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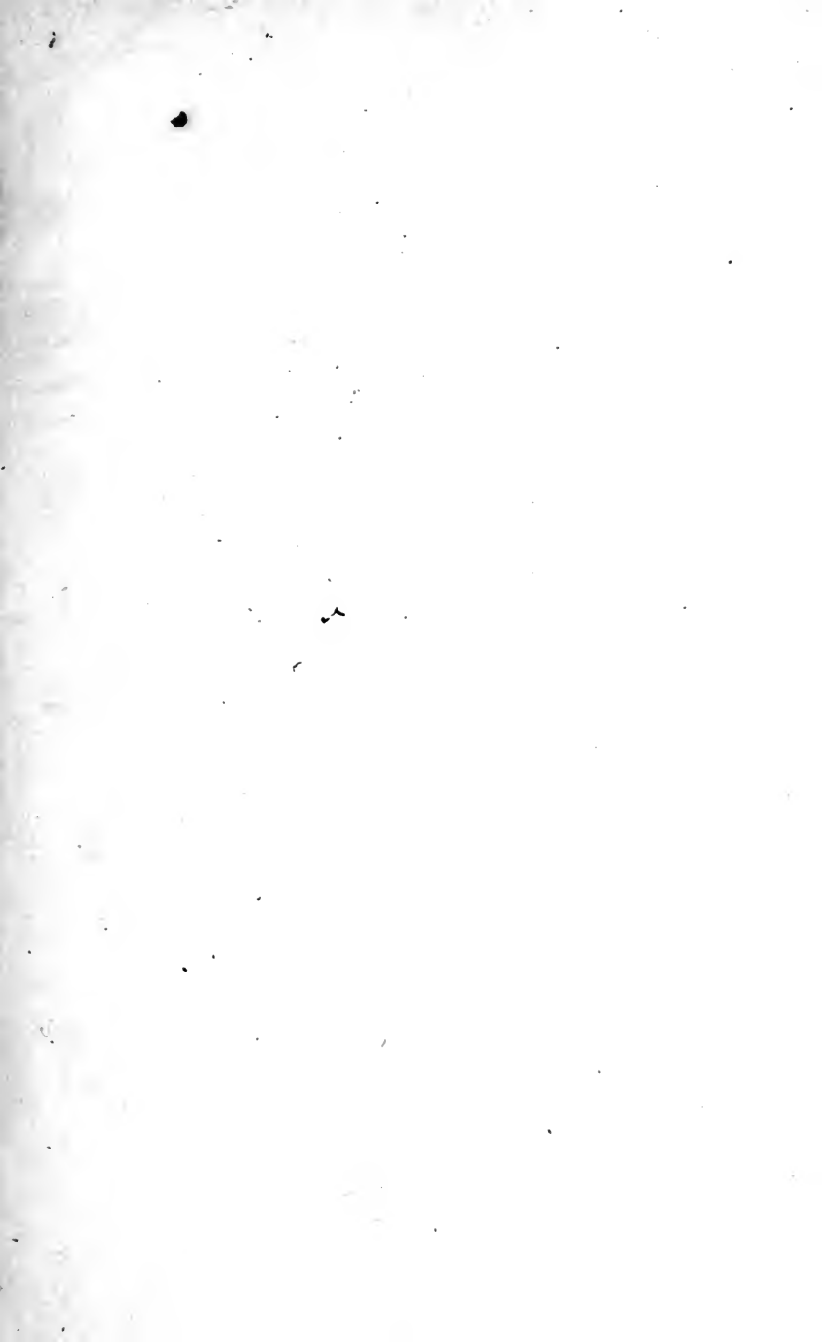
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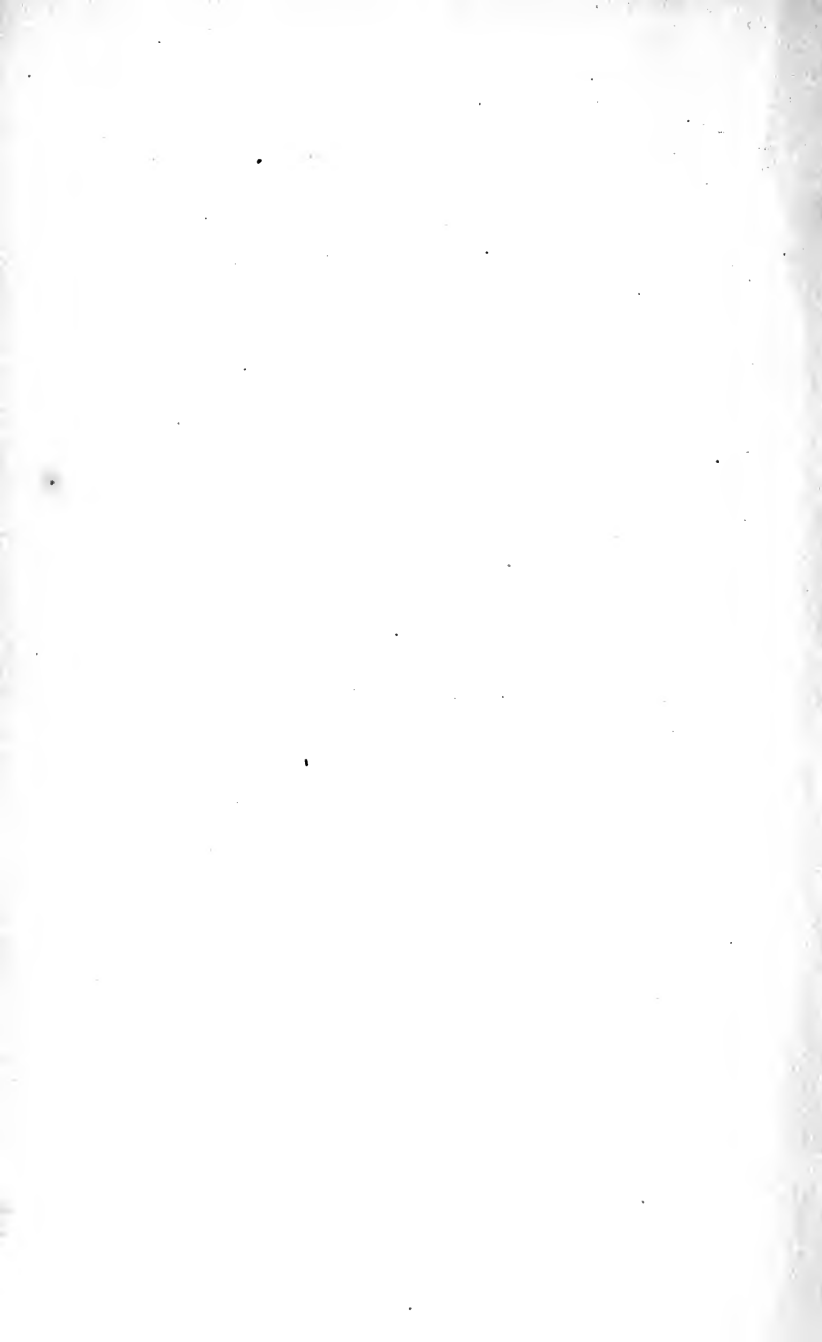
U.S. War Dept.

