Mississippi, Ohio, and Missouri Rivers - - - - -	326,875,447.45
For canals, exclusive of the Panama Canal - - - - -	<u>13,604,739.93</u>
Total - -	705,019,693.65
For the Panama Canal - - - - -	<u>318,234,574.22</u>
Total	\$1,023,254,267.87

Comparatively considered these figures are not as excessive as they are commonly supposed to be. For instance, in the last forty years, beginning with the Forty-third Congress and extending through the Sixty-third Congress, \$4,916,601,057.52 have been appropriated for pensions; \$2,403,738,940.05 for the main-²tenance of the Army; and \$2,369,597,590.80 for the Navy. During this same period \$752,773,246.51 were appropriated for rivers and harbors.³ Further comparisons are interesting and instructive. The aggregate appropriations carried in the several supply bills for the fiscal years 1875 to 1916, inclusive,

1. Senate Document No.462, 63d Congress,2d Session.
2. Compiled from tables prepared by the clerks to the Committees on Appropriations of the Senate and the House of Representatives, furnished by Mr. John J. Fitzgerald, chairman of the House Committee on Appropriations.
3. Ibid.

are as follows:¹

Agricultural - - - - -	\$	223,628,054.06
Army - - - - -		2,403,738,940.05
Diplomatic and Consular - - - - -		88,204,530.24
District of Columbia - - - - -		262,576,681.94
Fortifications - - - - -		165,133,913.62
Indian - - - - -		326,702,889.75
Legislative, Executive, Judicial - -		1,020,167,389.67
Military Academy - - - - -		30,877,430.52
Navy - - - - -		2,369,596,590.80
Pension (including deficiencies therefor) - - - - -		4,916,601,057.52
Post Office - - - - -		5,035,589,584.10
Rivers and Harbors (including amounts in sundry civil de- ficiency, and special acts)		752,773,246.51
Sundry Civil (exclusive of amounts for rivers and harbors) - - -		2,093,312,099.03
Deficiencies (exclusive of amounts for pensions and rivers and harbors) - - - - -		<u>891,422,053.49</u>
Total - - - - -		20,580,324,461.30

From these figures it will appear that in the last forty years the rivers and harbors have received but 3.65 per cent.

1. Compiled from tables prepared by clerks to the Committees on Appropriations of the Senate and House furnished by J.J.Fitzgerald, chairman of House Committee on Appropriations.
2. This total does not include miscellaneous and the permanent appropriations.

of the total appropriations carried in the thirteen annual appropriation bills and the deficiency bill, while the four bills dealing with military and naval affairs, the Army, the Navy, the Fortifications, and the Military Academy bills, received 24.2 per cent, and pensions got 22.8 per cent.

In 1904, Mr. G. Kitchener, writing in the Contemporary Review, credited Germany with having spent 30,000,000 pounds on her waterways during the twenty years last preceding.¹ During the same period, more than 1,000,000 pounds were expended on the regulation of the river bed of the Rhine alone, and 400,000 pounds more were spent in deepening the channel of the Maine for twenty miles upstream.² Between 1871 and 1900 Germany also built 1,095.30 kilometers of inland canals, and "the German-Austrian canals lately proposed or begun have a length of 2,657 kilometers, whilst their probable cost has been estimated at the gigantic sum of about 50,000,000 pounds."³ Yet with Germany this expenditure has been a profitable investment, and there has been little occasion to charge the Government with misappropriation or excessive use of the public funds.

According to the report of the National Waterways Commission, France spent on inland waterways, from 1814 to 1900, "approximately [301,000,000 for improvement and construction (including levees, revetments, etc.), and over \$148,000,000 for maintenance

1. Contemporary Review, December, 1904.
 2. Ibid.
 3. Ibid.

and heavier repairs. Belgium spent for the construction of State waterways from 1831 to 1905 about \$77,000,000 and for current improvements and maintenance about \$24,000,000. Between 1813 and 1906 Prussia spent for waterway construction and improvements about \$129,000,000, and for maintenance in 1905 about \$4,000,000.¹ In comparing these figures with expenditures for waterways in the United States, it is well to keep in mind that "the United States is about eighteen times as large in area as either Germany or France, and the length of its navigable rivers and canals is nearly four times as great as in France and more than four times as great as that of Germany."²

"Much of the criticism (of our river and harbor improvement policy) is misdirected," wrote Professor Emery R. Johnson in 1892, "the change demanded by the facts lies in the direction neither of no expenditure nor less expenditure, but in the direction of more expenditure in a wiser manner, a manner in which the public money shall be more scientifically expended on works fewer in number and more strictly national in character."³ President Taft expressed a similar opinion in a memorandum to Congress in 1910. Referring to the river and harbor bill of 1910 he said: "The total of the bill -- \$52,000,000 -- is not unduly large, but the policy of small appropriations with a great many different

1. Senate Document No. 301, 61st Congress, 2d Session, pp. 29-30. Preliminary Report of U.S. National Waterways Commission, January 24, 1910.

2. Ibid.

3. Annals of the American Academy, May, 1892, p. 79.

enterprises without provision for their completion is unwise"¹

Yet, until the Government adopts some more business-like method of dealing with rivers and harbors than is now used, it seems highly desirable that the appropriations should be reduced to the minimum; whether or not it is desirable, under any system of improvement, to develop our inland waterways on a comprehensive scale, is a problem not for laymen, and still less for interested politicians, but for a body of non-political engineering and trade experts acting under the direction of the Secretary of War or of a Secretary of a Department of Public Works, who should be held responsible for the formulation of a policy as well as for the prosecution of the work.

1. Congressional Record, Vol.51,p.11447.

Legislation on Appropriation Bills: According to what is known as the Holman Rule, "no appropriations shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress. Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as being germane to the subject matter of the bill shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill."¹

The rule has an interesting history. In 1835 there was an extended discussion in the House regarding delays in the enactment of the appropriation bills.² Mr. J. Q. Adams, former President and now a Member of the House, urged upon the House the desirability of stripping the appropriation bills of everything, all legislation, other than appropriations, and on January 5, 1836, the Committee on Rules reported a rule to that effect.³ The rule was not adopted at this time, however; but the failure of the fortifications bill in 1837, on account of a number of extraneous legislative provisions, resulted in

-
1. Rule XXI, Section 2. House Manual and Digest.
 2. Congressional Record (Appendix), Vol. 52, part 6, p. 727.
 3. Ibid.

the adoption of the rule in that year.¹ It was slightly modified in 1838, and so remained in force until the first session of the Forty-fourth Congress, when it was modified, through the efforts of Mr. William S. Holman, of Indiana, so as to permit legislative provisions to retrench expenditures.² At the succeeding session of that Congress the rule was again modified somewhat and given substantially its present form.³

Less than three years later, in 1879, Mr. James A. Garfield wrote in the North American Review: "Perhaps the most reprehensible method connected with appropriation bills has resulted from a change of one of the rules of the House, made in 1876, by which any general legislation germane to a bill may be in order if it retrenches expenditures. The construction recently given to this amended rule has resulted in putting a great mass of general legislation upon the appropriation bills, and has so overloaded the committee in charge of them as to render it quite impossible for its members to devote sufficient attention to the details of the appropriations proper. If this rule be continued in force, it will be likely to break down the Committee on Appropriations, and disperse the annual bills to several committees, so that the legislation on that subject will not be managed by any one committee, nor in accordance with any general and comprehensive plan."⁴

1. Congressional Record (Appendix) Vol. 52, part 6, p. 727.

2. Ibid.

3. House Manual and Digest, 63d Congress, 3d Session, p. 494.

4. North American Review, June 1879, pp. 585-6.

In 1880, the year following Mr. Garfield's prophecy, the work of dispersing the annual appropriation bills among the several committees of the House commenced, and in 1883 and 1885 it was completed.¹

A further result of permitting legislation on appropriation bills was well pointed out by Mr. Joseph G. Cannon, in his farewell address to the House on March 4, 1913. He said in part: "Committees charged with the dual function of originating legislation and preparing appropriation bills have quite abandoned in nearly every instance the exercise of their functions with reference to originating or considering and recommending bills devoted solely to legislation. They concentrate their whole time and energy on the work of preparing the appropriation bills and saddling upon them such legislation as may be unobjected to or for the consideration of which they may be able to extort a special rule. This results in the enactment of ill-considered legislation and extravagant appropriations. Such a condition is vicious in the extreme and should be broken up by restoring to the great committees of the House their former dignity, power, and efficiency in considering and reporting bills recommending general legislation"²

If the system which charges a committee "with the dual function of originating legislation and preparing appropriation bills," and which permits legislation on appropriation bills under the

