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MISCELLANEOUS RIVER AND HARBOR LEGISLATION

GOVERNMENT

(No. 87-11)

Storage

HEARINGS

BEFORE THE

SUBCOMMITTEE ON RIVERS AND HARBORS

OF THE

COMMITTEE ON PUBLIC WORKS

HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH CONGRESS

FIRST SESSION

ON

H.R. 157

A BILL TO CHANGE THE NAME OF THE PLAYA DEL REY INLET
AND HARBOR, VENICE, CALIFORNIA, TO THE "MARINA DEL REY
SMALL CRAFT HARBOR, LOS ANGELES, CALIFORNIA"

H.R. 276

TO AUTHORIZE CERTAIN BEACH EROSION CONTROL OF THE SHORE
IN SAN DIEGO COUNTY, CALIFORNIA

H.R. 5254, H.R. 5279, and S. 49

TO PROVIDE FOR THE ANNUAL AUDIT OF BRIDGE COMMISSIONS
AND AUTHORITIES CREATED BY ACT OF CONGRESS, FOR THE
FILLING OF VACANCIES IN THE MEMBERSHIP THEREOF, AND
FOR OTHER PURPOSES

H.R. 7854

A BILL TO MODIFY THE PROJECT FOR THE DULUTH-SUPERIOR
HARBOR, MINNESOTA AND WISCONSIN, TO PROVIDE FOR THE
ABANDONMENT OF THE TWENTY-FIRST AVENUE WEST CHANNEL,
AND FOR OTHER PURPOSES

H.R. 7888

A BILL TO AMEND THE FLOOD CONTROL ACT OF 1958 TO EXTEND
THE TIME WITHIN WHICH LAND IN CERTAIN RESERVOIR PROJECTS
IN TEXAS MAY BE RECONVEYED TO THE FORMER OWNERS
THEREOF

H.R. 8320

A BILL TO AMEND THE FREEPORT HARBOR PROJECT, TEXAS

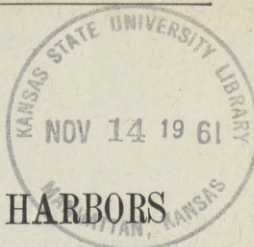
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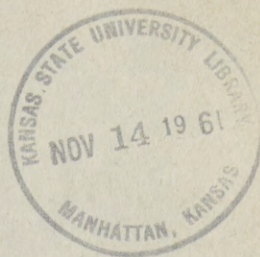
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RIVERS AND HARBORS—MISCELLANEOUS 1961

TUESDAY, FEBRUARY 28, 1961

HOUSE OF REPRESENTATIVES,
COMMITTEE ON PUBLIC WORKS,
SUBCOMMITTEE ON RIVERS AND HARBORS,
Washington, D.C.

The subcommittee met, pursuant to call, in room 1302, New House Office Building, at 10:10 a.m., Hon. John A. Blatnik, chairman of the subcommittee, presiding.

Mr. BLATNIK. The Rivers and Harbors Subcommittee of the House Public Works Committee will please come to order.

We meet this morning in public hearing on H.R. 276 and H.R. 1971, identical bills. H.R. 276 is by the Honorable Mr. Utt of California and H.R. 1971 is by his colleague, Mr. Wilson of California.

(H.R. 276 follows:)

[H.R. 276, 87th Cong., 1st sess.]

A BILL To authorize a certain beach erosion control of the shore in San Diego County, California

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the project for beach erosion control of the shore at Oceanside, San Diego County, California, is hereby adopted and authorized to be prosecuted under the direction of the Secretary of the Army and the supervision of the Chief of Engineers substantially in accordance with the plans and subject to the conditions recommended by the Chief of Engineers in the Beach Erosion Control Report on Cooperative Study of San Diego County, California, at an estimated cost of \$1,498,000.

SEC. 2. There is hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

Mr. BLATNIK. Mr. Utt, you will be the first witness. You have previously explained the matters coming before us, to the chairman and several members of the committee. This is an urgent matter, and a serious one, and one in which the local interests need assistance. With that in mind, the Chair called this meeting on rather short notice. The Chair was very appreciative of the fine attendance of the members here this morning.

Mr. Utt, will you please proceed with your testimony and you may submit any written material or documents, and also your remarks may be revised and extended in any manner you see fit.

STATEMENT OF JAMES B. UTT, MEMBER OF CONGRESS FROM THE STATE OF CALIFORNIA

Mr. UTT. Thank you, Mr. Chairman. I do appreciate the calling of this special meeting under emergency situations. I want to explain that Congressman Wilson had another meeting he had to go to this morning, and I represent both of us.

This project is in the county of San Diego, of which half falls in Mr. Wilson's district. He has the greater portion of it. But this project itself is in the 28th Congressional District of California, which is my district.

I shall not take too much time this morning because there are expert witnesses here who will be able to give you the technical testimony, and I do not want to make it cumulative. I do want to say it is a matter of urgency.

At Camp Pendleton the Government built in haste, when the Second World War broke out, a harbor, as you see on the map. They were not able to have enough engineering so as to know exactly the results of the ocean flow. This resulted in a great deal of erosion brought about through the natural movement of the littoral drift along the city of Oceanside, and also the mouth of the harbor itself silted up with regularity, and the Marines had to have it dredged a few years ago. They used the spoil from that dredging to help the erosion situation. It has again now reached a bad peak, with considerable property destruction involved.

Under the old law, public funds could not be spent for erosion work on private property. A few years ago the gentlemen from New Jersey, Mr. Auchincloss, and Mr. Millet Hand, got through legislation calling for an equity study and permitting the Army Engineers to do erosion work based on the equity study, depending on whether the damage was caused by the Federal Government or not. As a result of that equity study, they agreed that the Federal Government had considerable responsibility for the erosion at Oceanside.

My acquaintance with the situation at Oceanside goes back many years, I having gone there the first time in 1912. I can well recall the beach of some three to four hundred feet in depth. Since the installation of the Marine Harbor at Camp Pendleton this beach at Oceanside has been completely washed away and a good portion of the sidewalks fronting on the beach, and some of the homes, have fallen into the ocean.

This bill is a bill to secure that portion of the Federal contribution which is recommended under the equity study. I do have an amendment to the bill that I think should be included as section 2 and renumber section 2 as section 3. This is simply a reimbursement clause providing for reimbursement to the State of California if we advance a sum of money to Oceanside prior to any appropriations made by the U.S. Congress. I think that should go in there.

Mr. BLATNIK. Without objection the amendment will be made a part of the record at this point.

(The amendment is as follows:)

SEC. 3. The Secretary of the Army is hereby authorized to reimburse local interests for such work done by them on the beach erosion project authorized in section 1, subsequent to the initiation of the authorized study which forms the basis for the project: *Provided*, That the work which may have been done on this project is approved by the Chief of Engineers as being in accordance with the project hereby adopted: *Provided further*, That such reimbursement shall be subject to appropriations applicable thereto or funds available therefor and shall not take precedence over other pending projects of higher priority for improvements.

Mr. UTT. The urgency of the matter is not only one of property destruction at the present time, but the city of Oceanside is contemplating the construction of a pleasure harbor and will do a great deal

of dredging itself. If we combine the Federal work with the city work we can get a dredging contract which is much more favorable to both parties, and will be probably 20 cents a yard cheaper for the movement of the spoil, rather than to have it done by two separate contracts, one by the Federal Government and one by the city.

Mr. BLATNIK. Mr. Utt, what are the comparative sizes of the two projects? The Federal is about \$1½ million. What is the size of the city's work?

Mr. UTT. The local project, as I recall it, is approximately the same, but I think there again Mr. Eaton will have to supply the figures, or the Army Engineers will have to, one or the other, because I do not have the exact figures. However, the dredging part of it is about half for each one. Of course, there will be a lot more money involved as far as the installation of a harbor is concerned, which will be paid for by local funds from the local harbor district.

I think this will conclude my testimony, and I would like to present the vice mayor of Oceanside, who has been very active in the formation of a harbor district, and in working for this erosion control over the past many years. He has been in Washington for some time this year and last year.

Mr. BLATNIK. Off the record.

(Discussion off the record.)

Mr. BLATNIK. Would you present your local officials, Mr. Utt, and then later on we will have both the mayor and vice mayor appear and testify at a later point, after hearing the technical testimony.

For the purpose of introduction to the committee, would you present them now, though, Mr. Utt?

Mr. UTT. I have with me the Honorable Erwin Sklar, who is listed here as mayor of the city of Oceanside. He happens to be vice mayor now and he will be mayor again next year.

Mr. BLATNIK. Is that a promotion or a demotion?

Mr. UTT. It is a promotion, I think. I will present him now and later he can testify.

Mr. BLATNIK. Mr. Sklar has been very patient and has been here for quite a while with regard to this legislation.

Mr. DOOLEY. Mr. Chairman.

Mr. BLATNIK. Mr. Dooley.

Mr. DOOLEY. You mentioned the Federal Government's responsibility in this connection, and I understand that there was a groin built there. Why does the erosion become so marked and pronounced there?

Mr. UTT. I think again it is a technical question that will have to be answered by the technicians, but I can say this in that regard: About 4 or 5 years ago we got through an appropriation through the armed services authorization to dredge the Pendleton Harbor, and change the alinement of the groins, but it was not sufficient to stop the erosion, as they will show you on the map here. It just transferred the problem a little farther down the beach. The estimate is that this operation will eliminate the erosion over the entire length of the city limits.

Mr. DOOLEY. Fine. Thank you.

Mr. BLATNIK. Thank you, Mr. Utt.

Now we will proceed with our technical witnesses. First the chief one is Mr. Richard O. Eaton, chief technical adviser of the Beach Erosion Board, Corps of Engineers.

Thank you, sir, for waiting over. I think you postponed a trip on yesterday to be with us this morning.

**STATEMENT OF RICHARD O. EATON, CHIEF TECHNICAL ADVISER,
BEACH EROSION BOARD, CORPS OF ENGINEERS**

Mr. EATON. Thank you, Mr. Blatnik. I am most happy to postpone anything to serve this committee, and for this particular purpose.

Mr. BLATNIK. Mr. Eaton, do you have a prepared statement, or what will be your preference? Could you give us an oral summary, with the photographs and charts?

Mr. EATON. Yes, sir. I think I would prefer to do that.

Mr. BLATNIK. If you have a written statement, will you please proceed?

Mr. EATON. Thank you. I have no written statement, so if you don't mind I will attempt to describe the project from the charts and photographs, Mr. Chairman.

Mr. BLATNIK. Please proceed.

Mr. EATON. I would like to initiate my testimony by stating that this report, which is the basis for the bill now under consideration by your committee, is actually based on three laws that were passed. The basic beach erosion cooperative study law of 1930 resulted in an application by the State of California for a study of the entire county of San Diego. This study was initiated some 7 years ago and resulted in an interim report in 1954 by the district engineer, considering the four most important projects on the San Diego County shore, Oceanside being one of them. It resulted in the adoption in 1958 by Congress of an authorized beach erosion control project at Oceanside.

In the same act which authorized the project a provision was included to require a restudy of the project to determine what Federal share, if any, should be reimbursed in equity rather than under the provisions of the existing beach erosion law.

The report also satisfies an act in 1948 which directed that a study be made of Camp Pendleton Harbor, Oceanside, Calif., with a view to shore protection. So that the present report that is now before you is a culmination of all these past authorities.

I would like to describe the status of the problem and the existing project. As a result of the earlier study——

Mr. AUCHINCLOSS. May I interrupt?

Mr. EATON. Surely.

Mr. AUCHINCLOSS. What is this area here? It is marked Pacific Ocean. Is that the beach?

Mr. EATON. This is the ocean, sir, here on the left-hand side of the map.

Mr. AUCHINCLOSS. Yes.

Mr. EATON. This particular section of shore comprising the presently authorized project is offset right here.

Mr. BLATNIK. It is an offset.

Mr. EATON. It is for the purpose of enabling a comparison of the existing project with the proposed modified project.

Mr. AUCHINCLOSS. It says "Oceanside" here.

Mr. EATON. This is the Oceanside shore and the ocean is off to the left.

Mr. AUCHINCLOSS. The Atlantic Ocean runs a little differently.

Mr. EATON. North, as you can see, is at the top of this sheet, so this is the north and south view. San Diego is at the bottom.