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ENGINEER REGULATIONS
AND
DIGEST OF
ORDERS, CIRCULARS, REGULATIONS, ETC.,
RELATING TO
THE WORK OF THE ENGINEER DEPARTMENT,
U. S. ARMY,
IN FORCE MARCH 22, 1906.

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[Handwritten signature]

WAR DEPARTMENT,
Document No. 269.
OFFICE OF THE CHIEF OF ENGINEERS.

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LETTER OF TRANSMITTAL.

WAR DEPARTMENT,
OFFICE OF THE CHIEF OF ENGINEERS,
Washington, March 22, 1906.

SIR: I have the honor to submit herewith a revised and corrected compendium of general orders and circulars issued from this office, together with citations from Army Regulations, from Decisions of the Comptroller of the Treasury, and from the Opinions of the Judge-Advocate General of the Army in matters affecting officers of the Corps of Engineers.

2. The publication of a similar compendium for use of the officers of this corps was authorized by the Secretary of War June 26, 1902, and it has been found to be exceedingly useful and helpful as well as a great convenience, but the lapse of time and the many changes in orders, etc., render it highly desirable that a new edition, corrected to date, be provided for engineer officers charged with the duty of disbursing public funds.

3. I have therefore to recommend that authority be given for printing and binding 400 copies of the accompanying compendium, which embodies no changes in that heretofore authorized excepting such modifications and additions as are necessitated by the provisions of orders, circulars, etc., issued since the edition authorized in 1902 was printed.

4. If the authority now asked for is granted, it is proposed to include in the compendium the approved Engineer Regulations as at present in force, but no changes or modifications in these regulations are involved.

Very respectfully,

A. MACKENZIE,
Brig. Gen., Chief of Engineers, U. S. Army.

Hon. WM. H. TAFT,
Secretary of War.

[First indorsement.]

WAR DEPARTMENT, *March 22, 1906.*

Approved:

ROBERT SHAW OLIVER,
Assistant Secretary of War.



CHIEFS OF ENGINEERS, 1868-1906.

Chiefs of Engineers having command of the Corps of Engineers and charge of the Engineer Department, during the period (1868-1906) covered by the within orders, circulars, etc., assumed command as follows:

| | |
|--|-------------------|
| Brig. Gen. ANDREW A. HUMPHREYS..... | August 9, 1866. |
| Brig. Gen. HORATIO G. WRIGHT..... | July 3, 1879. |
| Brig. Gen. JOHN NEWTON..... | March 13, 1884. |
| Brig. Gen. JAMES C. DUANE..... | October 14, 1886. |
| Brig. Gen. THO ^s . LINCOLN CASEY..... | July 23, 1888. |
| Brig. Gen. WILLIAM P. CRAIGHILL..... | May 11, 1895. |
| Brig. Gen. JOHN M. WILSON..... | February 8, 1897. |
| Brig. Gen. GEORGE L. GILLESPIE..... | May 3, 1901. |
| Brig. Gen. A. MACKENZIE..... | January 23, 1904. |

Brig. Gens. Henry M. Robert and John W. Barlow were appointed Chief of Engineers on April 30 and May 2, 1901, respectively, but did not assume command of the Corps of Engineers and charge of the Engineer Department.

ENGINEER REGULATIONS.

[Adopted June 26, 1902.]

1. The Chief of Engineers shall supervise all disbursements by officers of the Corps, and his approval of their accounts, so far as relates to the necessity or expediency of the expenditure, and the prices paid, and his certificate that the mode of expenditure adopted was the most economical and advantageous to the Government, shall be final. If the disbursing officer certifies that the mode of expenditure adopted was the most economical and advantageous to the Government, the certificate of the Chief of Engineers to that effect may be omitted. The approval of the Chief of Engineers will be indorsed on the account current.

2. He shall present to the Secretary of War, on or before the 15th day of October in each year, a report of the operations of the Engineer Department for the year ending on the 30th day of June preceding, with such suggestions relative to its affairs as he may deem expedient, accompanied by an estimate of funds required for the service of the department for the ensuing year.

3. With the approbation of the Secretary of War, he shall regulate and determine the number, quality, form, and dimensions of the necessary vehicles, pontoons, tools, implements, and arms and other supplies and materials for the use and service of the engineer troops, to be procured as far as practicable by fabrication in the Engineer and Ordnance establishments of the Government.

4. The Chief of Engineers shall, from time to time, personally inspect the public works under the charge of officers and agents of his department, under the authority of the Secretary of War.