-
1. See Chapter V.
 2. Congressional Record (Appendix), Vol. 49, part 5, p. 181. Parts underscored are underscored by the writer.

restrictions of the Holman Rule, results "in the enactment of ill-considered legislation and extravagant appropriations," what may be expected from the river and harbor bill, which does not even come under the Holman Rule, but may carry any amount of new legislation pertaining to any subject matter over which the Committee on Rivers and Harbors has jurisdiction? The river and harbor appropriation bill is altogether an anomalous bill, bearing no relation whatsoever to the general appropriation bills, which, under Rule XXI, clause 2, appropriate money for objects already authorized by law, and for none others, while the river and harbor bill authorizes by law the construction of the works for the prosecution of which it appropriates, at the same time and in the same bill, the amounts necessary for the ensuing fiscal year.¹

What has been the practical result? The phrase "and for other purposes", contained in the title to every general river and harbor act, has come to embrace a large number of things that are not strictly improvements to subserve the interests of navigation, which is the only constitutional justification for such works. Said Mr. Rainey, of Illinois, acting chairman of the Committee of the Whole House, on January 19, 1915:

"The Committee on Rivers and Harbors heretofore has assumed jurisdiction of matters not entirely germane under this rule to bills for the improvement of rivers and harbors and for the pur-

1. See Chapter 1, page 18 .

pose of improving navigation.

"In 1890 the Rivers and Harbors Committee reported out a bill which afterwards became law, which contained a clause to prevent obstructions in the navigable waters and to protect certain public works from injury. In 1891 the bill of that year contained a clause providing for the use of the surplus waters in the Kentucky River for industries, and the same bill provided for reports as to certain commercial statistics.

"In 1900 the Committee on Rivers and Harbors reported a bill (H.R.11876) to regulate the construction and operation of a water-power canal at the Sault Ste.Marie,Michigan, and the same year a bill (H.R. 9542) extending the time for the completion of the work of the Muscle Shoals Power Company, of Alabama, and in the same year the bill (H.R. 9824) contained a clause in reference to the floating of loose timber, logs, and rafts in navigable streams.

"The Committee on Rivers and Harbors has exercised jurisdiction over legislation inviting the Government of Great Britain to join in the formation of an international commission to investigate into the conditions and uses of the waters on the boundary line whose outlet is the St.Lawrence River, and as to the advisability of locating a dam at the outlet of Lake Erie."¹

The building of levees along the Mississippi River to prevent the destruction of life and property through floods, and

1. Congressional Record, Vol.52,pp.1863-1864.

to reclaim millions of acres of land along the river, has been taken care of, as far as the Federal Government has cared for this work, in river and harbor bills. To be sure the Mississippi River is now being treated as a separate and distinct project that has been put under the jurisdiction of the Mississippi River Commission,¹ but the report of the Commission is merely advisory to Congress and to the Committee on Rivers and Harbors. Since 1879, the Federal Government has contributed \$33,000,000 to this work.² This work, meritorious as it may be, is only incidentally an aid to navigation, and it is so considered by Members of Congress. "The improvement of work in progress in the lower Mississippi", said Mr. Switzer, of Ohio, on January 14, 1915, "is of vital importance to the people who till the three and one-half million acres of land under cultivation on the Delta, as their very existence and future prosperity depends upon a more adequate protection from a repetition of the terrible devastations wrought by the tremendous river floods of the past. The reclamation and development of the 15,000,000 acres of untillable land in the Delta, because of its swampy condition, due to the unchecked inundations from the river is also of the utmost importance."³ That same day, Mr. Humphreys, of Mississippi, frankly admitted his interest in the building of levees in these words: "The gentleman

-
1. 21 Statutes at Large, 37. Section 3.
 2. Congressional Record, Vol. 52, p. 1889. Statement by Mr. Humphreys, of Mississippi, January 19, 1915. Mr. Humphreys stated that the people along the lower Mississippi in the various levee districts have contributed, since 1879, \$75,000,000.
 3. Ibid., p. 1582.

from Arkansas (Mr. Caraway) and myself are both particularly interested in one common purpose, and that is to secure appropriations for the prevention of floods in the Mississippi River ."¹

Closely allied with the building of levees near the mouth of a river for the prevention of floods, is the work of constructing reservoirs at the head of the river, ostensibly for the purpose of controlling the flood waters in the interest of navigation, but really for the purpose of irrigating the arid regions of the west. The true character of these improvements was made quite clear in the course of the Congressional debates on the river and harbor bill of 1899. The Senate Committee on Commerce reported two amendments to the House bill, one providing for the construction of certain reservoirs in Wyoming, at the head of the Missouri River, and the other for surveys and examinations in each of the arid and semi-arid States, having in view the further prosecution of this work. These amendments, championed by Senators from the arid States, apparently in the interest of navigation were, in truth, irrigation projects included in a river and harbor bill. The Senators who supported the amendments laid particular stress upon the need of irrigation,² although, when the point of order was

-
1. Congressional Record, Vol. 52, p. 1587. The gentleman above quoted was endeavoring to secure appropriations for levees in the 1915 river and harbor bill.
 2. Ibid., Vol. 32, p. 2834. "I cannot resist the temptation for a few moments to state how keenly and how deeply I am interested, and how the people of our section are interested, in securing some legislation looking to the ultimate development of that section of the West known as the arid region." Senator Wilson.
"All we want is to have legislation that will enable the people to cultivate and occupy that land (arid land).
(over)

made that the amendments were not germane to a river and harbor bill, and that for this and other reasons they were unconstitutional, these Senators fell back upon two lines of argument:

(1) that most of the arid lands were Government property, and that the Government clearly has the inherent power to improve, and thus enhance the value of, its own property; and (2) that the primary object of the proposed reservoirs was to promote the interests of commerce, and that irrigation was only secondary, a by-product.¹

"They are very cleverly drawn," said Senator Spooner, "so as to give some appearance that the primary object of the expenditure proposed is to facilitate navigation. I believe that the real object of this proposed expenditure is to secure the construction of reservoirs in the States for irrigation purposes."²

The Senator averred that the primary object of a river and harbor expenditure must be to facilitate commerce, and not to create a subject of commerce. The primary object here, he said, was the creation of subjects of commerce. He objected further that it was a dangerous precedent, opening the way to enormous expenditures when once entered upon.³

(From preceding page) -I do not propose to take any longer time, I simply wanted to take this occasion to emphasize the importance of irrigation." Senator Stewart.

1. Congressional Record, Vol.32, pp.2281,2839.
2. Ibid., p.2270.
3. Ibid., Vol.32, p.2271.

Senator Gallinger's argument in favor of the amendments throws into bold relief the real intent of both levee and reservoir works. As a member of a sub-committee of Congress to investigate the Mississippi River, "I traversed the Mississippi River to its mouth, and I found that the Government had spent and is continuing to spend millions of dollars to construct levees along that great waterway, and ostensibly they are built for the purpose of promoting commerce, but as a matter of fact they are constructed largely for preventing the overflow of millions and millions of acres of fertile lands which lie alongside that great river. . . . I rose, Mr. President, simply to say that this is certainly no greater transgression of the Constitution than when we are voting away the people's money to build along the Mississippi River and the Missouri River what are called harbor improvements. That money is voted simply for the purpose of protecting the towns and the railroads that lie on the banks of the river, and for no other purpose on earth."¹

On the third of March, Senator Pettigrew, of South Dakota, stated the case of the arid States in the following terse words: "The Government of the United States owns 500,000,000 acres of arid and semi-arid land, and it also owns the streams and the lakes in the locality of its irrigable possessions. Those

1. Congressional Record, Vol.32, p.2280-1.
According to Senator Warren the Government built 41 reservoirs on the Mississippi River from 1869 to 1879. Ibid., p.2825.

streams run to the seaboard, and their lower courses are navigable and carry an enormous commerce. During floods they overflow their banks and destroy temporarily or permanently large areas of fertile and cultivated land, together with the crops growing thereon. For the purpose of preventing this destruction, (not for the purpose of facilitating commerce) from the earliest day of the Government Congress has appropriated money for the construction of levees along the banks of these streams, under the theory that such work was for the benefit of commerce.

We of the arid States now propose that the storm water which causes periodical floods should be accumulated in reservoirs at or near the sources of the streams, and liberated as needed for irrigating purposes during the summer and fall months.