The earlier study that was made in this area which resulted in the 1958 project, established the basic criteria which affect this problem. It was determined at that time that the littoral drift direction here varies with the seasons of the year. During the winter months the littoral drift is southward with the storms originating in the Aleutian area. During the summer months the storm centers are in the south Pacific and the littoral drift is northward. The total volume of sand movement is quite substantial in those two directions, but the net rate is only about 100,000 cubic yards per year southward.

If you can visualize it, over the period of a year any single grain of sand moves up north first and then moves back a greater distance southward. The net result is the predominant southward drift. The erection of these jetties by the Navy in 1943 in order to provide an entrance to Camp Pendleton Harbor resulted in an interception of the drift along the shore in either direction, with a slow impoundment at the rate of about 100,000 cubic yards per year on the north side, and a corresponding erosion on the south side at an actually somewhat greater rate, for the reason that the material that would—

Mr. BLATNIK. It would wash up northward and then be trapped, not having a chance to go southward as it normally would?

Mr. EATON. That is right. The harbor area thus became an impoundment region for material moving in either direction along the adjoining shores. By the time the study was initiated, in 1953, the impoundment of the material along the jetties had reached such an extent that some relief was given to Oceanside by reason of the fact that a small portion of the material was transported entirely around the jetties. However, in the process the inlet was completely shoaled and no longer usable as a harbor. The Marine Corps required its use as a harbor and elected to reconstruct it. They sought the assistance of the Corps of Engineers and it was planned to be reconstructed as a harbor with a long-range effect which would provide for the restoration and preservation of Oceanside beaches. The plan provided for the extension of the north jetty, angling southward, to provide a hook breakwater and the relocation of the outer end of the south jetty. The plan included the dredging of about 700,000 cubic yards to restore the entrance to the harbor.

This work was completed in 1958, at about the same time that the present beach erosion control project was authorized, and the dredged material from the project was placed on shores to the south partially to restore the Oceanside beach. The 1958 authorized beach erosion control project, the details of which are indicated in red on the map, provided for the restoration by artificial fill of 900,000 cubic yards of this segment of the Oceanside shore, so that the work done by the Navy would ordinarily have been considered in partial fulfillment of the required restoration.

However, this breakwater construction created a new impoundment area of a very substantial size, so that the northerly drift very rapidly moved the material from Oceanside into the breakwater lee and

built a very large accretion area in this region. Also, the net loss rate to the south, which ordinarily occurs, was accelerated because of the depletion of the shore immediately south of the harbor. As a consequence the conditions you see on those photographs, which I think Mr. Sklar will describe in more detail, are the result and they portray the condition as it exists today.

The recommendations of the Corps of Engineers on the basis of the 1958 project were, of course, made under provisions of the beach erosion law which limits Federal assistance to one-third of the cost for publicly owned shores. Therefore, the project authorization by Congress provided for the United States to pay one-third of the cost for this particular restoration project.

In the review of the report under the equity clause, two factors were under consideration. One was the changed conditions which had resulted since the original project was planned. This resulted in the need not only for enough material to restore the shore, but enough material to take care of the additional restoration that has meanwhile been necessitated, plus a requirement for what we call a stockpile fill which would nourish the shore until such time as the material passes around this breakwater, whence it can be dredged periodically to nourish and stabilize this shore in the future.

The resulting project requires a total fill of 2,200,000 cubic yards of suitable material. This is the revised project beginning at this point just south of the harbor and extending down considerably farther to the south than the original project provided for. This is because the erosion problem spread in the interim period, so that there will be 1,900,000 cubic yards placed here in the original project frontage and 300,000 cubic yards placed in the region to the south of the original project; 500,000 cubic yards of this total fill will be classed as advance nourishment to take care of the requirements for the next 5 years.

On the basis of the peculiar situation here, there was no advance determination of the shore effects of this structure, such as would have been made in the absence of the wartime emergency, and due to the fact that the harbor is entirely operated for the military requirements of the United States, the Chief of Engineers has recommended that the project be accomplished entirely at Federal expense.

I have one more explanation to make in this connection.

As soon as it was determined that the losses from a prior fill made in 1958 were so excessive in this protected harbor region, the Chief of Engineers determined that a groin to prevent such loss was an essential feature of the existing project. This groin is situated here, just south of the area in lee of the breakwater, and will extend about 800 feet from the shore as it existed at that time. It will effectively prevent any such losses in the future. In other words, material that accumulates just south of the groin during northerly drift here will still be available to be moved back to the south during periods of southerly drift.

The groin will also serve the purpose of providing the shoreward portion of one of the jetties at the access to a proposed public harbor that is now the subject of a report pending by the Corps of Engineers. The local interests, I believe, have completed their planning for the harbor. The excavation of the required beach fill will be in part from

the exterior region here to restore the entrance to the Marine Corps Harbor and will also provide a major part of the excavation in the region back of the shore which will be required for construction of the new public harbor for Oceanside. So in essence, the proposed new project has really a dual purpose and it is a dual-benefit project.

Mr. DOOLEY. Mr. Chairman.

Mr. BLATNIK. Mr. Dooley.

Mr. DOOLEY. Is the planned harbor you mentioned a recreational or commercial harbor?

Mr. EATON. It will be a combination of the two. There will be sport fishing and recreational boats and commercial facilities also in this harbor. It is a small craft harbor with a maximum draft of 20 feet, but it will accommodate all types of fishing as well as recreational craft.

Mr. BLATNIK. How do you handle the delivery of this material to these points? You would not pipe it down for a distance of 2 or 3 miles, would you? Do you carry it and deliver it in barges?

Mr. EATON. No, sir. It will be pumped that distance.

Mr. BLATNIK. It will be for that distance?

Mr. EATON. The larger types of dredges available should be able to pump the whole distance without boosters. It has been done before in California.

Mr. BLATNIK. Is 3 miles the maximum?

Mr. EATON. About 3 miles is the maximum they can pump without boosters. They dislike pumping more than 12,000 feet, as the efficiency then starts to drop rapidly, but for this small quantity of material at the southern end they would probably not use a booster.

I have some nontechnical items to add, but if there are any other questions on the technical phase of the project while I am up here at the map, I can answer them now.

Mr. DOOLEY. You said because of the littoral drift they have gotten into this problem. Why do they not have a series of jetties built there like they have on the Jersey coast?

Mr. EATON. For this reason: The result would be that the erosion problem would be shifted to an ever expanding region just as it has all along the New Jersey coast. In other words, the construction of groins can retard the rate of drift locally but under the conditions existing here the result is to expand the problem area, and while you may effect some benefit to the local area, you also extend the problem to all of the other areas beyond.

Mr. AUCHINCLOSS. Is the water pretty deep off of there, or is it shoal water?

Mr. EATON. On the California coast by contrast with the New Jersey shore it slopes relatively steeply. The Continental Shelf is relatively narrow along the entire California coast. In this region the slopes are normal for California, but steep by New Jersey standards.

Mr. AUCHINCLOSS. When you say "deep," what do you mean? How deep? Ten feet, or 20 feet?

Mr. EATON. I cannot say from precise knowledge, but it is my recollection that the 20-foot depth at Oceanside is approximately 1,500 to 2,000 feet offshore. About 1,500 feet, I think, in this area. One mile offshore the depth would be probably 60 to 70 feet. The shelf

actually, to give you a broader picture, is extremely narrow in the vicinity of Laguna Beach some 30 miles to the north. In fact, the 20-foot depth is only about 300 feet offshore at some places, but it starts gradually to widen as we progress to the south, and becomes what could be called a normal California condition in this Oceanside region, but still much deeper in terms of the offshore shelf than most of the Atlantic coastal region.

Mr. DOOLEY. This question is not relevant, but why do the Marines operate in a sheltered harbor like that when they have to land on the coastline? It has nothing to do with the problem and you do not have to answer it.

Mr. EATON. I am not fully aware of all the Marine Corps training requirements. I believe they do bring vessels in here of larger size than ordinary landing craft, and they require harbor facilities for that purpose.

Mr. BRENNAN. I might be able to help on that. The harbor is used only as a base, for the landing craft, which are used in training along the coast, to simulate combat conditions. The harbor is just a place to put them.

Mr. DOOLEY. Very good.

Mr. BRENNAN. I was out there and that is why I happen to know.

Mr. DOOLEY. I was out there too but I did not see that operation.

Mr. BLATNIK. Are there any further technical questions?

Mr. CRAMER. Who owns the land to be improved along this 13,000 feet of shore?

Mr. EATON. The first 10,000 feet of this area is owned by the city of Oceanside. The region added here to the south which now also requires restoration is privately owned.

Mr. CRAMER. It is privately owned as part of the project?

Mr. EATON. It is part of the project, and proposed to be restored at Federal expense. Under the equity conditions the Chief of Engineers felt the status of ownership had no bearing on the question of restoration.

Mr. CRAMER. When was that private area added to the project?

Mr. EATON. It was added in the present report. At the time of the 1958 project, which was based on surveys completed in 1954, the southern end of the eroded area was just about at the end of the public property. Since that time it has expanded to the south some 3,000 additional feet, or thereabouts.

Mr. CRAMER. What will be the status of that added 200 feet along the privately owned area? Will it be privately owned or accessible to the public?

Mr. EATON. Restoration of property which formerly existed under private ownership will presumably—it is a legal question and I am not able to answer it, but on the basis of such legal precedent as I am aware of, restoration would not alter the status of private ownership.

Mr. CRAMER. It is privately owned. That is what I understood.

Mr. EATON. There is no contention as far as I am aware at this time that it will be anything other than privately owned after restoration.

Mr. CRAMER. Is any interest shown in or consideration given to the sharing of the cost on the part of the private property owners?

Mr. EATON. The question has not been really raised. Since the equity considerations resulted in a recommendation for restoration at Federal expense under the peculiar conditions which prevail here, there was no requirement for going into the matter of local contribution toward this phase of the project.

Mr. CRAMER. What is the proportionate cost of that improvement along the private property?

Mr. EATON. It would be almost directly proportional to the quantities of material involved. It will be slightly higher than a strictly linear relationship because of the added pumping distance. If this is 300,000 cubic yards as a portion of the total of 2,200,000, it would be roughly one-seventh, which would be in the order of \$250,000.

Mr. DOOLEY. Will the gentleman yield?

Mr. CRAMER. Yes.

Mr. DOOLEY. You mentioned the findings in equity. Was this a court decision in equity, or the Corps of Engineers?

Mr. EATON. No court decision was involved, sir. Congress directed the Chief of Engineers through the Secretary of the Army to make recommendations in equity.

Mr. BLATNIK. Have you any further testimony?

Mr. EATON. I have a small amount of additional testimony on non-technical phases. The benefit-cost ratio of this proposed improvement has been evaluated in the report and it is favorable to the extent of 2.2 to 1. The total cost of the project, as I may have mentioned earlier, is \$1,498,000, to be entirely at Federal expense.

The conditions of local cooperation I would like to cite at this time.

Mr. McVEY. Excuse me, Mr. Chairman. I have a question. As a new member of the committee I would like to know what is meant by this benefit-cost ratio?

Mr. EATON. The benefits that will result from the improvement are evaluated in the report and they consist in this instance of savings of land and improvements which will return \$28,700 annually, according to the report. Creation of added beach, which has a value of \$30,500, is another benefit. Those are public benefits annually.

The benefits to the private property at the southerly end will amount to \$55,870, annually, which is a saving of land and improvements which will otherwise be destroyed.

Mr. McVEY. I see.

Mr. EATON. Those are benefits and, of course, the annual costs are the amortized annual value of the actual project cost. The relationship of the two represents the favorable status of the estimate.

Mr. McVEY. Yes; thank you.

Mr. EATON. Conditions of local cooperation which are made a condition of the recommendation for authorization of the project are, first, that the local interests obtain approval by the Corps of Engineers of plans and specifications and arrangements for prosecuting the work if it is performed by local interests.

I may say at this point, I think it is doubtful it will be performed by local interests. I think the United States will perform all of the work in this project. Another condition is to provide at local expense all necessary lands, easements, and rights-of-way. Also, to assure control of water pollution to the extent necessary to safeguard the health of bathers; maintenance of protective and improvement

measures during their useful life; and maintain continued public ownership of non-Federal public shores and their administration for public use.

Those are standard clauses, by the way, that are normally incorporated in all beach erosion projects.

There is a special added condition in this instance. Subject further to the provision that local interests agree that cost allocated to this beach protection project shall be adjusted to reflect savings from multiple-purpose construction of the addition of the Oceanside Harbor improvement to the overall project, if authorized, and the cost so transferred from the beach erosion control project to the harbor project shall be shared by local interests and the Federal Government as appropriate for small-boat harbor projects.