5. Journeys to be performed by officers of the Corps of Engineers on duty connected with river and harbor work and with fortification work may be ordered by the Chief of Engineers, or approved by him when the emergency requiring the journey does not permit of obtaining an order previous to making the journey.

In the latter case, the officer should certify upon the mileage voucher "that urgent public duty required the journey to be performed without previous orders," and the voucher must be accompanied by the approval of the journey by the Chief of Engineers or superior officer.

6. There shall be attached to the headquarters of the Chief of Engineers as many officers as the service of his office and the bureau of engineers may require, and through whom the commander of the corps may issue orders and instructions.

7. All projects for commencing new works must be submitted to the Secretary of War, through the Chief of Engineers, for consideration.

8. When plans of any kind, for public work under the Engineer Department, have been sanctioned by the Secretary of War or by the Chief of Engineers, they must not be departed from in any particular without the express permission of the Secretary of War or of the Chief of Engineers.

9. Public works in the charge of the Corps of Engineers shall be inspected at least once a year, and when completed, by such officers of the corps as the Chief of Engineers, with the approval of the Secretary of War, shall designate.

10. There shall be a Board of Engineers whose duty it shall be to plan or revise, as may be directed by the Chief of Engineers, from time to time, projects of permanent fortifications required for the defense of the territory of the United States and works of river and harbor improvement; also to consider and report upon such other matters as may be referred to it by the Chief of Engineers.

11. It shall also be the duty of the members of the Board, whenever required by the Chief of Engineers, to inspect and report upon any of the works of construction or other of the operations of the Engineer Department, the inspection reports to be made to the Board and by it submitted to the Chief of Engineers, with such remarks as it may deem proper.

12. The Board shall consist of not less than three officers, to be designated by the Chief of Engineers, with the sanction of the Secretary of War.

13. Two members of the Board shall constitute a quorum for the transaction of business, but its final decisions in important matters must be sanctioned by a majority of its members.

14. The reports of the Board will be made to the Chief of Engineers. It will keep a journal of its proceedings, and will on the first day of each month report to him the movements of its members and a brief statement of the occupation of the assembled Board.

15. The Chief of Engineers shall submit all important reports of the Board, with his views thereon, to the Secretary of War, without whose sanction no important work shall be undertaken.

16. The orders of the senior officer of the Board shall be authority for journeys made by its members and associates and for the necessary expenditures incurred by the Board in pursuance of its duties, but the authority of the Chief of Engineers must be obtained by the senior officer of the Board for all journeys made by the Board or members thereof to localities other than the usual place of meeting. Payment of mileage and for these expenditures shall be made from the appropriation for works of river and harbor improvement when the duty is connected with such works.

17. Under the direction of the Secretary of War as many officers, not below the rank of lieutenant-colonel, as may be necessary, may be assigned by the Chief of Engineers as division engineers, the extent of each division to be determined by the Chief of Engineers.

18. A report shall be sent in time to reach the Bureau as soon after the first of July of each year as practicable, and not later than July 20, of the operations on each work or survey during the fiscal year ending 30th June preceding, with the necessary drawings, and showing the condition of the work, the extent and cost of the principal operations (as brickwork, stonework, earthwork, surveys), accompanied by a summary statement of expenditures during the year, with a detailed estimate of the funds required for the next year, and an estimate of the amount required to complete the work.

The report should conclude with a recapitulation, giving a brief of its more important facts and interesting particulars; this should be of such a form that it may be embodied in the annual report of the Chief of Engineers.

19. "That the Secretary of War shall report to Congress, at its next and each succeeding session thereof, the name and place of residence of each civilian engineer employed in the work of improving rivers and harbors by means and as the result of appro-

priations made in this and succeeding river and harbor appropriation bills, the time so employed, the compensation paid, and the place at and work on which employed." (Act August 5, 1886, sec. 8,—24 Stats., 335.)

Officers and agents in charge of works will make out and forward to this office, with their annual report at the end of each fiscal year, a statement in accordance with the above act. With a view to securing uniformity in these statements a blank form is appended.

List of civilian engineers employed on work of river and harbor improvements in the charge of _____, Corps of Engineers, between July 1, 190—, and June 30, 190—, inclusive.

| Name. | Place of residence. | Time employed. | Compensation. | Where employed. | Work on which employed. |
|-------|---------------------|----------------|---------------|-----------------|-------------------------|
| | | | | | |
| | | | | | |
| | | | | | |

_____,
_____, Corps of Engineers.

20. An officer of the corps or agent in charge of any work of construction or survey, or any operation involving the expenditure of money, shall disburse the money for the same, and when informed of the fund applicable thereto, will furnish the Chief of Engineers a project for the manner in which it is proposed to apply it, with an estimate of the probable monthly expenditures.

21. "All officers, agents, or other persons who are charged with the safe-keeping, transfer, or disbursement of the public moneys shall keep an accurate entry of each sum received and of each payment or transfer; and shall render distinct accounts of the application thereof according to the appropriation under which the moneys may have been advanced to them. Every officer or agent who, having received public money which he is not authorized to retain as salary, pay, or emolument, fails to render his accounts for the same, shall be deemed guilty of embezzlement, and shall be fined in a sum equal to the amount of the money

embezzled, and shall be imprisoned not less than six months nor more than ten years." (R. S. 3623, 3643, 5491.)

22. Every officer or agent of the War Department who receives public money which he is not authorized to retain as salary, pay, or emolument shall render his accounts monthly. (See A. R. 631.)

23. The law requires that a separate account be kept with each appropriation disbursed. The forms of account current and abstracts prepared for this purpose and approved by the Comptroller of the Treasury will be used by disbursing officers. The blanks will be procured from the Chief of Engineers. Accounts current will be made in triplicate and abstracts in duplicate; two copies of the account current, accompanied by one copy of the abstract and one set of vouchers complete, will be forwarded to the Chief of Engineers; the other copy, also accompanied by abstract and vouchers, will be retained by the officer.