This would prevent the overflow of the streams in their lower courses, and incidentally furnish water to refresh the valleys through which the streams flow." ¹ The Senator did not say that these improvements would facilitate navigation or commerce, but he did say, later, that insofar as these reservoirs would be used for the reclamation of arid lands, they would be the means of creating subjects of commerce, and that that would be a very beneficial aid to commerce. This is undoubtedly an unwarranted interpretation of the power of Congress to make appropriations in the aid of navigation, and shows the extent to which Members

1. Congressional Record, Vol. 52, p. 2839. The parts underscored are underscored by the writer.

are willing to stretch the commerce clause of the Constitution to meet their purposes.

Another fruitful source of expenditure for river and harbor improvements is the construction of waterpower projects under the guise of improving navigation. Take as an illustration the Muscle Shoals Canal in the Tennessee River, in Alabama. This canal has been under construction by the Federal Government since 1828. From 1828 to October 1, 1914, the Government appropriated \$3,191,729.50 for construction, and from 1890 to October 1, 1914, \$1,368,247.79 for operation and maintenance, totalling \$4,559,974.49.¹

Relative to this project, the following dialogue took place on the floor of the House, on January 19, 1915:

MR. LENROOT - Will the gentleman not admit that this is primarily a water-power proposition?

MR. UNDERWOOD; No; I will not.

MR. LENROOT. Does the gentleman know that the Board of Engineers so state?

MR. UNDERWOOD. They may so state in their report that the water-power in this proposition is of more value than the navigation, but etc.

.

MR. AUSTIN. Mr. Chairman, is it not a fact that the Keokuk proposition was carried in a river and harbor appropriation bill, and the Hales Bar proposition, 30 miles below Chattanooga, also carried in a river and harbor appropriation bill?

1. Congressional Record, Vol. 52, p. 1859. Figures by Mr. Underwood, January 19, 1915.

MR. UNDERWOOD. I think so.¹

Mr. Lenroot, a little later, recited the following recent history of the Muscle Shoals project:

"In February, 1913, the Committee on Rivers and Harbors passed a resolution requesting the Board of Engineers to review all former reports concerning the improvement of this stretch of the Tennessee River and make a report with reference to its improvement in co-operation with private water-power interests. In response to this resolution the Board of Engineers made a very extended investigation. They called for bids from private water-power interests for the construction of dams on this part of the river. Two bids were received, one from the Muscle Shoals Hydro-Electric Power Co. The Muscle Shoals Hydro-Electric Power Co. made an estimate of the cost of these dams - three of them - of \$18,390,000. The Board of Engineers finds that the cost of the dams proposed by this company will be \$18,700,000. The Muscle Shoals Hydro-Electric Power Co. proposed that the Government itself shall advance every dollar of this \$18,700,000 and give to it a 100-year lease of the water-power created by this dam. The Board of Engineers finds that of this \$18,700,000 only \$8,500,000 can in any sense be attributed to any improvement of navigation, and that \$10,000,000 of the \$18,700,000 are for water-power purposes alone. The company proposes to pay to the Government at the completion of the project \$3,000,000 and an annual payment during the 100-years

1. Congressional Record, Vol. 52, p. 1860.

in sums that will equal with interest the \$10,000,000 that is chargeable to water-power alone. . . . They also propose to pay the Government, when they have installed 200,000 horsepower, 35 cents per horsepower, and that at the end of 20 years in any event they should pay to the Government 35 cents per horsepower. So the proposition with which we are confronted is that the Government shall expend out of the Treasury within the next six years \$18,700,000 for a water-power project.¹"

Among the other matters over which the Committee on Rivers and Harbors has exercised jurisdiction may be mentioned the creation of waterways commissions² and boards,³ the building of bridges,⁴ the payment of claims for damages caused in the prosecution of waterways improvements,⁵ and the appropriation of

1. Congressional Record, Vol.52,p.1864. As another illustration of water-power projects carried in the river and harbor bill, the high dam at Meeker Island has been discussed elsewhere. See Chapter VII,p.125.
2. The International Waterways Commission was authorized under the river and harbor act of June 13,1902 (32 Statutes at Large,373, Sec.4). The National Waterways Commission was created by the river and harbor act of March 3, 1909. (35 Statutes at Large,815. Sec.7).
3. The Board of Engineers was organized under authority of the river and harbor act of June 13, 1902. (32 Statutes at Large, 373, Sec.3.)
4. River and harbor act, July 25,1912,(37 Statutes at Large, 201), makes provision for several bridges over navigable streams.
5. The river and harbor act of 1912 has an item "for reimbursing the County of Madison, in the State of Kentucky, for moneys expended by said county for the repair of said county roads near Otter Creek." (37 Statutes at Large, 201).

\$100,000 for a building and other facilities at the Engineer School for the instruction of officers of the Corps of Engineers in the duties pertaining to the improvement of rivers and harbors.¹

The matters above referred to as being included in river and harbor bills may all be very worthy in themselves. Their merits need not be inquired into in this connection; it is desired only to point out the many and diverse expenditures that have become germane to a river and harbor appropriation bill, and to raise a question as to the probable result upon the Federal Treasury. The river and harbor bill is not only an anomalous bill, a bill combining legislation with appropriation, but it is also an omnibus bill, freighted with a multitude of unrelated items. Add, as the cap-sheaf to this anomaly, the fact that the same group of men, the Committee on Rivers and Harbors, exercise the dual function of originating the expenditures and of preparing and recommending the appropriations for each item, and it becomes hard to see how the river and harbor bill can possibly escape the inclusion of wasteful projects and unwarranted expenditures. The building of levees, reservoirs, or water-power dams by the Federal Government may be desirable (the writer does not say that it is desirable), but the present method of making provision for this kind of work in a free-for-all appropriation bill that is not even subject to the restrictions provided under the Holman Rule, is well-nigh criminal.

1. 37 Statutes at Large, 201. Section 11.

The impossibility of such a system, from a business point of view, accentuates the need of returning to the earlier practice of the House in concentrating in one committee authority over all appropriations, or of inaugurating a budgetary system with executive responsibility for all Federal expenditures.

CHAPTER SEVEN.

ATTEMPTS TO CONTROL AND TO SECURE EXECUTIVE
RESPONSIBILITY FOR EXPENDITURES ON
OUR WATERWAYS.

Attempts to Secure Executive Responsibility: An attempt to coordinate the various services connected with waterways, with a view to dealing with improvements in a full and comprehensive manner, was made during President Roosevelt's administration. Under his power of recommendation, President Roosevelt organized the Inland Waterways Commission, on March 14, 1908, consisting of Theodore E. Burton, chairman, Francis G. Newlands, William Warner, John H. Bankhead, Alexander MacKenzie, W. J. McGee, Frederick H. Newell, Gifford Pinchot, and Herbert Know Smith, charging them with the formulation of a comprehensive plan of legislation for the improvement of rivers and harbors.¹

This commission made a report to the President under date of February 3, 1908, recommending that "the Congress be asked to authorize the coordination and proper development of existing public services connected with waterways; and we suggest that such enactment might provide that the President of

1. Senate Document No. 325, 60th Congress, 1st Session, p. 15.

the United States be authorized, with the advice and consent of the Senate, to appoint and organize a national waterways commission, to bring into coordination the Corps of Engineers of the Army, the Bureau of Soils, the Forest Service, the Bureau of Corporations, the Reclamation Service, and other branches of the public service, insofar as their work relates to inland waterways; and that he be authorized to make such details and require such duties from these branches of the public service in connection with navigable and source streams as are not inconsistent with law; the said commission to continue the investigation of all questions relating to the development and improvement and utilization of the inland waterways of the country and the conservation of its natural resources related thereto, and to consider and coordinate therewith all matters of irrigation, swamp and overflowed land reclamation, clarification and purification of streams, prevention of soil waste, utilization of water-power, preservation of and extension of forests, regulation of flow and control of floods, transfer facilities and sites, and the regulation and control thereof, and the relations between railways and waterways; and that the commission be empowered to frame and recommend plans for developing the waterways and utilizing the waters, and, as authorized by Congress, to carry out the same through established agencies, when such are available, in cooperation with States, municipalities, communities, corporations, and individuals, in such manner as to secure an equitable distribution of costs and benefits.¹ The commission further recommended that a plan for improving the inland waterways be

1. Senate Document No. 325, 60th Congress, 1st Session, pp. 26-27.

adopted which should meet these requisites, viz.: "expert framing of a definite policy; certainty of continuity and coordination of plan and work; expert initiative in the choice of projects and the succession of works; freedom in selection of projects in accordance with terms of cooperation; and the widest opportunity for applying modern business methods."¹

Prior to the appointment of this commission, on December 4, 1907, Senator Newlands, of Nevada, had introduced in the Senate a bill entitled:

A BILL (S.500) Providing for the appointment of an inland waterways commission and for the improvement and development of the inland waterways of this country, with a view to the promotion of transportation between the States and with foreign countries.²

This bill was referred to the Inland Waterways Commission on April 18, 1908, and on April 20th the Commission reported that the main provisions of the bill were in accord with its own recommendations of February 3rd.³ The bill was also referred to the Secretary of War, Mr. Taft, who also made a favorable report on it on April 17th.⁴ It was under consideration by the Senate Committee on Commerce when the Sixtieth Congress adjourned.