The report has been referred to all other interested Federal agencies, and to the State of California. No objection has been received from any agency. The Department of the Navy qualified its statement to the extent that it cannot assume any commitments for future maintenance dredging in excess of its own needs for naval harbor purposes at Camp Pendleton.

The Bureau of the Budget expressed no objection to this report.

Mr. BLATNIK. Are there any further questions?

Mr. CRAMER. Who is going to maintain the fill area along the privately owned property?

Mr. EATON. The privately owned property will benefit equally with the publicly owned property from nourishment periodically provided at the northerly end of the public property.

Mr. DOOLEY. Who will bring it back? Who refreshes it when that drifts down there?

Mr. EATON. Perhaps I had better explain it a little more fully. The net demand is estimated at 100,000 cubic yards per year. The initial project will provide an extra 500,000 cubic yards, which will be placed in this region near the northerly end of the project, which will serve to maintain the shore for 5 years before there is again a depletion in supply which will result in recession. At the expiration of that time it is anticipated that the material will be passing around the end of this breakwater and will shoal in the harbor entrance from which it will have to be dredged.

Mr. DOOLEY. Who pays the dredging costs?

Mr. EATON. So long as the Navy requires the use of this harbor it is anticipated they will dredge it, or at least participate in it. Should there be a public harbor project authorized here also as a result of the pending study which is now in progress, it will require consideration of maintenance responsibility for this channel, which will be discussed and probably resolved in that report.

Mr. CRAMER. Who has the duty of maintaining the fill along the private property under the local commitments?

Mr. EATON. This segment?

Mr. CRAMER. Yes.

Mr. EATON. This segment requires no specific maintenance fill. So long as this public shore to the north is maintained the private property to the south is assured of adequate nourishment. In other words, the material that is eroded from the public beach is the material that nourishes and maintains the private beach. Is that clear? Have I explained it?

Mr. DOOLEY. Will the gentleman yield?

Mr. CRAMER. Yes.

Mr. DOOLEY. If these people who own the private property will profit by accretion of the land that builds up by the effects of the project, then if it diminishes they should bear the responsibility of replacing it.

Mr. EATON. But the concept of this project is that the shore was stable under normal natural conditions, and it has been so for at least 100 years.

Mr. DOOLEY. I see.

Mr. EATON. Emergency action by the United States for military requirements upset it.

Mr. BLATNIK. It upset the balance the way the original beach property worked.

Mr. EATON. Under ordinary procedures this would be carefully studied and the effect on the shores would be predicted, so that both local interests and the Congress would be aware of the prospective consequences before they authorized the project.

Mr. DOOLEY. This is an emergency condition?

Mr. EATON. Yes, sir.

Mr. CRAMER. That is what I was getting at. In the overall project the private property owners are really receiving no benefit.

Mr. EATON. They are simply receiving that which they had originally.

Mr. CRAMER. That is the point I wanted to establish.

Mr. EATON. Yes, sir.

Mr. BLATNIK. Thank you very much, Mr. Eaton, if there are no further questions.

The next witness is Mr. Henry C. C. Weinkauff, Chief, Project Development Branch, Civil Works Office, Chief of Engineers.

STATEMENT OF HENRY C. C. WEINKAUFF, CHIEF, PROJECT DEVELOPMENT BRANCH, CIVIL WORKS OFFICE, CHIEF OF ENGINEERS

Mr. WEINKAUFF. Mr. Blatnik and members of the committee. I have really no details to add here. I think it has been well explained. I want to emphasize we consider it an urgent problem, as was pointed out, and the Chief of Engineers' recommendation is favorable.

I also want to emphasize there are no local benefits from the work done as emergency work by the Navy, and, therefore, this is in a sense to be considered as a remedial measure.

Also I would like to make one comment on the amendment suggested by Congressman Utt that the reimbursement as provided in the amendment is really the same type of language which is normally incorporated in an omnibus bill to apply to the beach erosion projects as are contained in such a bill.

That is all I have to say, unless there are any questions.

Mr. EATON. There is one item I neglected to mention that should perhaps be in the record.

Mr. BLATNIK. All right, sir.

Mr. EATON. The Secretary of the Army, in commenting on this bill, determined that some minor revision in language would also be

desirable in order definitely to correlate this proposed revised project with the original and present project. This language I would like to quote for the record:

In the event that the committee desires to take action on the bills the following language is suggested as a substitute for section 1 of the bills as presently worded in order to make it clear that this project is in lieu of the existing Federal project and to include a reference to the project document number.

I quote:

That the project for beach erosion control at Oceanside, San Diego County, Calif., is hereby authorized in lieu of the existing Federal beach erosion control project substantially in accordance with the recommendations of the Chief of Engineers in his report contained in House Document 456, 86th Congress, at an estimated cost of \$1,498,000.

Mr. BLATNIK. That is just a technical amendment?

Mr. EATON. Yes.

Mr. BLATNIK. And it does not change the substance of the bill?

Mr. EATON. Right, sir.

Mr. BLATNIK. Thank you very much.

Now we have the vice mayor of Oceanside, the Honorable Erwin Sklar, who will give us a more graphic presentation of the damage suffered in that area.

STATEMENT OF HON. ERWIN SKLAR, VICE MAYOR, CITY OF OCEANSIDE, CALIF.

Mr. SKLAR. Thank you, Mr. Chairman and members of this subcommittee.

Oceanside is approximately 45 miles north of San Diego and 85 miles south of Los Angeles. Reference was made to the private portions that were going to receive a portion of some benefits. Might I inform this committee that the privately owned beach may be privately owned, but it is used as much by the public as the public beach is. There are accesses to the beaches that are owned by the city of Oceanside. We maintain the lifeguard stations and it is used by the general public and it has been for many, many years.

Also, I have some photographs that were taken of some of the private lands that have also been eroded. You can see where the damage was caused not only to the public property, but to the private property. The city of Oceanside depends for about 40 percent of its economy on its tourist trade. As the pictures will show, in 1900 we had quite a large beach, and we also had the same thing in 1939, and in 1942. The bottom picture there will show the scale from an aerial view and that is for each inch, it shows 725 feet. We have practically a square block of beach continuously from Ninth Street down through the south part of Weatherby.

The center picture was taken prior to 1939 and prior to the building of Camp Pendleton. The top picture was taken in 1900. As a result of the erosion in 1960, you can see the picture on the larger board here. As you can notice, the Strand, which is a street on which most of our tourist accommodations are, was practically lost. We had to save the sewer system there. If that had been lost we would have been forced to close all of our accommodations on the beachfront. That is, if that had been washed away.

We have been damaged to the extent that we lost our multimillion-dollar asset, which is something which we have been proud about and advertised nationally. We have had a lot of people there and as you know, if you are going to a vacation resort your remembrance of it hangs on the last time you were there. If you have no beach it will take a long time to convince the tourists that we do have a beach again.

Oceanside is a city of 27,000 and we have a growing population in the surrounding area of 150,000. We are contiguous to Camp Pendleton and a lot of marine families use the beaches there. We are desperate here and have to have some relief on this situation. The State of California is willing to advance the funds necessary to do this dredging for us with the authorization of Congress.

Mr. BLATNIK. The total funds of \$1½ million?

Mr. SKLAR. Yes, sir. They will advance these funds. All they want is an authorization to go ahead. We had hoped and planned in March of this year that we would call for bids with the cooperative dredging with the Corps of Engineers of the Army, and possibly by April we would be able to award such a bid. We felt that the Corps of Engineers being our contract agent and having a dredging program large enough, would on competition give us a better bid and better price, and thereby save money not only for the city of Oceanside, but for the Federal Government as well.

If there are any questions you gentlemen would like to ask, I would certainly like to be here to answer them.

Mr. DAVIS. Mr. Chairman, I would like to move that the project be approved.

Mr. DOOLEY. I will second the motion. I think it is a worthwhile project.

Mr. BLATNIK. If there is no objection I suggest we hold it for an executive session.

Is there any further testimony? Are there any further questions? Thank you very much.

(Whereupon, at 10:55 a.m., the hearing was adjourned.)

It has been arranged to the extent that we have one more edition of the book. It is a small book, but it is a very good one. It is a book that is worth the price. It is a book that is worth the price. It is a book that is worth the price.

The book is a very good one. It is a book that is worth the price. It is a book that is worth the price. It is a book that is worth the price. It is a book that is worth the price. It is a book that is worth the price.

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RIVERS AND HARBORS—MISCELLANEOUS 1961

WEDNESDAY, AUGUST 23, 1961

HOUSE OF REPRESENTATIVES,
COMMITTEE ON PUBLIC WORKS,
SUBCOMMITTEE ON RIVERS AND HARBORS,
Washington, D.C.

The subcommittee met, pursuant to call, at 10:10 a.m., in room 1302, New House Office Building, Hon. John A. Blatnik, (chairman of the subcommittee) presiding.

Mr. BLATNIK. Now we have relatively similar legislation coming before us in the form of H.R. 5254 by Representative Bromwell and H.R. 5279 by Representative Schwengel, to provide for the annual audit of bridge commissions and authorities created by act of Congress, for the filling of vacancies in the membership thereof, and for other purposes.

(H.R. 5254 follows:)

[H.R. 5254, 87th Cong., 1st sess.]

A BILL To provide for the annual audit of bridge commissions and authorities created by Act of Congress, for the filling of vacancies in the membership thereof, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) each bridge commission and authority created by Act of Congress shall provide for an annual audit of its financial transactions by an independent public accountant of recognized standing in such manner as prescribed by the Governors of the States concerned and in accordance with generally accepted auditing standards. Each such commission and authority shall make available for such purposes all books, accounts, financial records, reports, files, and all other papers, documents, or property belonging to or in use by such commission or authority. The General Accounting Office is authorized and directed to make available its advice on any matter pertaining to an audit performed pursuant to this section.

(b) The commission or authority within four months following the close of the fiscal year for which the audit is made shall submit a copy of the audit report to the Governors of the States concerned and to the Secretary of Commerce. The report shall set forth the scope of the audit and shall include a statement of assets and liabilities, capital, and surplus or deficit; a statement of surplus or deficit analysis, a statement of income and expense; a statement of sources and application of funds; and such comments and information as may be deemed necessary to keep the Governors of the States concerned and the Secretary of Commerce informed of the operations and financial condition of the commission.

(c) The Governor of either State concerned or the Secretary of Commerce is authorized to provide for the conduct of further audits of any bridge commission or authority created by Act of Congress if the audit report submitted under subsection (b) is not satisfactory to said Governor or to the Secretary of Commerce, respectively.

(d) The commission or authority shall bear all expenses of the annual audit of its financial transactions as required by this section. All expenses of any additional audit required under this section shall be paid by the official or agency requesting such additional audit.

SEC. 2. (a) Each person who is a member, on the date of enactment of this Act, of a bridge commission or authority created by Act of Congress shall continue in office until the expiration of his present term, except as provided under subsection (b) of this section.

(b) Where provision is made in the Act creating a bridge commission or authority for membership thereon without limitation as to length of term of office the Secretary of Commerce shall, on or before the expiration of ninety days after the date of this Act, reappoint not more than one-third of the persons who are members of such bridge commission or authority on the date of enactment of this Act as members of such bridge commission or authority for a term of two years from the date of reappointment, reappoint not more than one-third of the members of such bridge commission or authority for a term of four years, and reappoint the remaining members for a term of six years. Thereafter, the term of each member appointed to such commission or authority shall be six years, except when an appointment is made to fill an unexpired term or when an incumbent member whose term has expired holds over until his successor is appointed, and vacancies shall be filled as provided under subsection (c) of this section.

(c) A vacancy in the membership of any bridge commission or authority to which this Act is applicable occurring by reason of expiration of term, failure to qualify as a member, death, removal from office, resignation, or otherwise, shall be filled by the Secretary of Commerce. Incumbent members whose terms have expired shall hold over in office until their successors are appointed and qualified.

(d) Each member appointed under this Act shall qualify within thirty days after appointment by filing with the Secretary of Commerce an oath that he will faithfully perform the duties imposed upon him by law.

(e) Each member appointed under this Act shall be removable for cause by the Secretary of Commerce.

(f) This section shall not be applicable to ex officio members or State highway department members of such bridge commissions or authorities.

SEC. 3. Each bridge commission and authority created by Act of Congress shall submit an annual report, covering its operations and fiscal transactions during the preceding fiscal year, its financial condition and a statement of all receipts and expenditures during such period, to the Governors of the States concerned and to the Secretary of Commerce not later than four months following the close of the fiscal year for which the audit required under section 1 of this Act is made.