24. An error made in an account must be corrected in the next account current of the officer after he is informed of the error, and reference will be made therein to the particular voucher in which the error occurred.

25. In notifying officers of remittances, the Chief of Engineers will inform them of the amount remitted under each head of appropriation. All officers who make transfers of public funds will pursue a similar course, stating in the invoices and receipts the amount transferred from each appropriation. When notifying officers of requests for remittances, the Chief of Engineers, in addition to the amount of each appropriation, will give the titles of appropriations to be used in accounts current, abstracts, and vouchers.

26. Funds received from overpayments previously made will be entered on the account current in the proper column. The entries should show by whom and to whom the overpayments were made, on what account, and refer to the voucher (and abstract).

27. Funds received from sales will be entered in the proper column on the account current, and will show the fiscal year in which the articles were purchased, if known.

28. Whenever money is refunded to the Treasury, the name of the person refunding, and the purpose for which it is done, must be stated.

29. Receipts for funds disbursed and receipts and invoices of funds transferred will state the place and date of payment or transfer, the name and rank of the officer from whom the money is received.

30. (Revoked. *See* G. O. 7, O. C. E., 1905.)

31. When an officer is relieved from duty on any work he shall certify the outstanding debts to his successor and transmit an account of the same to the Chief of Engineers. Unless otherwise ordered, he will turn over the public money and property, and the books and papers appertaining to the service from which he is relieved, to his successor.

32. Disbursing officers, when they have the money, shall pay cash and not open an account.

33. When disbursing officers draw checks in payment of accounts on funds placed to their credit with assistant treasurers or other depositaries of the United States, they will note upon the receipt taken for such payment the number, date, and amount of the check given in payment and designate the assistant treasurer or depository upon whom it is drawn; and when an account is paid in part by currency, the amount of the same will be stated.

34. Persons employed in the engineer service may be allowed actual traveling expenses for travel on duty under orders, to be paid from the appropriations applicable to the works upon which such persons are employed. The affidavit of the person will be in accordance with the prescribed form.

35. When it is intended to have any work performed, service procured, or purchase made, by contract, the advertisement and the specifications, except in case of an emergency contract (Form 19b), must be previously submitted to the Chief of Engineers for his approval.

36. In advertising for proposals for contract work to be done under the direction of the Chief of Engineers, officers and agents of the Engineer Department will state in the specifications what proportion of the total consideration of the contract will determine the amount of the contractor's bond to be required.

37. When bids are opened, and it is contemplated to enter into formal written contracts with bonds, the abstracts of the bids, except in cases of emergency contracts (Form 19b), will be forwarded to the office of the Chief of Engineers, with recommendation for

action in regard to accepting or rejecting the bid or bids received, and no such bid will be accepted or rejected by the officer in charge of work in advance of approval by the Chief of Engineers.

38. All contracts and papers connected with the same, made by officers of the corps or agents in charge of works, will be made in accordance with the printed forms prescribed by the Secretary of War; and these forms, and other printed forms allowed, will be furnished from the Bureau when required.

39. Extensions of, or waivers of time limit on, contracts are not in any case to be made until the approval of the Chief of Engineers has been obtained.

40. (Superseded by A. R. 637 and 638, and Par. 1, Cir. 21, W. D., 1905, and Par. 2, G. O. 5, O. C. E., 1905,—§324.)

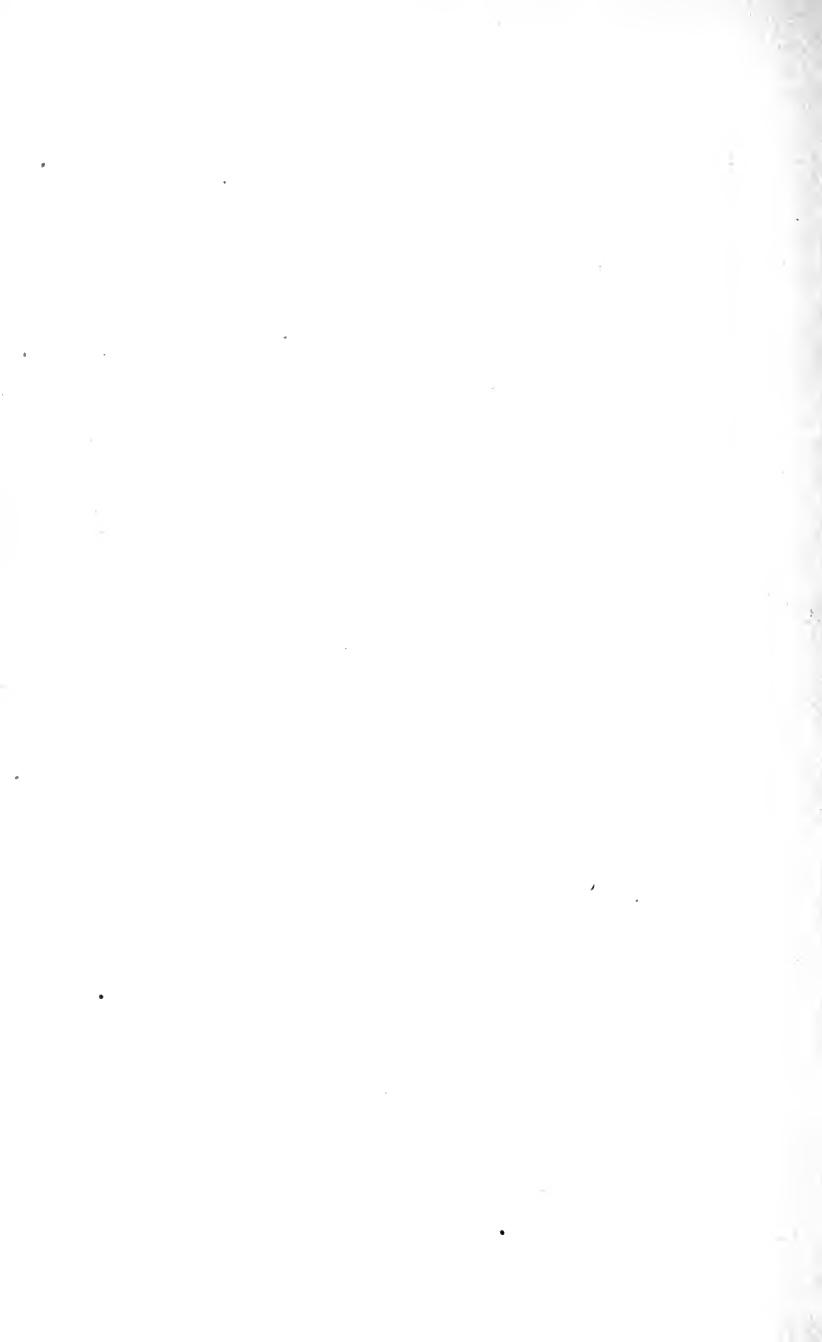
41. When original vouchers can not be furnished with accounts, copies duly certified as true by a disinterested officer may be accepted. If no other officer than the payor or payee is at the station when payment is made, both must certify to that fact, and also to the correctness of the copy.