-
1. Senate Document No. 325, 60th Congress, 1st Session, page 26.
 2. Senate 500, 60th Congress, 1st session.
 3. Senate Report 527, part 2. 61st Congress, 2d Session, page 5.
 4. Ibid., page 6.

Section seven of the river and harbor bill approved March 3, 1909,¹ created the National Waterways Commission. This Commission was to be composed of "five Members of the Senate, to be appointed by the presiding officer thereof; seven Members of the House of Representatives, to be appointed by the Speaker." The duties assigned it were "to investigate questions pertaining to water transportation and the improvement of waterways, and to recommend to Congress such action as it may deem best upon these subjects." The term of the commission, the act provided, should expire on March 4,² 1911.

When the river and harbor bill of 1911² came up before the Senate, Senator Newlands offered an amendment, embracing substantially the recommendations of the Inland Waterways Commission in its report of February 3, 1908, and the provisions of his earlier bill for the creation of a national waterways commission.³ As the coordinating and unifying agency, he proposed a board or boards composed of "engineers, transportation experts, and constructors of eminence," or, a commission of experts, to be appointed by the President. All that Congress accomplished, however, was to continue the National Waterways Commission until November 4, 1911, and to extend its duties to include artificial⁴ waterways and flood reservoirs.

-
1. 35 Statutes at Large, 815.
 2. House of Representatives, 20686.
 3. Senate Report No. 527, part 2. 61st Congress, 2d Session, page 8.
 4. 36 Statutes at Large, 933, section 4.

Senator Newlands' plan was to have "a great executive and administrative board or commission directly responsible to the President, which would have a comparatively free hand in the elaboration of plans and, after their approval by Congress, in the full development of projects in the order of their importance; and an ample fund should be provided, insuring the execution of approved plans with consecutiveness and vigor, in order that any rivers may become as perfect machines for the economical transportation of goods and bulky freight as are our railroads for the higher classes of freight." ¹ In short, he proposed to make the executive department responsible for the initiation as well as the prosecution of river and harbor work.

Senator Newlands has before the Senate at the present time a bill "to create a waterways commission and a board of river regulation to promote interstate commerce by the development and improvement of the rivers and waterways and water resources of the United States, and the coordination of and cooperation between rail and water routes, and by providing a fund for the regulation and control of the flow of rivers and for the maintenance at all seasons of a navigable stage of water in waterways and for the connection of rivers and waterways with the Great Lakes and with each other, and as a means to that end to provide for flood prevention and protection and for water storage and for the beneficial use of flood waters for irrigation

1. Senate Report 527, part 2. 61st Congress, 2d Session, page 10-11.

and water power and for the conservation and use of water in agriculture and for the protection of watersheds from denudation and erosion and from forest fires and for the cooperation in such work of Government services and bureaus with each other and with States, municipalities, and other local agencies." ¹

When the 1915 river and harbor bill was before the House, Mr. James A. Frear, of Wisconsin, attempted to secure some measure of executive responsibility by vesting discretionary power in an executive board, or in the President, to withhold the appropriation authorized for any project which, in the opinion of this board or of the President, did not or would not serve a public need in aid of navigation. On January 14, 1915, he proposed the following amendments:

"Provided, That before the payment of any moneys for projects hereinafter specifically mentioned a board consisting of the Secretary of Agriculture, Secretary of Labor, and Secretary of Commerce, to be known as the national board of waterways, shall by written report to the Secretary of the Treasury approve the public necessity for an expenditure on each individual project, and that such expenditure is to serve a public use in aid of navigation; Provided further, That said board may make or cause to be made independent examinations of the character of any and all projects and may call upon the Army Engineers or

1. Congressional Record, Vol. 53, p. 338. December 16, 1915. The bill (S. 2685) is generally known as the Newlands River-Regulation Bill. Mr. Newlands has been urging the bill for years. See Congressional Record, Vol. 52, pp. 623-624. December 23, 1914.

employ the service of such other experts as may be necessary in determining the surrounding conditions, general character, and public use which such project is intended to serve."¹

This amendment was defeated and Mr. Frear immediately moved another, which failed likewise:

"Provided, That if the President shall, upon investigation, ascertain and determine that any projects¹ or projects hereinafter provided for are not of material value to the public he may, in his discretion, withhold such specific appropriation until further action by Congress."²

Both of these proposals sought to apply executive responsibility from the wrong end, as it were. If the executive department is to be the final judge of the merits of each and every waterways improvement, why not let that department frame the river and harbor bill, subject to the approval or disapproval of Congress? Why adopt this circuitous method rather than the direct one?

It is significant to notice that these proposals for some form of executive responsibility for river and harbor improvements, which, after all, are but one phase of executive responsibility for a budgetary proposal, came from members of the legislative branch of the Government. Members of Congress are beginning to appreciate their impotence in trying to finance the multitudinous operations of a great nation without a national

1. Congressional Record, Vol. 52, p. 1588.
2. Ibid., p. 1589.

budget. The principle of executive responsibility is the correct one. The formulation, as well as the prosecution of a national plan of waterways improvement is properly an executive function; the legislature performs its full duty when it approves or disapproves this plan. Nor is it necessary to further dissipate responsibility by creating a new commission or board to carry on the work. If the existing executive departments do not have all the governmental machinery that is necessary for this work, let us have a new Department on Public Works. We have developed an admirable system of irresponsible government through the creation of, and the diffusion of legislative and executive authority among an endless number of boards and commissions and committees. What the Government needs most is not more unrelated parts, but a more business-like assembling of existing parts so as to secure a greater centralization of its powers and responsibilities.

The Engineers: The Engineer Corps of the Army are singularly well-qualified to do the greater part of this work. "They are trained to take charge of this class of work by four years of mathematical, mechanical, and civil engineering study at our Military Academy at West Point, a year of inspection of the best type of river and harbor construction, and other field practice, another year or two of special study of explosives, electricity, and civil engineering specialties. Besides, these

men hold life positions, which makes them free from local bias and local interests. They have no interests to serve save that of the Government."¹ Also, "only the honor men - I understand it to be the 10 honor men - of West Point are eligible to entrance in the Engineer Corps."²

It has been charged that in recent years the Engineers have practically yielded their independence to Members of Congress, and that, therefore, their opinion is no longer trustworthy. "I fear," said Senator Burton on July 9, 1914, "that a very considerable amount of influence is exercised on the Board of Engineers by the appearance of Representatives before them. I do not think that was formerly the case, but I know in many of these reports of the board of review you will find an enumeration of the Senators and Representatives who have appeared before the board, and, I take it, that enumeration is significant. I note other instances in which the board of review have sent in here an adverse report on projects, but on the appearance of Senators and Representatives, reinforced by delegations from chambers of commerce and persons representing commercial interests - possibly contractors - the judgment of the board of review has been changed,"³

It may be unkind to quote, in this connection, from the

-
1. Congressional Record, Vol.52,p.1903. Statement by Mr.George R.Smith, of Minnesota.
 2. Ibid., Vol.51,p.15075. Statement by Senator Ransdell, of Louisiana. Generals Lee, Meade, Johnson, Wright, McPherson, and Beauregard of the Civil War were members of the Engineer Corps; Colonel Goethals and his lieutenants, Sibert, Gaillard, and Hodges, are some of the leading members of the Corps today.
 3. Ibid., p.11857.

preliminary report, in 1910, of the National Waterways Commission, of which Mr. Burton was then chairman; but it is interesting to note that "the Commission . . . points to the fact that the past recommendations of the Engineer Corps have been carefully prepared, and with a degree of expert knowledge and comprehension of the commercial needs of the country which could not well be supplied by any other body or organization. The advantages which attach to the Engineer Corps are obvious. The members are in the permanent service of the Government, and are free from those influences which would inevitably be brought to bear upon men in civil life. Those engineers now engaged in the work are carefully trained in the planning and execution of these improvements, and have special qualifications for judging the feasibility and the cost of proposed river and harbor projects. They also have a good general knowledge of the probable commercial results which would accrue, though on this point their opinions have not been regarded as conclusive. In this connection the commission would call attention to the necessity of an increase in the membership

of the Engineer Corps."