SEC. 4. Authority is hereby granted to transfer all functions, powers, duties, responsibilities, authority, assets, liability, obligations, books, records, property, and equipment of any existing bridge commission or authority created by Act of Congress to the highway department or other agency of the State or States concerned, or to joint agencies established by interstate compact or agreement. Such transfer shall be carried out in a manner as may be prescribed or authorized by the laws of the State or States concerned. Upon such transfer, such bridge commission or authority shall cease to exist.

SEC. 5. (a) All provisions of Acts of Congress creating bridge commissions or authorities may be enforced or the violation thereof prevented by mandamus, injunction, or other appropriate remedy by the chief legal officer of either State concerned, in any court having competent jurisdiction of the subject matter and of the parties. The following provisions of law are hereby repealed:

Section 11 of the Act approved October 30, 1951 (65 Stat. 699);

Section 15 of the Act approved July 26, 1956 (70 Stat. 676);

Section 12 of the Act approved April 12, 1941 (55 Stat. 144).

(b) Members and employees of bridge commissions and authorities created by Act of Congress shall not be deemed to be Federal officers and employees.

(c) The members of such bridge commissions and authorities shall each be entitled to a per diem compensation for their services of \$20 for each day actually spent in the business of the commission or authority, but the maximum per diem compensation of the chairman in any one year shall not exceed \$3,000, and of each other member in any one year shall not exceed \$2,000. The members of such commissions and authorities shall also be entitled to receive traveling expense allowance of 12 cents a mile for each mile actually traveled on the business of the commission or authority.

Payments under the provisions of this subsection shall be in lieu of any other payments for salary or expenses authorized for service as a member of any such commission or authority under the provisions of any other Federal law

relating to such commission or authority, but nothing in this subsection shall affect any other Federal law with respect to the funds from which any such payments shall be made.

This subsection shall not apply to any bridge or causeway commission or authority created by an Act of Congress, the entire membership of which is ex officio.

SEC. 6. The provisions of this Act shall apply to any bridge commission or authority created by Act of Congress and authorized to construct and/or acquire an interstate bridge, including—

(1) Arkansas-Mississippi Bridge Commission, created by the Act approved May 17, 1939 (53 Stat. 747) ;

(2) White County Bridge Commission, created by the Act approved April 12, 1941 (55 Stat. 140) ;

(3) City of Clinton Bridge Commission, created by the Act approved December 21, 1944 (58 Stat. 846) ;

(4) Sabine Lake Bridge and Causeway Authority, created by the Act approved October 30, 1951 (65 Stat. 695) ; and

(5) Muscatine Bridge Commission, created by the Act approved July 26, 1956 (70 Stat. 669) .

SEC. 7. If any provision of this Act, or the application of such provision to any person or circumstances, is held invalid, the remainder of the Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Mr. BLATNIK. May I say at the outset we are pleased to have with us this morning our colleague and friend, Congressman Winfield Denton, who is also interested in this matter.

Mr. Denton, may we have just a brief briefing so that the committee will be familiar with what the bill involves?

Off the record.

(Discussion off the record.)

Mr. BLATNIK. On the record.

Mr. Denton was here earlier at our convenience and on time, and he is present and has another committee meeting. I want the record to show that our good friend, Mr. Denton here, discussed this matter several times with the chairman and was deeply interested, and he does have a case which should have merit and the committee should hear it.

Mr. SCHWENGEL. Mr. Chairman, if I may make this observation, too—

Mr. BLATNIK. Mr. Schwengel.

Mr. SCHWENGEL. Mr. Chairman, I am sure we will be happy to hear Mr. Denton because on yesterday he was instrumental in having a bill passed which will be very significant and meaningful for America.

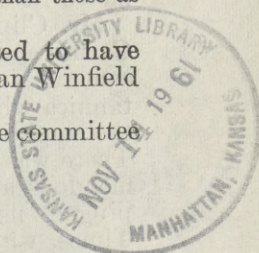
We got a bill passed to create a park in memory of Nancy Hanks and Abraham Lincoln.

Mr. BLATNIK. Thank you. Mr. Denton.

STATEMENT OF HON. WINFIELD K. DENTON, MEMBER OF CONGRESS FROM THE STATE OF INDIANA

Mr. DENTON. I want to thank the gentleman from Iowa for the assistance he has given me, too.

Now, to start at the point in which I am interested, I am in favor of the bill introduced by Mr. Schwengel, but provided that an amendment which he and I have both agreed upon is added to the bill. If that amendment is added to it, I am for the bill. If that amendment is not added, I am opposed to it.



Now, to go back and give you the reasons for my interest in this matter.

In my district there is a bridge across the Wabash River which was built by a private bridge commission. Some of you will remember I had a resolution passed to investigate the White County Bridge Commission, and I was chairman of the subcommittee that investigated it. An act of Congress was passed about 1941 which provided that the White County Bridge Commission should be established; that they should issue bonds and should buy a bridge which ran from New Harmony, Ind., over to Crossville, Ill. Three commissioners were set up in the act and were connected with the banks of Carmi, Mr. Roy Clippinger, a former Congressman, was made business manager of the bridge.

In looking over the accounting of the bridge in 1955 or 1956, I found some \$3 million had been collected in tolls, and a ferry had been bought for \$890,000, and they were still paying tolls on the bridge. I thought it should be investigated, and the General Accounting Office helped me to investigate it. Some of the revelations were rather startling.

Mr. Clippinger, manager of the bridge, also ran a newspaper in Carmi, and the evidence showed the bridge had bought a great many cameras and flashlight bulbs, and had bought an Encyclopedia Britannica which was in Mr. Clippinger's newspaper office, and some of the employees of the bridge company worked in the newspaper office. There was a great deal of markup in printing. The bridge did a tremendous amount of printing and it was bought through Mr. Clippinger's newspaper, or else it was bought from a third party by the Times, which was his newspaper, and sold at a big markup to the bridge commission. Also, the bridge had done a great deal of traveling, going to Arkansas, and Florida, and places like that. It had bought various things, such as Hadacol, for the bridge.

One of the magazines, I believe, published an article "For Whom Does Your Bridge Toll?"

At any rate, as a result of this investigation, the bonds were all paid off on the bridge, and the tolls were lowered, but I have been trying for some 6 or 7 years to get that bridge free, and I have not been successful as yet.

Mr. BLATNIK. Is this commission an autonomous commission?

Mr. DENTON. It is a commission created by statute which provides three men named shall be commissioners.

Mr. BLATNIK. Who names the members?

Mr. DENTON. They were named by the act. I am coming to this. Two of them died and I do not want to go into all of the circumstances about how the appointments were filled, but the Secretary of Commerce filled the appointments. The two Senators from my State, of the opposite political faith from me, protested very bitterly about how the first one was filled. The second one, another one died, and they filled the other one the way they wanted to, and they were satisfied with it.

What I do want to have, as far as my amendment is concerned, is to provide that the positions of the three bridge commissioners should be vacated. There is no provision in the present law as to how the vacancies should be filled, but my amendment provides that the Secretary of Commerce shall fill the vacancies and appoint one man

for 2 years, one man for 4 years, and one for 6 years, and thereafter the terms of commissioners shall be 6 years, except if somebody dies, then another person will be appointed to fill out his term. If that happens and if that is done and the White County Bridge Commission is treated that way, I will be very pleased with this bill and hope it goes through. I am very much opposed to it if that amendment is not added.

Mr. BLATNIK. Do you have the wording for your proposed amendment?

Mr. DENTON. I have it here. It reads as follows:

Page 3, line 10, strike out "(b) Where" and insert in lieu thereof the following: "(b) (1) Except as provided in paragraph (2) of this subsection, where".

Page 4, after line 3, insert the following:

"Notwithstanding any other provision of law, the term of office of each person who is a member of the White County Bridge Commission created by the Act, approved April 12, 1941 (55 Stat. 140) on the date of enactment of this Act shall expire on the ninetieth day after such date of enactment. The Secretary of Commerce shall thereupon appoint three persons as members of the commission, one for a term of two years, one for a term of four years, and one for a term of six years. Each person appointed as a member of the commission thereafter shall be appointed for a term of six years, except that a person appointed to fill a vacancy shall serve only for the unexpired term of his predecessor. Each person appointed under this subsection shall give such bond as may be fixed by the Secretary of Commerce, conditioned upon the faithful performance of all duties required by this Act. The cost of such bonds shall be deemed an operating expense of the commission. The Secretary of Commerce shall designate the member of the commission who shall serve as chairman, and the member who shall serve as vice chairman. Vacancies in the commission shall not affect its power, and shall be filled in the same manner as the original appointments were made. The commission shall have power to establish rules and regulations for the government of its business."

I gave this to Mr. Schwengel, and this will be very satisfactory to me if that can be done.

Mr. SCHWENGEL. I do agree with his amendment. I know about the problem. I have gone into it at length and I am very sympathetic toward resolving that problem, as I am toward resolving the problem we have.

Mr. DAVIS. This would take care of all bridges of this character in the country?

Mr. DENTON. There has been a long need for this kind of legislation. These bridge commissions were set up rather haphazardly. The irony of it is that in 1956 I had an act passed, and Earl Wilson did too, to set up a bridge commission to build a bridge over the Ohio River, but because of the disclosures in regard to the White County Bridge Commission the President vetoed the bill.

I do think some legislation on this subject of federally established commissions building and operating bridges is necessary.

The other provisions of the Schwengel bill are very good, except for that one amendment I want which applies to my State.

Mr. BASS. Mr. Chairman.

Mr. BLATNIK. Mr. Bass.

Mr. BASS. Mr. Denton, I still do not understand. Will you explain again for my benefit what your amendment will provide?

Mr. DENTON. Yes. My amendment will provide that 90 days after the act goes into effect the terms of office of the present bridge commissioners will be terminated, and the Secretary of Commerce will then appoint three new commissioners.

Mr. BASS. May I interrupt you there? Do the present commissioners have life terms, or when do their terms expire?

Mr. DENTON. I do not know. I cannot answer that question. In the act they were appointed and it did not say how long their terms were. Two of them died. The Secretary of Commerce appointed two more men. How long their terms of office are I do not know either.

Mr. BASS. You want to terminate their terms?

Mr. DENTON. I want to terminate the commission because the investigation I referred to disclosed that the commissioners and its manager were not dispensing the funds properly and the Federal Government had brought suit which is now pending, against Mr. Clippinger, the manager, and the commissioners for \$70,000 because of the facts revealed in this investigation which showed their mismanagement of the funds. I don't want legislation that would freeze these people in office because I am afraid it would condone their actions and interfere with the suit the Government has pending.

Also, these commissioners have been collecting tolls for 5 years after the bridge bonds have been retired. It is true that two new commissioners have been appointed since this investigation, but one of them was appointed on the recommendation of the White County Bridge Commission. He is a very close friend to Mr. Clippinger and Mr. Clippinger is still manager of the bridge, and I think he is more responsible for the actions of the commission that I spoke of, than anyone else. In short, if we are to have a free bridge and the actions of the White County Bridge Commissioners is not to be condoned, I think they should be removed from office by this legislation and that the Secretary of Commerce should be permitted to appoint three new commissioners and not have his appointive power limited to those now in office.

Mr. SCHWENGEL. The basic issue at stake here is it is not good public policy to have somebody named for life, which is what the effect of the present law is as it relates to this bridge.

Mr. DENTON. That is right.

Mr. BASS. Are they performing their duties properly?

Mr. DENTON. I would like to have another investigation. I have heard a lot of reports about it, but what did happen is that the Government is suing them for \$70,000 because they did not perform their duties properly. In all fairness I want to say this: Two of those men died. The new commissioners have been appointed and what they have done I do not know, but they are being sued by the Government for \$70,000 because the commissioners did not perform their duties properly.

Mr. BASS. But there are two new commissioners that have succeeded?

Mr. DENTON. That is right.

Mr. BASS. And you want them removed, too?

Mr. DENTON. I want all of the commissioners removed because they are still employing Mr. Clippinger as manager of the bridge. One of the newly appointed commissioners is very close to Mr. Clippinger and I understand was appointed upon his recommendation.

Mr. BASS. Is it your position they are not performing their duties properly and they are incompetent?

Mr. DENTON. Yes and also my position is it is not right to have people appointed for life. You ought to appoint new commissioners and start all over. They should be appointed de novo. That is my opinion about it. I do not think anybody should be appointed for life on any commission.