42. When vouchers are not sent with the account to which they belong, an explanation must be made as to why they were not produced with and included in the proper account.

43. At the time when vouchers are transmitted by an officer with his accounts, if any of the articles purchased as noted thereon have been "expended and applied to the purpose for which purchased," a certificate to that effect may be made by the officer upon the voucher, and when so made the articles referred to need not be taken up on abstracts of property or on property returns.

44. Requests for the admission, free of duties and charges, of articles imported for the use of the Government of the United States must be accompanied with a list of the same, to be forwarded to the collector of customs for his information and guidance and for the permanent files of his office.

45. Authority to purchase materials and execute work by contract or otherwise, in the manner most economical and advantageous to the United States, may be granted by the Chief of Engineers when such method is authorized by act of Congress.



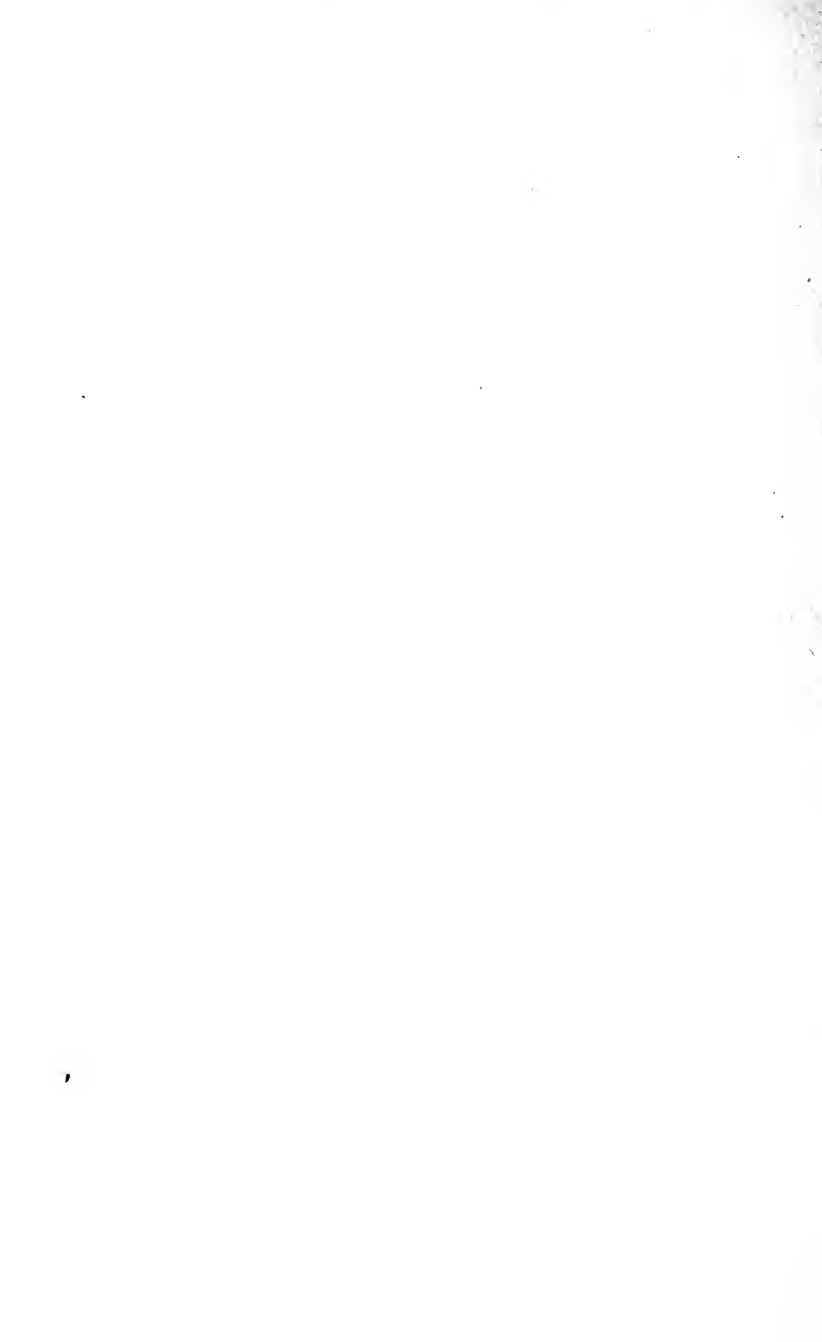
DIGEST OF ORDERS, CIRCULARS, REGULATIONS, ETC., RELATING TO THE WORK OF THE ENGINEER DEPARTMENT, U. S. ARMY.