1. Senate Document No. 301, 61st Congress, 2d Session. Also embodied in the Final Report, Senate Document No. 469, 62d Congress, 2d Session, p. 78.

In an address delivered at the National Rivers and Harbors Congress, December 9, 1914, Mr. J. Hampton Moore, of Pennsylvania, a member of Mr. Burton's own party, said, referring to Mr. Burton's attack upon the river and harbor bill: "I trust that the distinguished and able Senator from Ohio is doing some good. I am not sure he is, but just between us waterway men and women, I would venture to say that if anyone were looking forward to presidential honors, a clever campaign manager would think it fine capital if the dear, good people of the Middle West could be made to believe that you "pork barrel" devils in Oregon, Louisiana, Maryland, and Florida, in your efforts to obtain competitive transportation to the country's markets, were actually looting the honest farmers who are suffering because they cannot now get sufficient prices for their products." Appendix to Congressional Record, Vol. 53, page 155.

The facts in the case seem to justify the conclusion that the Engineers have acted with a reasonable degree of independence, in view of the fact that Congress virtually directs their every action in all matters of waterways improvement. "I hold in my hand a letter from General Kingman, Chief of Engineers," said Senator Ransdell on September 14, 1914, "showing that of the last 400 examinations or surveys ordered by Congress 260 were reported unfavorably, and 140, or about one-third, were reported favorably. Of the 140 reported favorably about two-thirds were mere modifications or changes in existing projects, which changes were thought to be necessary because of the increased needs of commerce . . . Bear in mind, Senators, that back of every one of these projects there was a Senator or a Representative. The House Committee on Rivers and Harbors and the Senate Committee on Commerce never make an order for a survey unless it is urged upon them by the Representative from the district or the Senator from the State."¹

The following table was submitted to the House by Mr. Humphreys² of Mississippi, on January 14, 1915:

Authority for investigation	Number of investigations ordered	Number reported on to June 30, 1914	Number favorable	Unfavorable	Percent of favorable reports
Act of		170			
June 13, 1902	170		52	118	30.6
March 3, 1905	176	176	74	102	42.0
March 2, 1907	200	200	108	92	54.0
March 3, 1909	274	274	120	154	43.8
June 25, 1910	187	184	63	121	34.2
Feb. 27, 1911	90	85	28	57	32.9
July 25, 1912	222	192	64	128	33.3
March 4, 1913	122	76	26	50	34.2

1. Congressional Record, Vol. 51, p. 15074.
2. Ibid., Vol. 52, p. 1588.

According to these statistics, approximately one-third of the surveys ordered by Congress - and behind each project stood some Member of Congress - have been reported favorably. It is very probable, however, that, if the initiative and the responsibility were placed in the hands of the Engineers, but a small number of these would be adopted. Responsibility tempers the judgment and checks tendencies to extravagance as few things do; and it is highly probable that a service will be efficiently administered if the responsibility for its administration is placed in the hands of a group of scientific men, whose training well qualifies them to assume the obligation, and whose life tenure makes them reasonably independent of outside pressure.

Local Cooperation: As a further check upon extravagant appropriations for waterways improvements, or appropriations for unworthy local projects, it has been proposed that the locality benefitted by the proposed project be required, ere the Government adopts the improvement, to cooperate with the General Government in financing the work. On January 14, 1915, Mr. Frear, of Wisconsin, proposed the following amendment to the river and harbor bill of that year:

"Provided, That one-half of each separate appropriation hereinafter specifically named shall be available whenever there shall be contributed by any State, country, city, or locality or localities an amount equal to one-half of such appropriation which amount so raised shall be placed to the order of the

Secretary of War and shall be expended by him pursuant to the report of the United States engineers on such project: Provided further, That the remaining half of each appropriation hereinafter provided shall be retained in the Treasury, subject to the order of the Secretary of War, and to be used by him whenever needed in the completion of the project for which such appropriation is made."¹

The National Waterways Commission also recommended that, where it is possible to make an equitable division, uniform rules should be observed for a proper division of the cost between the Federal Government and the minor political divisions.² The Commission recognized, however, "the difficulty of the necessity of including different localities and States in a single improvement which would require a concert of action by numerous and perhaps varying interests, often impossible to obtain."³ It also realized that "less-deserving projects, presented with offers to furnish a portion of the cost, might obtain recognition to the exclusion of more useful projects for which less pecuniary support could be furnished."⁴

Another difficulty connected with local cooperation was called to the attention of the House by Mr. Barland, of Missouri, on January 14, 1914. He said: "The localities along the river that can and will contribute are not the particular localities where the work needs to be done to improve and to maintain the

-
1. Congressional Record, Vol. 52, p. 1589.
 2. Senate Document No. 301, 61st Congress, 2d Session, p. 16. Preliminary Report of the National Waterways Commission, 1910.
 3. Ibid.
 4. Ibid.

channel. I undertake to say that local offers of cooperation would come from every motive on earth except the motive of increasing navigation."¹ Take the high dam at Meeker's Island as an illustration. Why did the cities of St. Paul and Minneapolis pledge themselves to pay the additional cost of raising Dam No. 1 from fifteen to thirty feet?² There can be no doubt as to the position of the cities: they were willing to assume the obligation about of little or no consideration for commerce, (Why should St. Paul wish to make Minneapolis, rather than St. Paul, the head of navigation on the Mississippi?), but because the high dam would create very valuable water-power which the cities hoped to be allowed to utilize. "It is not apparent, however," said Mr. Adolph F. Meyer, Professor of Hydraulic Engineering, University of Minnesota, before the St. Paul Civil Engineers' Society on November 11, 1915, "why the extension of the navigability of the river a few miles northwesterly should aid greatly the existing navigation on the river below St. Paul; why the mere fact that the river will be navigable to Minneapolis should result in a great revival of water transportation, notwithstanding the fact that there will be no substantial change in its navigability below St. Paul. The interest of St. Paul and Minneapolis in the high dam as a source of water-power is primarily the interest of the consumer in securing a necessary

1. Congressional Record, Vol. 52, p. 1590.

2. See Council Proceedings, Minneapolis, 1909, p. 925 and House Document No. 741, 61st Congress, 2d Session.

article of consumption at a lower price."¹

In his report on the Meeker Island project in 1910, the Chief of Engineers recommended "that instead of inviting the cooperation of and entering into contractual relations with any private or municipal corporations for the execution of the work (a policy which experience has shown to be conducive to friction and misunderstanding, and often attended by serious complications), the cost of construction should be borne by the United States alone so that the control of the water-power will be absolute, and it may be used, leased, or otherwise utilized as may be most advantageous to interests of the Government."²

A modified plan for cooperation between the Federal Government and the lesser political divisions seems desirable. The smaller political units could be required to contribute to improvements which incidentally render a valuable local service; but all works over which it is desirable for the Federal Government to exercise immediate and exclusive jurisdiction, for military or other purposes involving national rights and principles, should be built at the expense of the central Government.

* * * * *

1. St. Paul Daily News, October 9, 1915.
2. House Document No. 741, 61st Congress, 2d session.

CHAPTER EIGHT.

A NATIONAL BUDGET.

All the threads of thought that run through the several parts of the preceding chapter may be gathered together into a declaration in favor of a national budgetary system. It is not the river and harbor bill alone that carries extravagant and wasteful appropriations; all the other supply bills are open to the same criticism, in greater or lesser degree. The various propositions, heretofore considered, for dealing with our waterways, show the English streak of opportunism in our national character, -- the tendency to patch up a bad situation so as to meet the needs of today, and then trust to luck or another patch for the needs of the morrow. The logical and scientific thing to do is to adopt a budgetary system that will deal with all the public services, including the waterways, under one general and unified plan, with a proper division of responsibility between the executive and legislative departments of the Government.

The Estimates: At present the Secretary of the Treasury is required by law to cause to be prepared and to submit to Congress an annual Book of Estimates, containing all the annual estimates of appropriations and estimates of deficiencies in appropriations for the public service, and intended for the consideration and seeking the action of any committee or committees of Congress.¹ It is the duty of the heads of the several executive departments, and of other officers authorized or required to make estimates, to furnish to the Secretary of the Treasury, on or before the fifteenth day of October of each year,² their annual estimates for their respective services. If these estimates are not so submitted, the Secretary of the Treasury is required, further, to cause to be prepared in the Treasury Department, on or before November 1st of each year, estimates for such appropriations as in his judgment shall be requisite in every such case, such estimates to be included in the Book of Estimates.³ All officers charged with the duty of submitting estimates, are required to specify, as nearly as may be convenient, the sources from which such estimates are derived, the calculations upon which they are founded, which estimates are conjectural in their character and which are framed upon actual information and applications from disbursing officers, and the references to the law or treaty by which the proposed expenditures are, respectively, authorized.⁴ These

-
1. 23 Statutes at Large, 254. July 7, 1884.
 2. 31 Ibid., 1009, section 5. March 3, 1901.
 3. Ibid.
 4. Revised Statutes, Section 3660.

officers are further required to make a statement in their estimates as to the condition of business in the several departments or other Government establishments, showing whether any part of the same is in arrears, and if so, in what divisions of the respective bureaus and offices such arrears exist, the extent thereof, and the reasons therefor.¹ All estimates for the compensation of officers authorized by law to be employed must be based upon the express provisions of the law² and not upon the authority of executive distribution. The heads of the departments also report in the annual estimates the number of employees in each bureau and office and the salaries³ of each who are below a fair standard of efficiency.