Mr. BASS. But two of these Commissioners have just been appointed.

Mr. DENTON. Since 1956. In the last 5 years, I would say. The last one was appointed 4 or 5 years ago. I want them removed because of the reasons I have given before and because I do not believe we will get the relief I have spoken of unless they are removed.

Mr. SCHWENGEL. You would not care if they were reappointed, as I understood you, but you think they should have limited terms.

Mr. DENTON. Yes; they should have limited terms but I don't think the Secretary of Commerce's power in appointing members to the Commission should be limited for the first appointment to those now serving.

Mr. SCHWENGEL. And then they will sense the public responsibility that is theirs in the office they hold in this regard.

Mr. DENTON. Yes.

Mr. DOOLEY. Mr. Chairman.

Mr. BLATNIK. Mr. Dooley.

Mr. CRAMER. May I ask a question?

Mr. BLATNIK. Mr. Cramer.

Mr. CRAMER. Do I understand that the amendment you are requesting would apply only to the White County Bridge Commission?

Mr. DENTON. That is right.

Mr. CRAMER. You don't think similar provisions should apply to some of these other commissions?

Mr. DENTON. I understand that the Department of Commerce does, but I do not know what their position will be. They will testify in a minute. I have talked about this matter for 5 or 6 years, and I am anxious to have something done about this bridge in the district I represent. I talked to Mr. Schwengel about it and we have agreed on this bill.

Mr. CRAMER. Customarily, from a constitutional standpoint, when a person is appointed to a position, or elected to a position, the legislative body that creates the agency makes the terms generally restricted affecting timewise the term of the person presently serving. In other words, you cannot pass an act that would in an ex post facto manner prevent someone from holding the position for the full term of office for which he is elected or appointed.

Do you see any problem at all in that?

Mr. DENTON. I do not see any problem at all in that. This commission is the creature of the Congress and, of course, their terms of office were not fixed. They just stated that such commission would be appointed in the act. I think certainly Congress can pass remedial legislation fixing the terms of the members of this bridge commission.

Mr. CRAMER. But customarily when any action is taken it is usually taken so that certain persons will have staggered terms, those that are presently serving, rather than summarily dismissing them all. Do you see any possibility of that?

Mr. DENTON. I cannot see a bit of difference how you do that. Nobody who is in an office has any inherent right to it.

Mr. CRAMER. The point I am making is this——

Mr. DENTON. We have had that up a number of times.

Mr. CRAMER. Your amendment says let's sweep them all out.

Mr. DENTON. Yes, and let the Secretary of Commerce reappoint them.

Mr. BLATNIK. As provided by the Schwengel bill?

Mr. DENTON. Yes, with my amendment. My amendment provides for that White County Bridge Commission. Of course, in his act they would all be reappointed.

Mr. BLATNIK. The same way—2 years, 4 years, and 6 years?

Mr. DENTON. Yes.

Mr. CRAMER. He is proposing taking them out entirely.

Mr. DENTON. That's right.

Mr. CRAMER. And not on a staggered basis.

Mr. DENTON. No; I do not take them out on a staggered basis, but take them all out and have the Secretary of Commerce appoint them for 2-, 4-, and 6-year terms, and after that they will hold office for 6 years apiece.

Mr. BLATNIK. Could we hear Mr. Giles, the counsel of the Department of Commerce?

Thank you, Mr. Denton.

**STATEMENT OF ROBERT E. GILES, GENERAL COUNSEL,
DEPARTMENT OF COMMERCE**

Mr. GILES. Thank you, Mr. Chairman.

I learned just yesterday afternoon that you would be holding a hearing on this bill, Mr. Chairman, so I did not come with any prepared statement. I would like to give a little background on our interest in this measure. It goes back almost to January 20, when the administration came in, and we were made aware of the fact that the previous administration had sent up a draft bill to Congress, and we were asked to comment on it. The one we dealt with mainly, Mr. Chairman, was S. 49, which passed the Senate.

I would like to call your attention, please, sir, to Report No. 298, which accompanies S. 49.

Mr. BLATNIK. Each member has a copy of the Committee Report No. 298 on S. 49 by Senator Chavez.

What page are you reading from, Mr. Giles?

Mr. GILES. Mr. Chairman, our letter of position is on page 8 of that report.

Mr. BLATNIK. All right.

Mr. GILES. Mr. Chairman, I would like to join the previous witness in the statement he made as to his feeling that some legislation in this area is desirable. We join with each of the introducers of these various bills to that effect. From our knowledge and understanding of the matters which pertain to all of these bridge commissions, it would be desirable to have some clarifying, uniform legislation applicable to all of these bridge commissions.

In our report to the Senate committee we took some exception to the language about auditing. We felt it would be more desirable to focus responsibility locally rather than so much in the Secretary of Commerce, and suggested some change in language. I note that S. 49,

which has been passed by the Senate, has language identical with the bills introduced in the House on the audit provisions.

I would like to say for the record that the Department of Commerce will be satisfied, and is satisfied, with the language that is in these bills on the audit provisions. It is not exactly what we recommended, but we would like to say for the record that we have no objection to what is there, and we think it can be worked out very well.

It still involves the Secretary of Commerce in terms of his receiving reports and our basic view, both with respect to audit and with respect to appointments is that these are essentially local commissions; they are created by Congress only because two or more States—really, two States, are involved and they take on an interstate character. But the financing of them is local. Congress does not appropriate any money and, as a matter of fact, the only tie-in in the past has been on some of the appointing responsibility.

In our letter to the Senate we suggested it would be desirable not to require the Secretary of Commerce to make reappointments from the present membership. If the authority for making these appointments is placed in the Secretary of Commerce, there should be no restriction on that. We went a step beyond that and said that actually the Secretary preferred that the appointment authority be placed on a local basis, that is, in the Governors of the States.

Mr. BLATNIK. By "local" you mean the State, since the States operate and maintain and finance the bridges.

Mr. GILES. Yes, sir.

Mr. BLATNIK. That the Governors ought to make the appointments to the commissions and not the Secretary of Commerce.

Mr. GILES. That is right.

Now, for the record, Mr. Chairman, since S. 49 has passed the Senate and since it seems to be the view of the Senate and a good many Members certainly in the House so far that the responsibility for these appointments should be at the Federal level, in the Secretary of Commerce, I would like to state that we withdraw any serious and strong objection to that.

The Secretary frankly still would prefer that this not be vested in him, but if the House passes a measure putting this authority in the Secretary and the bill is presented to the President for signing, so far as that point is concerned we would recommend the President's approval; but still for the record indicating that we would prefer that our original suggestion before the Senate committee be adopted, although that apparently is not to be.

Beyond that, I would simply comment that according to our information there are, I believe, five commissions which would be affected by this bill: The Arkansas-Mississippi Bridge Commission; the White County Bridge Commission, about which Congressman Denton spoke; the Clinton Bridge Commission, involving Iowa and Illinois; and the Sabine Lake Bridge and Causeway Authority in Texas and Louisiana.

I do not believe that one is too active. Also the Muscatine Bridge Commission, Iowa and Illinois.

So when you talk in terms of any amendments on your appointing authority, of course you have four other bridge commissions to consider. From the Department's standpoint, Mr. Chairman, we recog-

nize it is desirable to have some uniform legislation and, frankly, whatever this committee works out, the House approves, and you approve with the Senate, we are prepared to recognize it as good legislation, even though it may not have coincided with our original recommendations.

Thank you, sir.

Mr. DOOLEY. Mr. Chairman, this seems to me to be a very far-reaching piece of legislation, and I think we should have additional hearings on it to allow the Port of New York Authority and other bodies to have an opportunity to be heard. I think this is a far more far-reaching piece of legislation than appears on the surface.

Mr. CRAMER. Will the gentleman yield on that point?

Mr. DOOLEY. Yes.

Mr. CRAMER. I think that the gentleman has raised a matter that is of considerable significance. As I understand it, these bridge commissions arose largely on the request of the local communities, or the States, to establish a commission to take over the jurisdiction and operation of these bridges that are toll bridges. As a matter of fact, the States specifically requested that certain people serve. There is nothing uniform about them, is there? In one instance it is a county judge, or a public official, who serves as a member of the commission. In another instance the Secretary of Commerce may have authority to appoint, and in another instance perhaps a member of the highway department appointed by the Governor serves as a member of the commission. So there is nothing uniform about the manner in which they are appointed, but the point is that usually the request for the appointment and the makeup of the commissions came initially from the States and local communities involved; did they not?

Congress then in effect acted as a body approving what the States and local communities wanted, in many instances similar to the approval of compacts.

Mr. GILES. That is my understanding, Mr. Congressman. The reason why we had to have a Federal statute was because two States were involved, that is, in all these cases the bridge crossed State lines or connected two States.

Mr. CRAMER. Does this not also involve the fundamental question which we have had before the Judiciary Committee for some time, that is, as evidenced by the gentleman's question with regard to the New York Port Authority—to what extent should the Federal Government inject itself into the actual management and administration of these authorities that actually in many instances were set up on the request of the State and local community, where congressional approval was requested mainly because they thought it was required, and not because they wanted Federal control over it. Isn't that true?

Mr. GILES. Well, Mr. Congressman, my conclusion from all of the information I have had about these individual bridge commissions is that apparently in most instances, or all of them, or most all of them, the legislation as passed by the Senate, and substantially contained in the bills before the House, seemed to have the approval of most all of them.

Mr. CRAMER. Of course, the Senate did not approve a lot of the recommendations even of the Department of Commerce; did they?

Mr. GILES. The Senate provided that the Secretary of Commerce would make the appointments, and our recommendation was that as

far as Governor Hodges was concerned, he felt it might be just as well, at least theoretically, to have these appointments at the local level by the two States involved.

Mr. CRAMER. What is the justification for the Federal jurisdiction in the first place? It is not necessarily in respect to an interstate bridge. If you have an intrastate bridge, what is the justification for Federal supervision and Federal appointment of commissioners, and, in this instance, the summary removal of those members, even though they may be State-elected officials, and may be members of the State Road Department? Why should they be summarily removed by the Federal action in this respect? The Senate did not accept that proposal.

Mr. GILES. As far as summary removal is concerned, I do not think there is any legal question about the authority of the Congress.

Mr. CRAMER. I am talking about jurisdiction.

Mr. GILES. The jurisdiction of Congress in these matters is due to the fact that two States are involved in an activity.

Mr. CRAMER. That is only on interstate bridges.

Mr. GILES. We still have two States involved in each of these cases, and I think we have the bridge running from one State to another. In other words, crossing a river which separates two States.

Mr. SCHWENGEL. Will the gentleman yield? I think I am the reason for this legislation being before this committee, and I might review a little history before this committee so it can be brought up to date. Several years ago you recall they had to have a special bill before this committee to give us authority to repair a bridge at Muscatine, Iowa, that had caved in. The chairman accused me of arranging for that bridge to cave in so we would give attention to a previous bill that would make provision for the building of a new bridge at Muscatine.

Also at that time there was some thought of building another new bridge at Clinton. So the representatives of the bridge authorities of the two communities got together and gave us this bill which was under consideration at that time. However, in the hearing on that legislation we did not get it passed and had to have emergency legislation to make it possible to repair the bridge at Muscatine so it could be put back in working order. That bridge has been and is inadequate for Muscatine.

With the passage of that bill we had an understanding with the Department of Commerce that we would work out a satisfactory bill which would give consideration to the shortcomings of the legislation which was very evident in the case of White County and other bridge commissions. A series of meetings has been held with those bridge commissions of Clinton and Muscatine, and other parts of the United States, and the Commerce Department, resulting in a general agreement that this type of legislation should be introduced to resolve the problem of audit and to avoid any recurrence of what happened at White County and other places that might develop an undesirable situation so far as the operation of a bridge is concerned.

This is the result of a series of conferences between the leaders and those interested in the various communities in the bridge problems in the communities, and the Commerce Department. I think we have covered all of the hazards. Generally it is a definite improvement in

the bridge legislation and has no desire to affect any problem of port authorities, or anything like that. It is merely to resolve a problem, to make it possible for them to build their bridges. They would like to have it this way, because the politics involved might develop a situation where they could not get the authority to build the bridge that would have to be built at both places. The thought is that this for the time being is the best solution to the problems they have.

Mr. DOOLEY. Will the gentleman yield?

Mr. CRAMER. I have the floor and I will be glad to yield it, but there are a couple of other questions I have.