[In force March 22, 1906.]

[NOTE.—In the preparation of this digest most of the references to Statutes, Comptroller's Decisions, Opinions of the Judge-Advocate-General, etc., in the index to regulations, general orders, circulars, and decisions published in 1902, have been included, and also references to a few later decisions. No effort, however, has been made to cover all Statutes, decisions, and opinions affecting the work of the Engineer Department, as such matter is covered by the published Decisions of the Comptroller, Digest of Opinions of the Judge-Advocate-General, and Military Laws of the United States.]

LIST OF ABBREVIATIONS USED.

| | |
|---|-------------------|
| General Orders | G. O. |
| Circular | Cir. |
| Army Regulations, edition of 1904..... | A. R. |
| Engineer Regulations, 1902..... | E. R. |
| Office of the Adjutant-General, U. S. Army | A. G. O. |
| War Department | W. D. |
| Chief of Engineers | C. of E. |
| U. S. Statutes at Large | Stats. |
| U. S. Revised Statutes | R. S. |
| Supplement to the Revised Statutes..... | Sup. R. S. |
| Postal Laws and Regulations, 1902 | P. L. & R. |
| Published Decisions of the Comptroller of the Treasury | Comp. Dec. |
| Digest of Opinions of the Judge-Advocate-General, U. S. Army..... | Dig. Op. J. A. G. |
| Opinions of the Attorney-General..... | Op. A. G. |



CHAPTER I.
CORRESPONDENCE.

GENERAL PROVISIONS.

1. Distribution of duties in the office of the Chief of Engineers:

Fortifications-and-personnel Branch.

1. Fortifications and their sea walls.
2. The Board of Engineers.
3. The Battalions of Engineers.
4. The Engineer School.
5. Construction work at Washington Barracks.
6. Specifications for fortification works—engineering questions, advertisements, and final action.
7. Surveys in military departments.
8. Engineer equipment of troops, and preparation of Engineer manuals.
9. Personnel.
10. Orders and circulars.
11. Civilian assistants to Engineer officers on the staffs of division commanders.
12. Authorities in connection with fortifications other than for personal employment.
13. Field and seacoast maneuvers.
14. Requisitions for supplies for seacoast defenses.

River-and-harbor Branch.

1. Improvement of rivers and harbors, including examinations, surveys, and projects.
2. Establishment of, and changes in, harbor lines.
3. Removal of wrecks and other obstructions to navigation.
4. Bridging navigable waters, including alteration of bridges.
5. Permits for structures in navigable waters, and other matters arising under the laws for the protection and preservation of navigable waters.
6. Congressional matters relating to navigable waters.
7. Supervision of the harbor of New York.
8. Public buildings and grounds, District of Columbia.
9. Specifications for river and harbor works—engineering questions, advertisements, and final action.
10. Authorities in connection with river and harbor works other than for personal employment.
11. California Débris Commission.
12. International congresses of navigation.

Accounts-and-contracts Branch.

1. Money and property accounts.
2. Issue and transfer of property, excepting requisitions for supplies for seacoast defenses.
3. Contracts.
4. Claims.
5. Engineer depots.
6. Specifications, as regards contract questions.
7. Water supply of Washington.
8. Lake survey.
9. Distribution of maps, documents, and blank forms.
10. Yellowstone National Park.
11. Military roads, other than those connected with seacoast defenses.
12. Civil service, and authorities for personal employment.
13. System of accounts and records for district offices.
14. All papers pertaining to information circulars.
15. Purchase and issue of property required for the engineer equipment of troops.

2. Subject matter.—Communications relating to one Division of the duties of the Office of the Chief of Engineers should not include any subject relating to any other Division. (Par. III, G. O. 4, C. of E., 1874.)

(a) *Citation:* An official letter should refer to one subject only. (A. R. 778.)

3. File marks.—Officers of the Corps of Engineers, in their communications to the Chief of Engineers, when citing previous letters or reports, will give the file marks as well as the dates. (Cir. 3, C. of E., 1891.)

4. Paragraphing.—In important letters and indorsements of considerable length sent to or through the office of the Chief of Engineers by officers of the Corps of Engineers and agents of the United States employed under the Engineer Department, the subject matter will be divided into separate paragraphs, which will be numbered consecutively, using Arabic numerals. (Cir. 13, C. of E., 1901.)

5. Designations of officers detailed to Staff Corps.—Officers detailed as members of the General Staff Corps and those detailed in the several staff departments and corps will be addressed and designated in correspondence and orders only according to their rank and the positions to which they are detailed, thus: "Major A. B. C., General Staff;" "Captain D. E. F., Paymaster," etc., and they will append only such titles to their official signatures, except where their assignment to duty involves the use of another title, as in the case of an adjutant-general, chief quartermaster, etc., of a military department, and in these cases also the arm of the service from which the officer is detailed will be omitted. (Par. I, G. O. 24, W. D., 1903.)

6. Estimates to accompany all projects.—When an officer has occasion to propose the execution of any special work, as repairs, temporary buildings, special surveys, rebuilding or repairs of wharves, roads, etc., etc., the proposition should always be accompanied by an estimate (with items where this is practicable) of the probable cost of such work. (Par. II, G. O. 1, C. of E., 1868.)

TRANSMISSION BY MAIL.

7. Damage to papers in the mail.—The use of envelopes lined with cotton or linen is enjoined, when the occasion requires more than ordinary precautions for safe transmittal of packages of valuable papers.

Officers receiving packages from this office in a damaged condition are desired to report the fact at once.

(Cir., C. of E., Dec. 9, 1869.)