If the head of a department finds, when about to submit his annual estimates, that the usual items of his estimates vary materially in amount from the appropriations ordinarily asked for the object named, and especially from the appropriations granted for the same objects for the year preceding, and if new items not theretofore usual are introduced into the estimates for any year, he must accompany the estimates by minute and full explanations of all such variations and new items, showing the reasons and grounds upon which the amounts are required and the different items added.⁴ In submitting his estimates, the head of each department is required to designate not only the amount required to be appropriated for the next

-
1. 28 Statutes at Large, 808, section 7. March 2, 1895.
 2. Revised Statutes, Section 3662.
 3. 26 Statutes at Large, 268.
 4. Revised Statutes, Section 3664.

fiscal year, but also the amount of the outstanding appropriation, if there be any, which will probably be required for each particular item of expenditure.¹

All these estimates for the expenses of the Government, except those for sundry civil expenses, are to be prepared and submitted each year according to the order and arrangement of the appropriation acts for the year preceding.² Any change in this order, and transfers of salaries from one office or bureau to another office or bureau, or the consolidation of offices or bureaus desired by the head of any department, may be transmitted by note in the estimates.³ If the estimates thus submitted to the Treasury do not comply with the above provisions for their form and arrangement, it is the duty of the Secretary of the Treasury to cause them to be rearranged so as to comply with the requirements of law.⁴

To these annual estimates for appropriations, the Secretary is required to annex a statement of the appropriations for the service of the year which may have been made by former acts.⁵ He shall also submit estimates of the public revenue and the public expenditures for the current fiscal year, and for the fiscal year next ensuing, together with a statement of the receipts and expenditures of the Government for the preceding completed fiscal year.⁶ He is further required to submit a

1. Revised Statutes, Section 3664.
2. 34 Statutes at Large, 448, section 4. June 22, 1906.
3. Ibid.
4. 35 Statutes at Large, 907, section 4.
5. Revised Statutes, Section 3670.
6. 34 Statutes at Large, 949.

statement specifying in detail the number and class of officers and employes of every grade and nature, with the rate of compensation to each, that may in his judgment be necessary to properly conduct the business of collecting the revenue at each port of entry in the United States, together with an estimate of the amounts required for contingent expenses of the service¹ as can not be otherwise specifically provided.

If the estimates for appropriations shall exceed the estimated revenues the Secretary of the Treasury shall, in addition to submitting all these estimates to Congress, submit a detailed statement of all the estimates to the President, to the end that he may in his message to Congress advise the Congress how, in his judgment, the estimated appropriations could with least injury to the public service be reduced so as to bring the appropriations within the estimated revenues, or, if such reduction be not in his judgment practicable without undue injury to the public service, that he may recommend to Congress such loans or new taxes as may be necessary to cover the deficiency.²

-
1. 22 Statutes at Large, 256, Section 5. August 5, 1882. This is not reported in detail in the Book of Estimates, but is transmitted to Congress by a special letter as a separate communication. House Document No. 854, 62d Congress, 2d Session, p. 396.
 2. 35 Ibid., 1027, section 7. March 4, 1909. This section was undoubtedly added to mollify President Taft, who was growing insistent in his recommendations for better business methods in the conduct of the Government. Yet, in his message of February 26, 1913, (Senate Document No. 1113, 62d Congress, 3d Session, p. 42) President Taft said: "The law governing estimates requires that they be prepared and submitted by various heads of departments and independent establishments without executive review, or revision; this makes it impossible to submit a budget
(over)

This, in brief, is the manner in which the estimates for the public service are prepared and laid before Congress, where they are parceled out among the eight appropriating committees of the House -- they are at no time considered as a whole by either house. Congress may consider them or disregard them at its pleasure; and it may augment them or decrease them at will. The administration has no legal authority to take its estimates before Congress and to work for their consideration and adoption in open cooperation with Congress. Whatever influence the executive brings to bear upon Congress in the matter must be done covertly by way of the Congressional cloak rooms. The appropriations made by Congress are generally below the estimates, but this cannot be said to be due to any special virtue of Congress, but rather to the fact that the departments, feeling little responsibility for their estimates and knowing that Congress will not grant them what they ask, have fallen into the habit of making inaccurate and excessive estimates. This is the legitimate issue of a political policy that places a constitutional high wall between the three departments of government and charges each to act as a check upon the others. It is a policy that dissipates responsibility and encourages jealousies and strife where there should be sympathetic cooperation. The time is over-ripe for the adoption of real business methods in the conduct of the business of the

(Notes continued) - unless the President does it on his own initiative," which he could do under his power of recommendation, but it would in no way bind Congress.

government. In our financial system, democracy has built a monument of waste. It must build more wisely if it would conserve, and retain in the hands of the people the control over, the nation's physical resources, -- and the very perpetuity of democratic institutions is conditioned upon the integrity of that control. It is high time that we mix some Business Efficiency with Manifest Destiny if we do not wish to awaken some day from our trance of self-complacency to find that the nation's resources, and with them our liberties, have been filched from the incompetent or powerless hands of the Government by the agents of organized business. The adoption of some form of budget cannot be long deferred.

Budgetary Plans: No detailed and critical analyses of budgetary proposals will be attempted; that would carry this investigation beyond its present purposes. Besides, several State Economy and Efficiency Commissions have labored over the problem and have made more or less detailed reports on their findings and conclusions. The best analysis of, and proposal for, a national budget, however, was made in a report of June 19, 1912,¹ of President Taft's Commission on Economy and Efficiency,² organized by the President on March 6, 1911. This Commission was composed of the following distinguished men: Frederick A. Cleveland, chairman, W. F. Willoughby, Walter

1. House Document No. 854, 62d Congress, 2d Session.
2. Ibid., No. 1252, 62d Congress, 3d Session, p. 1.

W. Warwick, Frank J. Goodnow, and Merritt O. Chance.¹ The
 commission recommended:²

1. That the President, as the constitutional head of the executive branch of the Government, shall each year submit to the Congress, not later than the first Monday after the beginning of the regular session, a budget.

2. That the budget so submitted shall contain:³

I. Budget message.

II. Summary financial statement.

Budget Statement No.1: Current balance sheet, showing assets, liabilities, and reserves.

Budget Statement No.2: Fund balance sheet, showing condition of the general fund, sinking fund, special funds, and trust funds.

Budget Statement No.3: Operation account, together with summary of capital outlays, debt payments, and borrowings.

Budget Statement No.4: Present and estimated condition of current surplus or excess of resources available to meet general-fund obligations over liabilities and reserves, showing the result of the operation of the financial policy of the Government during a period of years.

-
1. House Document No.1252, 62d Congress, 3d Session, page 915.
 2. House Document No. 854, 62d Congress, 2d Session, page 7.
 3. The outline given is found on pages 227 and 228 of the Commission's report. House Document No.854, 62d Congress, 2d Session.

III. Summary of governmental contracting and purchasing relations:

Budget Statement No. 5: Summary of estimates, current allotments, and expenditures classified by objects, or services and things purchased and paid for.

IV. Summary of Estimates.

Budget Statement No.6: Summary of estimates of revenues, and borrowings of current and ensuing years compared with actual revenues of three years past.

Budget Statement No.7: Summary of estimates and expenditures for the ensuing year and of allotments for the current year compared with actual expenditures for three years past, grouped by units of organization.

Budget Statement No.8: Comparative statement of estimates, appropriations, and expenditures by organization units and bills (with reference to the Book of Estimates, the Digest of Appropriations, and report of expenditures).

Budget Statement No.9: Recapitulation of estimates and expenditures by organization units and functions.

Budget Statement No.10: Recapitulation of estimates by functions, bills, and committees by which bills are reported.

Budget Statement No.11: Recapitulation of estimates and expenditures by functions and organization units (with references to summaries of estimates in the Book of Estimates).