Mr. BLATNIK. Mr. Dooley.

Mr. DOOLEY. Under the provisions of this legislation we will give the Secretary of Commerce the right to eliminate these bridge authorities and commissions.

Mr. SCHWENGEL. With this Denton amendment, this will take care of a special problem. This bill will take care of the problem Mr. Denton presented, but it will take a longer time. He wants to solve it now.

Mr. DOOLEY. Are any of these bridge commissions functioning very well?

Mr. SCHWENGEL. Very well. There is no criticism I know of.

Mr. DOOLEY. And yet you take patronage away in this legislation.

Mr. SCHWENGEL. Of course they are now appointed by the Secretary of Commerce; are they not?

Mr. DOOLEY. No. They are appointed by the State.

Mr. GILES. Mr. Chairman, at some appropriate time I would be glad to state for the record and give the basic information about each of these bridge commissions and how they are appointed and what they are doing, if that is desired for the record.

Mr. DOOLEY. But this does make the law uniform in every instance. Is that right?

Mr. GILES. Yes.

Mr. DOOLEY. And it assures us of a proper audit, which is one of the problems.

Mr. GILES. That is right. We particularly like the provisions about auditing and think it is very desirable. If I may, Mr. Congressman, suggest by understanding of some past conferences. I myself held some conferences with the gentlemen you refer to of the Muscatine commission. I don't recall that I suggested agreement with the precise language of the bill you introduced. At the time we told them we would be going on record, as we did with the Senate, suggesting the appointment power as I have referred to. That is my recollection and I wanted to have it for the record.

Mr. SCHWENGEL. But there was an understanding you would not object to this legislation if this was the final agreement, and this was the last answer.

Mr. GILES. I indicated to them we would put our views before the appropriate congressional committees, and if the committees did not adopt them and did pass legislation, we are always disposed to accept the judgment of the Congress on these things. We would have to feel that whatever came out would be the best result, but we did not indicate agreement at the time with the language about appointment that you have in your bill.

Mr. SCHWENGEL. I understand that, but there was a special reason, as you recall, that this seemed necessary.

Mr. GILES. Yes, sir.

Mr. SCHWENGEL. And I might say this: To my knowledge, there is no one in our communities, that I know of at least, that opposes this bill in any way.

Mr. DOOLEY. Will the gentleman yield? How will this affect the Port of New York Authority, which has approval of Congress and is appointed by the Governors of two States?

Mr. GILES. Sir, there is no effect there, as I understand it.

Mr. DOOLEY. In the bill it says, "Upon such transfer, such bridge commission or authority shall cease to exist."

Mr. SMITH. It is not a bridge authority.

Mr. GILES. We do not understand the New York Port Authority as a bridge authority within the meaning of this bill.

Mr. DOOLEY. It has control of a number of bridges in the New York area.

Mr. BLATNIK. Page 7, line 3, section 6 says:

The provisions of his act shall apply to any bridge commission or authority created by act of Congress and authorized to construct and/or acquire an interstate bridge, including—

Mr. DOOLEY. Yes.

Mr. BLATNIK. I think Mr. Dooley, to save time, on your suggestion there should be more hearings on this for a full explanation. To save time at this point, obviously the General Counsel of Commerce needs more background, and I hope we can come to agreement that without prejudice we will lay this aside for the time being.

Mr. SCHWENGEL. I want the record to show that the Congressman from Iowa does not have any part in the delaying motion here because I did make a commitment to the Commerce Department when the Muscatine Bridge bill was passed that I would do everything I could to see that the audit provision was enacted into law.

Mr. BLATNIK. You have a valid point and we agree on it, but we have some question on the other aspects of the legislation and what might result from some of the ramifications.

Mr. SCHWENGEL. Is there any assurance we can have hearings in time to get action on this bill?

Mr. FALLON. Mr. Chairman, I would like to ask counsel if this legislation would affect future construction or future commissions on bridges built for interstate use. I have several bridges in mind which are going to be constructed within the next year or two, and they are interstate bridges.

Mr. GILES. Yes, sir. I think that it would under the language of section 6, where it says:

The provisions of this act shall apply to any bridge commission or authority created by act of Congress * * *.

There is no time limitation on that. It does not read, "created by past act of Congress," so I think it would apply prospectively.

Mr. FALLON. What I was thinking of was a bridge to be constructed in the near future over the Delaware River between the State of Maryland and the State of Delaware. I am wondering if the authorities of those two States know of this legislation.

Mr. CRAMER. Will the gentleman yield? That is the point. As I understand it, some of these interstate toll agencies and commissions chose not to come to Congress for authorization, and apparently the reason is it is up in the air legally as to whether or not there is any requirement under the Constitution that Congress approve it on this type of interstate cooperative action. Some do and some do not. Those who do are penalized and required to conform, and others would not.

Mr. FALLON. My question is, Does this specifically make those people come to Congress in the future?

Mr. CRAMER. Yes. If in fact they come to Congress for authorization because it is interstate, they would be required to conform to this. What the effect of this would be is, it would force the States and keep them from coming to Congress, knowing they would be controlled by Washington. The effect in the future would be that none of these interstate bridges would ask for the congressional authority if they are going to be tied down to these provisions.

Mr. GILES. I think if you have two States involved, where they have financing, or are issuing bonds or doing anything which requires them to contract, I believe you would find as a matter of law they would have to get it.

Mr. CRAMER. No, you do not. I would like to ask for the decision you are relying on. As I understand it the States have discretion. There is no Supreme Court decision on the point. They have discretion as to whether they come or not and, as a matter of fact, most States do not want to and perhaps do not come to Congress for approval. Is that correct?

Mr. SCHWENGEL. That is not my understanding of the matter, let me say, because should they not, they come under the Bridge Act adopted by the Congress. It would make them come here and deal with the Commerce Department or the Corps of Engineers.

Mr. DOOLEY. I would like the record to show I have asked for further hearing on this for clarification and to give an opportunity to be heard on this to various States.

Mr. BLATNIK. The gentleman's point is well taken.

Mr. SCHWENGEL. Then I ask for an understanding that we will have hearings very soon so I can fulfill my commitment. I have strong feelings about the purpose of this audit procedure provided for in this legislation.

Mr. BLATNIK. If at all possible, let the staff get together and find out what other parties are interested and what other aspects of the situation we should have more details available to the committee on so we may have a full background and explanation of it.

Mr. CRAMER. May I ask one more question on the point I was making? Is it not true, Mr. Giles, that the General Bridge Act gives the States authority to build bridges interstate, and they do not have to come to Congress now for approval of such commissions? There is no question about it. Isn't that correct?

Mr. GILES. I am sorry, sir. I did not understand your exact question.

Mr. CRAMER. The 1946 General Bridge Act gives the States authority to build bridges between States. The only time that the States ever come to Congress—therefore they do not have to come to Congress to get such permission, but the only time they have to come is where

they think there may be a question because they are operating interstate, and to make sure on a constitutional basis that they are conforming; but most of the States do not choose to come. They do not accept that concept and, therefore, refuse to come to Congress.

Mr. GILES. That is my understanding. Yes, sir.

Mr. CRAMER. The import of this bill would be that no one would come to Congress.

Mr. GILES. The point I was making is in some form or other, either under a general law or a special act, when two States engage in an activity of this sort it is my understanding they have to get congressional approval under our Constitution.

Mr. CRAMER. Then you are not familiar with the Bridge Act which gives them such authority.

Mr. GILES. I said under a general act, such as the Bridge Act you referred to of 1946, or under a special act. In other words, there is congressional approval in some form or other.

Mr. BLATNIK. Mr. Harsha.

Mr. McFALL. Mr. Chairman.

Mr. BLATNIK. Mr. McFall.

Mr. McFALL. Mr. Chairman, I would like to express my strong support for this legislation as it specifically applies to these five bridges. There seems to be a no-man's land here where there is no control over a very important feature for the Interstate Highway System, plus our basic right to regulate interstate commerce. What you have are bridge commissions that are appointed for life, and there is no control over them, and there is no auditing, or anything of the sort. How it might apply to other bridge commissions is a very important question, but I think we could very easily specify these five bridges where I do not think there is any question but that Mr. Schwengel has a very important point that you have to have auditing and you have to have somebody appointed for specific terms.

Mr. Denton has some very real reasons for going along with Mr. Schwengel's bill. They may not be constitutional reasons but they are real reasons anyway. This is a basic reason for political action. He is being very honest here. There are a number of our witnesses that come before us that have real reasons too, but they are not as honest as Mr. Denton is; and I do not think that just because he is being honest about his reasons, that that should obscure the basic reason for legislation in this field.

I would hope that the chairman will see fit to have hearings very shortly and get some legislation enacted.

Mr. HARSHA. Will the gentleman yield?

Mr. McFALL. I will be happy to.

Mr. HARSHA. That is my point exactly. What is the basic reason? I am not questioning the gentleman's honesty or integrity at all, because he is very frank. But I raise the point are we going to pass a law because there is some basic need for it, or because he wants to get rid of some of his opposition? If the latter is the case I would like to remove some of my opposition too, if that is the reason. But we should have a basic reason. He laid great emphasis on the fact that he wanted it to remove some of his opposition. That is something for us to consider.

Mr. McFALL. You have three very important and basic facts. We on this committee all understand it. First of all, there is a problem that these bridges are part of the charter by Congress, you might say, in which congressional supervision should be applied. There should be an audit. Mr. Schwengel and the Department of Commerce are primarily interested in getting an audit.

In addition to that, you have commissioners who are appointed for life. I think most of us would agree that this is a very unhealthy situation. You should have some terms of office involved here so that someone, an appointed authority, or someone in Congress should control the way these bridges are operated. I think the Interstate Highway program and just the fundamental interstate commerce clause would make it essential that we see to it that bridges that are set up, eventually become free. This is one of the problems Mr. Denton has, and his investigation has shown that possibly these bridges could have been free a long time ago, or at least the specific one he is talking about could have been free. It has been paid for several times, but there has been no attempt to make it free, and we would like to see it free if it has been paid for and all of the original obligations were satisfied.

These matters can be brought out in hearings, which is all aside from the basic political issue.

Mr. DOOLEY. Will the gentleman yield?

Mr. McFALL. Yes.

Mr. DOOLEY. It is a source of great amazement to me that two scholars of Lincolnia and two great friends of Lincoln, should be in disagreement.

Mr. DENTON. Off the record.

(Discussion off the record.)

Mr. SCHWENGEL. Mr. Chairman, I think you agree to an amendment that will completely eliminate port authorities, do you not, Mr. Denton?

Mr. DENTON. Surely, as to port authorities, but I think it is important on the basis of their having terms of office. We looked this over and figured there was only a problem about his bridge and my bridge. We have agreed that they freeze them for 4 years on his bridge and they start de novo on my bridge. We are in perfect agreement on it.

Mr. DAVIS. A private bill would do it.

Mr. DOOLEY. I have no objection to a private bill, or a separate bill.

Mr. DENTON. I have tried to get a separate bill on my bridge for 5 years and I am always told they wanted general legislation.

Mr. SCHWENGEL. We made a commitment to the Commerce Department and I have strong feelings about this because I have a history of what happened in Congressman Denton's case, and I know even the Republican would be in favor of this legislation.

Mr. DENTON. He would be very strongly in favor of it.

Mr. SCHWENGEL. And he opposed it originally. We had almost the original situation in Muscatine and they did not want it to happen. That old bridge was paid for three times at least, and finally under the law we passed 3 or 4 years ago it will become a free bridge soon. However, since we made a commitment to the Commerce Department that we should have an audit, I think we ought to do our best to see that this part of the legislation is passed.

Mr. Chairman, I would like to have an understanding if we leave here and do not act on this bill today that we will set up some hearings early next week and let people come in who are directly concerned.

Mr. BLATNIK. As soon as possible the staff will get together to bring all the scattered pieces in this together in a comprehensive piece of legislation and we will do it as early as we can to accommodate the gentleman.

Mr. CRAMER. I would like to have some further information on it.

Mr. BLATNIK. If that is all on this matter at this time we will pass to another matter we have before us this morning.

We sit in public hearings on a few bills and navigation survey resolutions. The bills by and large are simple bills requiring little explanation, with one or two exceptions, perhaps. Further details will be available in executive session. These are not for the present, but to accommodate Members at the time of the closing of a very busy session. We have a number of bills before us, as I have said, and the first one is H.R. 157, by Representative Roosevelt, to change the name of the Playa del Rey Inlet and Harbor, Venice, Calif., to the Marina del Rey Small Craft Harbor, Los Angeles, Calif.