8. Printed matter.—All printed matter which does not require to be treated with the same care and forwarded with as much celerity as letter mail should be distinctly marked "Printed matter." (Cir. 7, C. of E., 1888.)

9. Registry fees.—The fees on official matter registered elsewhere than at the Washington post-office must be paid. (Order of Postmaster-General, dated July 18, 1884, published in Cir. 8, C. of E., 1884.)

10. Property returns, etc.—The sending of property returns and official papers of that class by registered mail is prohibited. (G. O. 65, A. G. O., 1881.)

11. Deficient postage.—Any part-paid letter or packet addressed to either of the Executive Departments or Bureaus at Washington may be delivered free; but where there is good reason to believe that the omission to prepay the full postage thereon was intentional, such letter or packet shall be promptly returned to the sender.

This exemption from the payment of deficient postage does not apply to any letters or packets addressed to officers of the United States outside of the city of Washington.

(Order of Postmaster-General, dated July 18, 1884, published in Cir. 8, C. of E., 1884.)

12. Citations and cross reference:

(a) As to the use of official penalty envelopes in correspondence with attorneys regarding the accounts of officials with the Government, and in correspondence with private citizens generally, see G. O. 8, A. G. O., 1897.

(b) For regulations regarding the use of penalty envelopes, see A. R. 843-846, 848.

(c) Disbursing officers of the Engineer Department are to be supplied with envelopes under contracts annually made by the Postmaster-General. (§ 243.)

(d) Persons, not officers, writing to the Executive Departments or to officers of the United States concerning the business of the writers with the Government can not use the penalty envelope to transmit their correspondence. Officers authorized to use such envelopes should not furnish them for use to contractors with the Government. (P. L. & R. 514.)

(e) The use of freight or express lines for official matter that can be sent by mail is forbidden. (A. R. 847.)

TELEGRAMS AND CABLEGRAMS.

13. To and from the Chief of Engineers.—All official telegrams from this office to officers of the Corps of Engineers, and agents of the United States employed under the Engineer Department, will be sent "Collect," and all telegrams to this office from officers and agents will be sent "Prepaid." (Par. I, Cir. 10, C. of E., 1899.)

14. Place of payment to be indicated.—All official telegrams payable at any originating office will be marked as follows: "Official Business, Charge Engineer Office at....." Those on which the charges are collectible at the destination will be marked "Official Business, Collect." (Par. II, Cir. 10, C. of E., 1899.)

15. Telegraph ciphers and codes.—The cipher of the War Department, the War Department Telegraphic Code, and the Telegraphic Code to Insure Secrecy (Gregory's), received by officers of the Army for their official use, are in the nature of *confidential* documents, and care should be taken to prevent access thereto by unauthorized persons. The cipher and codes will be held subject to the order of the War Department and accounted for by number and turned over on duplicate memorandum receipts when the officer responsible therefor has delivered the same to another officer, and one of the receipts will be promptly forwarded to *The Military*

Secretary, War Department, Washington, District of Columbia, in order that these important documents may be properly accounted for and the responsibility for their loss or neglect be definitely fixed without the necessity of extended correspondence. Semi-annual reports will be rendered, giving title and number of each copy on hand. (Par. I, G. O. 84, W. D., 1904.)

16. Citations:

(a) For general provisions regarding telegraphing on military business, see A. R. 1194-1203, and Par. II, G. O. 180, W. D., 1905.

(b) As to the use of the "Western Union Telegraphic Code," the "War Department Telegraphic Code," and the "Telegraphic Code to Insure Secrecy in the Transmission of Telegrams," see G. O. 203, A. G. O., 1899.

(c) As to abbreviations in addressing officials at the War Department in cable messages, see Par. I, G. O. 9, A. G. O., 1899.

(d) The assistant treasurer of the United States at New York is registered at the different cable companies in that city under the code word "Subty." (Par. I, Cir. 6, A. G. O., 1899.)

WITH BUREAUS OF THE NAVY DEPARTMENT.

17. To be forwarded to the Chief of Engineers.—All requests for materials, publications, and information desired from the Navy Department will be forwarded to the Chief of Engineers. (Cir. 23, C. of E., 1899.)

WITH THE DEPARTMENT OF JUSTICE.

18. Duplicate copies unnecessary.—It is not necessary to prepare a duplicate copy of reports and papers for the Department of Justice in cases pending before the Court of Claims, except upon a special request made for the same in some particular case. (W. D. Cir., dated June 16, 1886, published in Cir. 3, C. of E., 1886.)

19. Lists of papers.—In cases where original papers are forwarded to the Court of Claims, or Department of Justice, the chiefs of bureaus are requested to prepare a list (in duplicate) of

the papers to accompany them, which list should show the names of the writers and to whom addressed, the date, and a blank space to insert the War Department inclosure mark. Other papers or documents should be described so that they may be identified. (W. D. Cir., dated June 16, 1886, published in Cir. 3, C. of E., 1886.)

CITATIONS AND CROSS REFERENCES.

20. General Provisions:

(a) For general provisions regarding military correspondence, see A. R. 778-795.

(b) As to correspondence with the Central Civil Service Board in the office of the Chief of Engineers, see Cir. 14, C. of E., 1902,—§ 469.

(c) Certain papers are to be submitted to the Chief of Engineers through the Division Engineer; no papers to be forwarded by him without a definite expression of opinion. (G. O. 9, 1901, and G. O. 10, 1903, C. of E.,—§§ 112, 115.)

(d) Confidential maps, etc., desired by officers of artillery, to be sent to the Chief of Engineers for issue. (G. O. 6, C. of E., 1903,—§ 126.)

(e) An officer's report should be accompanied by reports of assistants whenever necessary to a clear and complete understanding of the subject considered. (Cir. 3, C. of E., 1887,—§ 22.)

(f) All reports required to be transmitted to Congress to be submitted in duplicate. (G. O. 6, modified by G. O. 10, C. of E., 1889,—§ 23.)