Budget Statement No.12: Recapitulation of estimates and expenditures by functions and character of expenditures.

Budget Statement No.13: Recapitulation of estimates and expenditures by character of expenditures and bills.

V. Summary of proposed changes in law classified by governmental activities to which such changes relate.

Budget Statement No.14: Summary of proposed changes in organic law; that is, law pertaining to the organization of the Government and the powers, duties, and limitations of officers.

Budget Statement No.15: Summary of proposed changes in law pertaining to the raising of revenues and the making of loans.

Budget Statement No.16: Summary of proposed changes in law pertaining to estimates, appropriations, accounting, and reporting, and the conditions governing the expenditure of money.

3. That the Secretary of the Treasury be required to submit to the Congress the following detailed reports supporting the general summaries and Executive conclusions or recommendations contained in the budget, as follows:

(a) A book of estimates, containing the supporting details to the summaries of estimates of expenditure contained in the budget.

(b) A consolidated financial report, containing a detailed statement of revenues and a consolidated

statement of expenditures by departments and establishments for the last five fiscal years, etc.

4. That the head of each department and independent establishment should be required to submit to the Secretary of the Treasury and to the Congress annual reports which, among other things, would contain detailed accounts of expenditures so classified as to show amounts expended by appropriations, as well as by classes of work, together with the amounts of increases or decreases in stores, equipment, property, etc., including lands, buildings, and other improvements, as well as such other data or operative statistics and comment in relation thereto as may be necessary to show results obtained and the economy and efficiency of doing Government work, as well as of contracting and purchasing.
5. That the President and heads of departments issue orders which will require that such accounts be kept, such reports be made, and such estimates be prepared as will enable them to obtain the information needed to consider the different conditions, relations, and results above enumerated before the estimates are submitted; that the President recommend to the Congress the enactment of such laws as will enable the administration to comply with the requirements of the Congress.
6. That the President recommend for the consideration of the Congress such changes in the form of appropriation bills as will enable the Government to avail itself of the benefits of the exercise of discretion on the part of the Executive in the transaction of current business in order that the Gov-

ernment may do work and accomplish results with economy and efficiency and as will definitely fix responsibility for failure so as to exercise such discretion.

In the opinion of Mr. Fitzgerald, of New York, only a few simple yet radical changes in our present method would be necessary to secure the English and Swiss system of responsible executive control of the budget, carrying out Mr. Gladstone's principle that the constitutional duty of a legislative body is not to augment but to decrease expenditure, and still retaining complete¹ control over the treasury by the representatives of the people. Two changes would be necessary: the duty of revising the various estimates included in the Book of Estimates should be imposed upon the Secretary of the Treasury, and Congress should be deprived of the power to augment any of the estimates, or to originate² legislation appropriating public moneys.

In a message of February 26, 1913, President Taft outlined his budgetary plan as follows:

First: "A Bureau of Central Administrative Control, with a comptroller at the head who would be responsible to the President and to Congress. Concretely the proposal is to consolidate the six auditors' offices as well as the office of the Comptroller of the Treasury and other central accounting offices of the Government in one executive bureau, and thereby, without increasing cost, to provide for a central accounting, auditing, and reporting organization which would include among its activities

1. Congressional Record, Vol. 50, p. 2157.

2. Ibid.

the preparation of a budget supported by a book of estimates and a consolidated financial report for the Government. This agency would also serve in the capacity of an independent agency for the preparation of special reports when requested either by the Congress or by the President.

Second: "A Budget Committee. While it is with much hesitation that I suggest any change in committee organization in Congress, it seems to me to be highly desirable to have some provision, such as has been frequently suggested by Members on the floor, whereby a budget committee may be established as a final clearing house through which all the recommendations of the committees having to do with revenues and expenditures shall pass before they take the form of a definite bill. The special reason which I have for urging such a committee is that at present the administration is seriously handicapped by not being able to take up proposals or constructive measures affecting any particular department with any one body or committee which will undertake to consider them in all their aspects. For example, the War Department finds it necessary to deal with committees and sub-committees which have charge of the legislative, executive, and judicial bill, the sundry civil bill, the Army bill, the fortifications bill, the Military Academy bill, the river and harbor bill, besides committees in which special bills and resolutions and the various recurrent appropriations may originate. The Interior Department finds it necessary to deal with committees which have in charge the legislative, executive, and judicial

bills, the sundry civil bill, the Indian bill, and the pension bill. The Navy Department finds it necessary to carry its estimates before two different standing committees to be considered in three different bills. Neither do officers of the administration find it possible to get the whole of a particular subject before any one committee. The subject of transportation and communication (other than postal service) must be considered by the Appropriations Committee, Agricultural Committee, Committee on Foreign Affairs, Committee on Military Affairs, Committee on Naval Affairs, Rivers and Harbors Committee, and the Committee on Post Offices and Post Roads, etc."¹

Mr. Taft's plan stresses the necessity of revising the rules of Congress relating to the organization and powers and duties of the committees, and proposes a budget committee. But, if the administration is to be responsible for the preparation of the budget, the necessity for a budget committee is not entirely clear. Mr. Lynn Haines would have no appropriations committee, and presumably no budget committee, since he would have the budget introduced by the administration and at once given the legislative status of a bill reported from a committee.² He would, in this connection, also grant the President and his cabinet the privileges of seats and of participating in the debates of the House.³

It is a singular fact that with regard to the river and harbor acts of 1914 and 1915, Congress unwittingly adopted the principle of executive responsibility. These acts appropriated the lump sums of \$20,000,000 and \$30,000,000, respectively, "to

1. Senate Document No. 1113, 62d Cong. 3d Session, pp. 43, 44.

2. Harper's Weekly, March 11, 1916. Extracts from Haines's

be expended under the direction of the Secretary of War and the supervision of the Chief of Engineers, for the preservation and maintenance of existing river and harbor works, and for the prosecution of such projects heretofore authorized as may be most desirable in the interests of commerce and navigation."¹ The two Houses of Congress deadlocked over the House bills; they found it impossible to mollify the various interests that were clamoring for recognition in these bills, and so turned the whole matter over to the administration, thereby tacitly conceding the better position, if not the better qualification, of the Secretary of War to deal with a service that involves such diverse and multitudinous interests as does the improvement of rivers and harbors.

It is interesting to note that the two gentlemen in Congress who have fought the river and harbor bills the hardest in later years, Mr. Burton of Ohio and Mr. Frear of Wisconsin, divided on the question of making lump-sum appropriations. It is generally understood that the "Senate bill (the lump-sum bill) was submitted by the Senator from Ohio (Mr. Burton), and that the Senate reluctantly felt constrained to accept it or have the bill as reported by the Senate committee talked to death."² Senators Burton and Kenyon did talk the regular bills to death, and were responsible for the substitutes. But in the House Mr. Frear vigorously attacked this new policy. "Think of the proposition you have here," he said on March 3, 1915, "voting for \$30,000,000 for rivers and harbors and putting

1. 35 Statutes at Large, 725. (Act October 3, 1914);
Ibid, 1049 (Act March 4, 1915).
2. Congressional Record, Vol. 52, p. 5436. Statement by
Mr. Small, March 3, 1915.

that money into the hands of one man, an Army engineer. Never before in the history of this country have you done such a thing, except in the case of a President, and then during ~~the~~ war for war purposes. . . . Congress has surrendered its representative capacity to one man. . . . You have lost all control of legislation by the Senate amendment." ¹ And Mr. Frear expressed the general opinion of the House. "Do not vote on that proposition, gentlemen," said Mr. Treadway, of Massachusetts, "but vote on the merits of whether or not we should allow our legislative rights to be abrogated entirely and taken away from us and placed in the hands of one department." ²

What Congress did was not to surrender its control over the Federal Treasury, nor its legislative authority, which it cannot do under the Constitution; it merely directed an executive officer to supervise the expenditure of a given sum of money upon works already authorized by law, he being vested with discretionary authority in the choice of projects. It was merely a backward method of securing executive responsibility. The better way would be to make it the duty of the Secretary of War to cause to be framed, and to submit as a part of his departmental estimates for the national budget, the annual river and harbor bill. Or, with the adoption of a plan for a budget, there should be created a new Department on Public Works that would have charge of the work in question and would

-
1. Congressional Record, Vol. 52, p. 5437.
 2. Ibid., pp. 5437, 5438.

be responsible for the framing of the river and harbor bill. Congress should then have power to make changes in the bill, in common with all other departmental estimates, only on the side of retrenchment. In other words, Congress should not have authority to make any appropriations for any expenditures not estimated for in the budget, and it should have power ~~only~~ to decrease the estimates thus submitted.