Our witness will be our friend and the distinguished general of the Corps of Engineers, Maj. Gen. William F. Cassidy.

STATEMENT OF MAJ. GEN. WILLIAM F. CASSIDY, DIRECTOR OF CIVIL WORKS, OFFICE, CHIEF OF ENGINEERS

General CASSIDY. Mr. Chairman and gentlemen, this bill simply proposes to change the official name of a small craft harbor in Los Angeles County from Playa del Rey to the Marina del Rey Small Craft Harbor.

I would suggest that the change be to Marina del Rey, Los Angeles, Calif., rather than having "Small Craft Harbor" there, which is redundant. "Marina" means a small craft harbor in itself.

Mr. BLATNIK. On H.R. 157 as now written or introduced by Mr. Roosevelt, merely strike out the words on line 7, "Small Craft"?

General CASSIDY. Yes. And the word "Harbor" also.

(H.R. 157 follows:)

[H.R. 157, 87th Cong., 1st sess.]

A BILL To change the name of the Playa del Rey Inlet and Harbor, Venice, California, to the "Marina del Rey Small Craft Harbor, Los Angeles, California"

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the body of water designated as the Playa del Rey Inlet and Harbor, Venice, California, by section 101 of the River and Harbor Act of 1954 (68 Stat. 1252; Public Law 780, Eighty-third Congress), shall be known and designated hereafter as the "Marina del Rey Small Craft Harbor, Los Angeles, California". Any law, regulation, map, document, record, or other paper of the United States in which such body of water is referred to shall be held to refer to it as the "Marina del Rey Small Craft Harbor, Los Angeles, California".

Mr. BLATNIK. I understand we discussed this bill before with Mr. Roosevelt, and we have a statement from him to be placed in the record at this point. He is unable, because of another committee appointment, to be here, but he has agreed to that.

Without objection, the statement of Mr. Roosevelt will be made a part of the record at this point.

(The statement of Mr. Roosevelt is as follows:)

STATEMENT OF CONGRESSMAN JAMES ROOSEVELT

Several months before the 87th Congress convened, residents of the 26th District of California called to my attention the confusion in the public's mind caused by the several names used to designate the small craft harbor at Venice, Calif. It has been variously called "Playa del Rey Harbour," "Marina del Rey Harbor," "Playa del Rey Inlet and Basin," and "Marina del Rey Small Boat Harbor." Public Law 780 of the 83d Congress, which authorized the project, established the title as "Playa del Rey Inlet and Basin, Venice, Calif.," but I understand the Los Angeles County Board of Supervisors subsequently adopted the title of "Marina del Rey Harbor."

There is little wonder that residents and tourists alike were totally confused, even to the extent that an editor of a newspaper in the area actually believed there were two harbors under construction.

Inquiry disclosed that legislation is necessary to effectuate a change in the official name of the project. At the request of the County of Los Angeles Board of Supervisors, I introduced the bill being considered today, H.R. 157, to change the name to "Marina del Rey Small Craft Harbor."

The uniformity of title will be of enormous benefit in all regulations, maps, charts, records, and other matters in which reference is made to this harbor. Therefore, I earnestly solicit the committee's favorable report on the bill.

Mr. BLATNIK. Mr. Dooley.

Mr. DOOLEY. General Cassidy, a change like this involves a change on the maps of many businesses, I presume. I wonder how you can justify a change from "Playa" to "Marina"? It is not too important but it seems to me it must have some historic significance as the name of a place.

General CASSIDY. The Playa del Rey is the old beach and inlet in that area. The local people desire that the name "Marina" be used. It will mean changing our records, but in order to go along with it we must have the official sanction of Congress since the project was authorized with a specific name.

Mr. DOOLEY. I see.

Mr. BLATNIK. Who has originated it? Is there a municipality, village, or city that asked for it, or is it the harbor association, if you know? Is it an official authority that requested the change?

General CASSIDY. Yes, sir, I believe it is by the Harbor Commission of Los Angeles County.

Mr. COOK. Mr. Chairman.

Mr. BLATNIK. Mr. Cook.

Mr. COOK. In regard to the word "marina," does it mean small craft only, or small craft harbor?

General CASSIDY. Actually the word "marina" in Spanish just means seashore, but as a word in English it has come to mean small craft harbor.

Mr. COOK. Actually the word "marina" then is misused when we use it on commercial buildings and other things to advertise the sale of small boats, and so forth. It would not be a true definition then. Is that correct?

General CASSIDY. It has been changed by usage.

Mr. BLATNIK. Are there any further questions?

Mr. COOK. No.

Mr. BASS. Yes.

General Cassidy, just who has asked for this change? You say the harbor commission. I was wondering about that.

General CASSIDY. I do not know exactly what started it, but interested people of that area who like the old Spanish names desired this. Then the harbor commission went along with that and Mr. Roosevelt introduced the bill. Rather strong feeling has been generated in the area because we have two signs side by side—the local sign, which says “Marina del Rey,” and the official Government sign, which says “Playa del Rey.”

Mr. BASS. Is there any opposition?

General CASSIDY. I have heard of no opposition at all.

Mr. BASS. Nobody wants to call it Playa?

General CASSIDY. I have not heard of any, sir.

Mr. DOOLEY. Will the gentleman yield?

Mr. BASS. Yes.

Mr. DOOLEY. Is there a substantial marina there, or is it small?

General CASSIDY. Quite a large harbor has been built by the Federal Government, with a very large proportion of the money put in by Los Angeles County.

Mr. DOOLEY. I see.

Mr. BLATNICK. It is about a \$20 million project, or on that order, so it will be a rather considerable harbor facility.

General CASSIDY. Roughly two-thirds of the funds are local, and one-third Federal.

Mr. BLATNIK. Thank you, General.

Congressman Schwengel is not here yet. We promised to hear him earlier because Congressman Denton is here.

The next bill we will take up then will be H.R. 7854, by Representative Blatnik, to modify the project for the Duluth-Superior Harbor, Minn. and Wis., to provide for the abandonment of the 21st Avenue west channel, and for other purposes.

Will you give us a brief description of that, please, General?

(H.R. 7854 follows:)

[H.R. 7854, 87th Cong., 1st sess.]

A BILL To modify the project for the Duluth-Superior Harbor, Minnesota and Wisconsin to provide for the abandonment of the Twenty-first Avenue West Channel, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the project for the Duluth-Superior Harbor, Minnesota and Wisconsin authorized by the Act entitled “An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes”, approved August 30, 1935 (49 Stat. 1028, 1035), and the project for such harbor authorized by the River and Harbor Act of 1960, are each modified to abandon those portions of the Twenty-first Avenue West Channel more particularly described in section 2 of this Act, and that portion of the Duluth-Superior Harbor in the Twenty-first Avenue West Channel area bounded by harbor lines as approved by the Secretary of War on November 17, 1899, more particularly described in section 2 of this Act, is hereby declared to be a nonnavigable water of the United States within the meaning of the Constitution and laws of the United States. The right to alter, amend, or repeal his section is expressly reserved.

SEC. 2. The area to be abandoned referred to in the first section of this Act is more particularly described as follows:

About the northerly 1,250 feet of the 3,300-foot-long Twenty-first Avenue West Channel authorized by the Act of August 30, 1935, as described in House Document Numbered 482, Seventy-second Congress, second session, 1932; and about the northerly 500 feet of the 2,500-foot-long Twenty-first Avenue West Channel authorized by the River and Harbor Act of 1960, as described in House Document Numbered 196, Eighty-sixth Congress, first

session, 1960; and the harbor area beginning at harbor line point 40, situated south 62 degrees 25 minutes 49 seconds west, 1,375.00 feet from a point on city monument line of Garfield Avenue produced 1,462.50 feet northerly from a granite city monument, situated 25 feet southerly from centerline of Ash Avenue and 25 feet easterly of centerline of Garfield Avenue;

thence south 62 degrees 25 minutes 49 seconds west, a distance of 793.40 feet to harbor line point 42;

thence south 27 degrees 34 minutes 11 seconds east, parallel with city monument line of Garfield Avenue and 2,168.40 feet therefrom, a distance of 654.00 feet to harbor line point 42a, to be established;

thence south 56 degrees 28 minutes 40 seconds east, a distance of 620.60 feet to harbor line point 40b, to be established;

thence south 49 degrees 52 minutes 29 seconds east, a distance of 1,300.00 feet to harbor line point 40a; situated on the harbor line between points 38 and 40, as approved by Secretary of War, November 17, 1899;

thence on said approved harbor line north 27 degrees 34 minutes 11 seconds west, for a distance of 2,400.00 feet to harbor line point 40, the point of beginning.

General CASSIDY. Yes, sir. This applies to a side channel in the Duluth-Superior Harbor. The State planned a bridge across the harbor and obtained a permit for the bridge. In working out the permits for the bridge they found that they would have to swing a curve which would go across the 21st Avenue channel and cut off an end of it. This bill would provide of the old authorization, I believe, about 2,500 feet would be eliminated, and of the new authorization about, as the bill states, 500 feet. It will actually be in the order of something like 225 feet.

Since it is an authorized waterway, the abandonment of the authorized project must be authorized by the Congress. We have no objection to this bill.

Mr. BLATNIK. I am very familiar with the location. General. The Interstate Highway System curves along the waterway.

General CASSIDY. That is right.

Mr. BLATNIK. And this is to coordinate the work of both the State highway department and the Corps of Engineers. The Corps of Engineers is responsible for controlling the channel depth, and we want to coordinate the work so that we do not have the highway department filling in on the edge and the Corps of Engineers digging out, and the ships can slide along the edge on the 21st Avenue west channel.

Are there any questions?

Mr. BASS. Is there any financial problem involved here? Does this bill involve any money one way or another?

General CASSIDY. No, it does not involve any additional expenditure by the Federal Government, and possibly some saving.

Mr. BASS. One other question, General. You mentioned the fact that this is a navigable waterway. This may be a simple question, but how do you define a navigable waterway?

General CASSIDY. The only true determination is a determination by a court, but we define a navigable waterway as a waterway which is navigable in fact. If it is navigated and has been navigated in the past, it is a navigable waterway of the United States.

Mr. BASS. Even by very small craft?

General CASSIDY. Usually we consider commercial craft; something engaged in business rather than in pleasure.

Mr. BASS. I am thinking of the Merrimack River in my area, or of the Connecticut River, where parts of it are navigable, but there are

a series of power dams and flood control dams along the river. Would that be navigable?

General CASSIDY. If it was navigated in the past, and I think probably in history it was, commercially, then it is navigable. The dams are usually put in by permit so that there are sections upstream that are still classed as navigable waters of the United States.

Mr. BASS. So if a waterway is not navigable now in the strict sense of the word, but used to be, it is still so considered?

General CASSIDY. Yes, unless it is changed by court decision or act of Congress.

Mr. BLATNIK. This is part of the authorized harbor project.

General CASSIDY. Yes, sir.

Mr. BLATNIK. So it does not require any authority. This is part of the authorized harbor.

Mr. BASS. My inquiry, Mr. Chairman, is not strictly related to this bill.

Mr. BLATNIK. Yours is a general inquiry as to what is a navigable waterway. I understood that.

Mr. COOK. This is not related either to the bill. I want to pursue Mr. Bass' point one step further. You spoke of commercial use. Does this mean streams where there has been no commercial traveling on the streams could not be classified as navigable streams by the Corps of Engineers?

General CASSIDY. This is the way it would be generally looked at.

Mr. COOK. I am thinking, for example, of the Cuyahoga River in Ohio, which runs from Lake Erie.

Mr. SMITH. There has been commercial travel on that river.

Mr. COOK. There may have been.

General CASSIDY. There may have been in the past.

Mr. COOK. At any time in the past. Is that correct?

General CASSIDY. Yes.

Mr. COOK. We have a specific problem with reference to the city of Akron, which has dammed it up to get its drinking water. What does this do to the rights of American citizens traveling on this so-called navigable river?

General CASSIDY. If it was a navigable waterway a permit would have to be obtained before they could put in the dam. If it had been classed as a navigable waterway a permit would have to be obtained. This permit from the Corps of Engineers would have been granted after a hearing to see if there were any objections, because the permit is only with respect to the rights of public navigation.

So if no one objected at the time, we would grant the permit.

Mr. COOK. Would that mean that they would traverse the river?

General CASSIDY. A requirement for passage through the dam no longer exists and they could move on the river above and below the dam.

Mr. COOK. In this instance the city of Akron owns the property on both sides of the dam for some considerable distance, and that is the way they regulate it. But actually if there were a means to get to the water without crossing private property or property belonging to the city of Akron, it would be possible for the public to use the water above or below the dam?

General CASSIDY. If it had been traveled before; yes, sir.

Mr. COOK. Thank you.

Mr. BASS. What about a lake or pond used by commercial investments? Is that a navigable waterway?

General CASSIDY. I would have to check on it case by case as to whether or not that had been navigated in fact in a navigation system. Usually we think of these things as interstate systems, although this is not necessary. The Great Lakes are navigable bodies. How far you go down on that is just a question of judgment and fact.

Mr. BASS. I gather this question then is not very clear? There is no clear distinction?

General CASSIDY. That is why I say it can only be decided by a court finally, or by the Congress.

Mr. BASS. I am thinking, for instance, of Lake Winnepesaukee in my State of New Hampshire.

Mr. BLATNIK. At this point in the record I ask unanimous consent to insert a communication from Burt H. Parson, city clerk of the city of Duluth, Minn., with accompanying resolutions adopted by the City Council of the City of Duluth, Minn., in support of this legislation.

Without objection, it will be received in the record at this point.

(The document referred to is as follows:)

OFFICE OF CITY CLERK,
Duluth, Minn.

I, Bert H. Parson, city clerk of the city of Duluth, in the State of Minnesota, do hereby certify that I have compared the annexed copy of resolution passed by the City Council of the City of Duluth, on the 12th day of June 1961, with the original document and record thereof on file and of record in my office, and in my custody as city clerk of said city, and that the same is a true and correct copy thereof, and the whole thereof, and a true and correct transcript therefrom.

In witness whereof, I have hereunto set my hand and affixed the corporate seal of said city of Duluth, this 13th day of June 1961.

BERT H. PARSON,
City Clerk.

By Bert H. Parson,
City of Duluth, Minn.

By President Prescott:

Whereas the U.S. Congress, by certain acts (see H. Doc. 482, 72d Cong., 2d sess., and H. Doc. 196, 86th Cong., 1st sess.), has established and authorized the Twenty-first Avenue West Channel as a portion of an authorized public project in the Duluth-Superior Harbor, Minn. and Wis.; and

Whereas a portion of the interstate highway in Duluth, Minn., between the new Duluth-Superior Interstate Bridge and an interstate highway interchange at 22d Avenue West in Duluth, Minn., will be constructed over the inner portion of the Twenty-first Avenue West Channel of the Duluth-Superior Harbor;

Now, therefore, the city of Duluth, through its council, hereby respectfully requests that the U.S. Congress and the Secretary of the Army take the necessary action to abandon that portion of the Twenty-first Avenue West Channel which is presently an authorized public project and a portion of the Duluth-Superior Harbor in the Twenty-First Avenue West Channel area bounded by harbor lines as approved by the Secretary of War, November 17, 1899. The area desired for abandonment is described below:

About the northerly 1,250 feet of the 3,300-foot long Twenty-first Avenue West Channel as described in House Document 482, 72d Congress, 2d session, 1932; and about the northerly 500 feet of the 2,500-foot long Twenty-first Avenue West Channel as described in House Document 196, 86th Congress, 1st session, 1960; and the harbor area beginning at harbor line point 40, situated S. 62°25'49" W. 1,375.00 feet from a point on city monument line of Garfield Avenue produced 1,462.50 feet northerly from a granite city monument, situated 25 feet southerly from centerline of Ash Avenue and 25 feet easterly of centerline of Garfield Avenue; thence S. 62°-25'49"W., a distance of 793.40 feet to harbor line point 42; thence S. 27°-34'11" E., parallel with city monument line of Garfield Avenue and 2,168.40 feet therefrom, a distance of 645.00 feet to harbor line point

42a, to be established; thence S. 56°-28'40'' E., a distance of 620.60 feet to harbor line point 40b., to be established; thence S. 49°-52'29'' E., a distance of 1,300.00 feet to harbor line point 40a; situated on the harbor line between points 38 and 40, as approved by Secretary of War, November 17, 1899; thence on said approved harbor line N. 27°-34'11'' W., for a distance of 2,400.00 feet to harbor line point 40, the point of beginning.

With the abandonment of that portion of the project as described hereinbefore there will remain approximately 2,050 feet of the 3,300-foot channel as described in House Document 482, 72d Congress, 2d session, as measured along the centerline of that channel and approximately 2,000 feet of the 2,500-foot channel as described in House Document 196, 86th Congress, 1st session, as measured along the centerline of that channel, which will satisfy the needs of present and anticipated developments and commence in the Twenty-first Avenue West Channel of the Duluth-Superior Harbor, Minn. and Wis. The harbor lines southeasterly of the portion desired for abandonment will remain as established and approved by the Secretary of War on November 17, 1899, except for the proposed new harbor line angle points 40a, 40b, and 42a, which will modify the description of the present harbor lines, which resolution was unanimously adopted.

Approved June 12, 1961:

SHERMAN E. IVERSON,
Acting Mayor.

Approved:

R. K. PRESCOTT,
Chairman, Planning Committee.

Approved for presentation to council:

CLARENCE S. BRADLY,
Administrative Assistant.

Approved as to form:

W. PETER RASK,
Assistant City Attorney.

Mr. BLATNIK. The next bill is H.R. 7888, by Mr. Ikard of Texas, to amend the Flood Control Act of 1958 to extend the time within which land in certain reservoir projects in Texas may be reconveyed to the former owners thereof.

(H.R. 7888 follows:)

[H.R. 7888, 87th Cong., 1st sess.]

A BILL To amend the Flood Control Act of 1958 to extend the time within which land in certain reservoir projects in Texas may be reconveyed to the former owners thereof

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (i) of section 205 of the Flood Control Act of 1958 is amended by striking out "three" and inserting in lieu thereof "four".

General CASSIDY. I think you and Mr. Hart will testify on this. It merely involves an extension of some time which they feel is necessary to complete whatever they have in mind. General Cassidy, will you proceed with your explanation, please?

General CASSIDY. The original legislation authorized a reconveyance of excess lands to the original owners. The time for consideration of such reconveyance expired July 3, of this year, and there is a desire by the local people to have this period of time extended 1 year.

Mr. BLATNIK. One additional year?

General CASSIDY. Yes, sir.

Mr. BLATNIK. What period of time were they given originally? Was that 3 years?

General CASSIDY. Three years. Yes, sir.

Mr. BLATNIK. And they are asking for another year, which would give them 4 years?

General CASSIDY. Yes, sir. We have no objection to the extension.

Mr. BLATNIK. Mr. Hart, have you any further explanation?

Mr. HART. No, sir; Mr. Chairman. Other than to remark that we have just had delivered to us the report to the committee by the Secretary of the Army. We have just received by messenger a report to the committee from the Secretary of the Army. It was somewhat delayed in delivering this, but we have it here now.

Mr. BLATNIK. Yes. There is no objection to that?

Mr. HART. No objection.

Mr. BLATNIK. For the record, Mr. Hart is Mr. Loney W. Hart, Real Estate Division of the Office of the Chief of Engineers.

We will insert the communication from the Secretary of the Army in the record at this point, if there is no objection.

(The letter from the Secretary of the Army is as follows:)

DEPARTMENT OF THE ARMY,
Washington, D.C.

HON. CHARLES A. BUCKLEY,
Chairman, Committee on Public Works,
House of Representatives.

DEAR MR. CHAIRMAN: Reference is made to your request for the views of the Department of the Army with respect to H.R. 7888, 87th Congress, a bill to amend the Flood Control Act of 1958 to extend the time within which land in certain reservoir projects in Texas may be reconveyed to the former owners thereof.

The Department of the Army interposes no objection to the enactment of this bill, the purpose of which is stated in its title.

Section 205 of the Flood Control Act of 1958, approved July 3, 1958 (Public Law 85-500; 72 Stat. 316) authorized the Secretary of the Army to provide adjustments in lands heretofore acquired for the Grapevine, Garza-Little Elm, Benbrook, Belton, and Whitney Reservoirs in Texas to conform such acquisition to a lesser estate in lands being acquired to complete the real estate requirements of the projects. The adjustments authorized by this section were considered necessary because of the joint acquisition policy of the Department of the Army and the Department of the Interior developed in 1953 and published the following year (Federal Register, Dec. 23, 1954, vol. 19, p. 8845). Prior to the adoption of this policy fee simple title to land was acquired for dam and reservoir projects. Subsequent to adoption of the joint acquisition policy easements in many areas were acquired instead of fee simple title. Land acquisition at the five reservoirs here involved was underway, but not all lands had been acquired when the new policy was placed in operation. The proposed adjustments would place the former owners of earlier acquired lands in the same relative position as the owners of lands acquired under the new policy.

Pursuant to section 205 above cited, the Secretary of the Army is authorized to reconvey lands to the former owners thereof whenever he shall determine that such land is not required for public purposes, including public recreational use. This authority is subject to certain limitations, including requirements for public notice in newspapers and notice to the former owner that the lands involved are available for reconveyance. To effectuate the objectives of this act, the Secretary of the Army and the Chief of Engineers promulgated regulations (33 CFR 211.101, Sept. 19, 1958) for the guidance of all persons in interest. An intensified program was thereafter initiated by the Corps of Engineers at the respective projects in compliance with these policies and regulations with substantial success in all phases. Subsection (i) of section 205 of the Flood Control Act of 1958 provides for termination of the above reconveyance authority 3 years after date of its enactment, which would be July 3, 1961. H.R. 7888 would extend such authority 1 additional year to July 3, 1962.

Enactment of this legislation will have no apparent effect on the budgetary requirements of the Department of the Army.

The Bureau of the Budget advises that, from the standpoint of the administration's program, there is no objection to the presentation of this report for the consideration of the Committee.

Sincerely yours,

STEPHEN AILES,
Acting Secretary of the Army.

Mr. BLATNIK. We have one more bill, which is not on your list, that came in late. This is by Mr. Thompson of Texas, H.R. 8320. General Cassidy will give us an explanation of this bill. (H.R. 8320 follows:)

[H.R. 8320, 87th Cong., 1st sess.]

A BILL To amend the Freeport Harbor project, Texas

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the existing project for Freeport Harbor, Texas, is hereby modified by revoking the provision of local cooperation set forth at paragraph 12(a) of the report of the Board of Engineers for Rivers and Harbors as contained in House Document Numbered 1469, Sixty-third Congress, insofar as it requires the town of Freeport to own its perpetuity the strip of land specifically referred to therein and to maintain a dock thereon. The assurance heretofore furnished by the town in compliance with this requirement is hereby nullified.

SEC. 2. The Freeport Harbor project shall be subject to a condition that local interests shall maintain adequate public terminal facilities at the harbor.

General CASSIDY. Mr. Chairman, the original authorization under the act of 1917 for Freeport Harbor required that the cooperating authority acquire a specific piece of land and hold it in perpetuity, so that considerable terminals could be built and the harbor would be open to all. Since that act this piece of land was obtained by the town of Freeport, Tex. Since that act the Brazos River Harbor Navigation District has been operating the port and slightly downstream of the area it has established a port which really provides public access, and is the real harbor. So it is no longer necessary that the town of Freeport hold this 2,000-foot strip in perpetuity for this purpose. It is not being so used now and we believe that the requirements of the original act are satisfied by the development under the Brazos River Harbor Navigation District, which is the State authority which now operates the port.

In the particular case a bridge is being built which would require land that is now owned by a small shipyard. The town wishes to give part of this 2,000-foot strip in exchange for the present land of the shipyard owner, but under this act there is a cloud on the title, so this act would eliminate the required provision to hold it in perpetuity.

We believe that the thought behind the original act is satisfied by the present development and we have no objection to the bill.

Mr. BLATNIK. It still provides that the Freeport Harbor project shall be subject to a condition that local interests shall maintain adequate public terminal facilities at the harbor.

General CASSIDY. That is correct.

Mr. BLATNIK. There is no additional cost involved. Is that right?

General CASSIDY. No additional cost.

Mr. CRAMER. Does the Federal Government have any interest in this strip of land administratively?

General CASSIDY. No. It was to be provided by the town of Freeport.

Mr. CRAMER. I have no further questions.

Mr. BLATNIK. Thank you, General Cassidy.

This completes our open hearings, gentlemen.

(Whereupon, at 11:20 a.m., the subcommittee went into executive session.)

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