THE END.

B I B L I O G R A P H Y .

CONGRESSIONAL RECORDS.

- Annals of Congress, 22d Congress, 1st Session, pp.1438,1442.
- Congressional Debates, VI, part 1, p.66.
- Congressional Globe, 38th Congress, 2d Session, p.1312.
- Ibid., 42d Congress, 3d Session, part 2, p.1212.
- Congressional Record, VII, pp.18-21,28-30,32.
- Ibid., IX, p.2282.
- Ibid., X, pp.200,247,251,306,307,325,326,338,612-614,
633,1261.
- Ibid., XV, pp.196,214,216.
- Ibid., XVII, p.170.
- Ibid., XXVIII, pp.3628-3641,5568,5918,6010.
- Ibid., XXX, p.5154.
- Ibid., XXXII, pp.1574,1846,2215,2270,2271,2280,2281,2821,
2225,2834,2839.
- Ibid., XXXIV, pp.1094,1095.
- Ibid., XLI, pp.2469,2479.
- Ibid., XLV, pp.4797,4800.
- Ibid. (Appendix), XLVI, part 5, p.233.
- Ibid., IL, pp.4350,4351.
- Ibid., (Appendix), XLIX, p.181.
- Ibid., L., pp.2154,2155,2157-2159,2161.
- Ibid., LI, pp.11447,11857,11858,14720,14721,14839,14842,
15045,15047,15073-15075,15100,15148,15149.
- Ibid., LII, pp.623,624,1373,1374,1582,1587-1590,1642,1665,
1715,1859,1860,1863,1864,1889,1903,1910,5436-5438.

BIBLIOGRAPHY. (continued)

- Congressional Record, (Appendix), LII, pp. 154, 155, 727, 728.
 Ibid., LIII, p. 338.
 House Journal, 23d Congress, 1st Session, pp. 179, 20, 508.

CONGRESSIONAL REPORTS AND DOCUMENTS

- House Manual and Digest, 63d Congress, 3d Session,
 Rule XI, Section 7; Rule XXI, Section 3; pp. 237,
 297, 313, 494.
- Hinds' Precedents, IV, pp. 691, 737, 791, 795; Sections
 3896-3903, 4020, 4032, 4088, 4621.
- Digest, Judge Advocate General, 782, A; 783, A 1; 789, A.
- Annual Reports, War Department, 1912, Volume 2, p. 217.
- House Report No. 1341, 62d Congress, 3d Session, p. 1.
- Ibid., No. 300, part 1, 63d Congress, 2d Session, p. 1.
- Ibid., No. 1230, 63d Congress, 3d Session, p. 1.
- Ibid., No. 385, 62d Congress, 2d Session.
- Ibid., No. 1635, 51st Congress, 1st Session.
- Ibid., No. 3278, 51st Congress, 2d Session.
- Ibid., No. 3460, 51st Congress, 2d Session.
- Ibid., No. 731, 58th Congress, 1st Session.
- Ibid., No. 1759, 56th Congress, 1st Session.
- Ibid., 1816, 56th Congress, 1st Session.
- House Document, No. 854, 62d Congress, 3d Session, pp. 227,
 228, 398.
- Ibid., No. 1252, 62d Congress, 3d Session, pp. 1, 615.
- Ibid., No. 1331, 63d Congress, 3d Session.

B I B L I O G R A P H Y (continued)

House Document, No.1394, 63d Congress, 3d Session,
Estimates of Appropriations, p.560.

Ibid., No.1491, 62d Congress, 3d Session, Volumes 1,2,3.

Ibid., No.741, 61st Congress, 2d Session.

House Executive Documents, 51st Congress, 2d Session,
Vol.4, Report of Chief of Engineers, 1890-1891,
page 1146.

Senate Report No.954, 63d Congress, 3d Session, p.2.

Ibid., No.958, 63d Congress, 3d Session, pp.4,5,6,278.

Ibid., No.527, part 3, 61st Congress, 2d Session.

Ibid., No.527, part 2, 61st Congress, 2d Session.

Senate Document, No.1113, 62d Congress, 3d Session, pp.
42-44.

Ibid., No.462, 63d Congress, 2d Session.

Ibid., No.301, 61st Congress, 2d Session. Preliminary
Report of the National Waterways Commission, pp.
10,16,17,18,29,30,38,60,61,224,4803.

Ibid., No.325, 60th Congress, 1st Session, pp.15,26,27.

Ibid., No.469, 62d Congress, 2d Session, p.78.

House of Representatives, 28180, 62d Congress, 3d Session.

"	"	"	"	13811,	63d	#	2d	"	.
"	"	"	"	20189,	63d	"	3d	"	.
"	"	"	"	20686,	61st	"	3d	"	.
"	"	"	"	21477,	62d	"	2d	"	.
"	"	"	"	28180,	62d	"	3d	"	.

Senate, 500, 60th Congress, 1st Session.

B I B L I O G R A P H Y (continued)CASES.

- The Daniel Ball, 10 Wallace, 557.
Gilman vs. Philadelphia, 3 Wallace, 724.
Gibbons Vs. Ogden, 9 Wheaton, 1,194.
South Carolina vs. Georgia, 93 U.S., 4,9,10.
The Montello, 20 Wallace, 441,442.
Levy vs. United States, 177 U.S.,621.
St. Anthony Falls Waterpower Co. vs Water Commissioners,
168 U.S., 349.
Wisconsin vs. Duluth, 96 U.S., 379,383.

LAWS.

- 1 Statutes at Large, 184.
Ibid., 189.
Ibid., 243.
Ibid., 463.
Ibid., 546.
2 Ibid., 150.
Ibid., 18.
Ibid., 269.
Ibid., 353.
Ibid., 484.
Ibid., 316.
Ibid., 389.
Ibid., 516.
3 Ibid., 780.
Ibid., 316.

B I B L I O G R A P H Y (continued)L A W S (continued)

- 3 Statutes at Large, 480.
Ibid., 489.
Ibid., 562.
Ibid., 643.
Ibid., 698.
Ibid., 125.
Ibid., 301.
4 Ibid., 288, Chapter 73.
Ibid., 38.
Ibid., 175.
Ibid., 228.
15 Ibid., 169.
17 Ibid., 560.
21 Ibid., 37, sections 3,4.
Ibid., 196.
22 Ibid., 254.
Ibid., 256, section 5.
Ibid., 213.
23 Ibid., 254.
Ibid., 153.
25 Ibid., 433.
26 Ibid., 464.
Ibid., 426.
Ibid., 268.
27 Ibid., 507, sections 1,4,7.
Ibid., 115, section 7.

4

B I B L I O G R A P H Y (continued)

L A W S (continued)

28 Statutes at Large, 338, section 11.

Ibid., 372.

Ibid., 235, section 7.

Ibid., 808, section 7.

29 Ibid., Chapter 314.

Ibid., 234.

30 Ibid., 1149, section 2.

31 Ibid., 1009, section 5.

Ibid., 792.

32 Ibid., 372, section 3.

Ibid., 371.

Ibid., 373, sections 3,4.

Ibid., 331, section 4.

34 Ibid., 949.

Ibid., 448, section 4.

Ibid., 626, section 4.

35 Ibid., 815.

Ibid., 907, section 4.

Ibid., 1027, section 7.

Ibid., 836, section 14.

Ibid., 725.

Ibid., 1049.

36 Ibid., 2448.

Ibid., 957, section 5.

Ibid., 539, section 11.

Ibid., 933, section 4.

B I B L I O G R A P H Y (continued)L A W S (continued)

- 37 Statutes at Large, 201.
 Ibid., 222.
 Ibid., 821, section 2.
 Ibid., 825.
 Ibid., 826, section 4.
 Revised Statutes, section 231, Resolution No.76,
 Volume 15, p.262.
 Ibid., section 3660,3662,3664.

M I S C E L L A N E O U S.

- Constitution of the United States, Article I, section
 8, clause 3.
 Council Proceedings, Minneapolis, 1909,p.925.
 Session Laws of the Territory of Minnesota, 1857,p.230.
 Personal Correspondence with the Honorable S.M.Sparkman,
 of Florida.
 World Almanac, 1915, p.220.
 Harper's Weekly, March 11, 1916.
 Contemporary Review, December, 1904.
 Annals of the American Academy, May, 1892,p.79.
 North American Review, June, 1879. Honorable James A.
 Garfield.
 St.Paul Daily News, October 9, 1915.
 Review of Reviews, September, 1910. Honorable James A.
 Tawney.
 Munsey, January, 1916, p.551. Honorable Theodore E.
 Burton. S