(g) Drawings accompanying reports which will probably be transmitted to Congress and printed to be so prepared that they may be immediately placed in the hands of the engraver or photolithographer. (Cir. 16, C. of E., 1880,—§ 25.)

(h) The use of colored inks in correspondence is prohibited, except as carmine or red ink is used in annotation and ruling. (A. R. 829.)

(i) Hectograph impressions of papers not to be used where permanence is desired. (Cir. 12, C. of E., 1887,—§ 293.)

(j) When two or more affidavits and certificates as to lost property are forwarded at the same time, they should be

accompanied by a letter of transmittal; a single affidavit or certificate should be forwarded by indorsement. (Cir. 26, C. of E., 1905,—§ 374.)

(*k*) Names of officers or other persons will not be printed on letter or note headings for use in any branch of the military service. (A. R. 511.)

(*l*) Manuscript returns, rolls, certificates, and other documents are prohibited, when the proper printed forms are on hand. (A. R. 1604.)

21. Correspondence regarding contracts :

(*a*) Applications for authority to advertise for proposals to be submitted through the Chief of Engineers to the Secretary of War. (Cir., C. of E., July 26, 1872,—§ 267.)

(*b*) Hectograph impressions of papers not to be used when permanence is desired. (Cir. 12, C. of E., 1887,—§ 293.)

(*c*) Carbon copies of contracts not to be sent to Auditor. (Cir. 11, C. of E., 1903,—§ 292.)

(*d*) One copy of notification to contractor of approval of contract to be sent to the Chief of Engineers. (Cir. 15, C. of E., 1899,—§ 282.)

(*e*) The title of the appropriation chargeable with the obligations incurred by an emergency contract to be stated in the letter sending copy of the contract to the Chief of Engineers (Cir. 11, C. of E., 1901,—§ 300.)

CHAPTER II.

REPORTS AND RETURNS.

REPORTS IN GENERAL.

22. Reports of assistants.—When a report is rendered to this office by an officer in charge of works, it should be accompanied by the reports of assistants whenever, in the judgment of the officer, the latter are necessary to a clear and complete understanding of the subject considered. Officers in charge should, however, endeavor to make their own reports as complete as possible, and should include therein all points of importance in the subreports, together with their own personal views and recommendations. (Cir. 3, C. of E., 1887.)

23. Reports for Congress in duplicate.—Annual reports and also all reports on examinations and surveys and other reports required to be transmitted to Congress must be submitted in duplicate, one copy to be made on legal-cap paper (8 by 12½ inches), on one side only, for the use of the printer. (G. O. 6, modified by G. O. 10, C. of E., 1889.)

24. Citations and cross references:

(a) As to reports by boards of Engineer officers and the rendition of minority reports, see G. O. 4, C. of E., 1892,—§ 68.

(b) Officers or troops of the Corps of Engineers detached from the command of the Chief of Engineers will continue to conform to the regulations of the Engineer Department in regard to the rendition of reports. (A. R. 1524.)

(c) The Division Engineer will inspect the principal works in his division at least once a year, and submit a report to the Chief of Engineers upon each inspection. (G. O. 9, 1901, and G. O. 10, 1903, C. of E.,—§§ 108, 115.)

(d) As to the rendition of reports of open-market purchases, see Par. In, G. O. 4, C. of E., 1901; Cir. 17, C. of E., 1901; Cir. 7, C. of E., 1895; and Cir. 29, C. of E., 1904,—§§ 330-383.

(e) The standard blank forms used in army administration, with the notes and directions thereon, have the force and effect of Army Regulations. (A. R. 1603.)

(f) Manuscript returns, rolls, certificates, and other documents are prohibited, when the proper printed forms are on hand. (A. R. 1604.)

25. Drawings accompanying reports.—Drawings accompanying reports to be transmitted to Congress and printed should be so prepared that they may be immediately put into the hands of the engraver or photolithographer. No colors or tints should be used, but black ink alone. All lines should be firm, decided, and full; the light and dark parts of the drawing must be produced by lines of different degrees of width or thickness in ink of the same shade, and in no case should the lighter parts be made with light ink. Drawings should be prepared with a view to a reduction of about one-fifth, and all letters and figures especially should be made large enough to remain clear and distinct when so reduced. (Cir., C. of E., March 22, 1875, republished in Cir. 16, C. of E., 1880.)

LISTS OF REPORTS, ETC., REQUIRED.

26. Annual:

A. 1. Annual report of operations (July 1). E. R. 18.

2. Expenditures from indefinite river and harbor funds (July 1). Cirs. 12, 1897, and 4, 1898, C. of E.,—§§ 156, 158.

B. Completed batteries, etc. (Dec. 31). Cirs. 30, 1900, 18, 1903, and 3, 1905, C. of E., and circular letter, C. of E., June 11, 1904,—§§ 49-57.

C. Statement of floating plant (July 1.) Cir. 2, 1899, modified by Cir. 20, 1900, C. of E.,—§ 363.

D. Estimates, operation, and care of canals (before July 1). Circular letter, C. of E., July 23, 1889,—§ 157.

E. Civilian engineers (July 1). E. R. 19.

F. Authority to advertise (July 1). Cir. 2, C. of E., 1902,—§ 269.

G. Requests for authorities (November 1). Cir. 18, C. of E., 1904,—§§ 423, 424, 504, 505.

H. Efficiency report (June 30). A. R. 838.

I. Checks outstanding three years (July 1). A. R. 606.

J. Statements of balances in the Treasury from river and harbor appropriations (December 31). Cir. 25, C. of E., 1903,—§ 335.

(Cir. 6, C. of E., 1902, modified to date.)

27. Semiannual:

A. Property returns (March 31 and September 30). Cir. 7, C. of E., 1904,—§ 386.

B. Certificate of lost property. A. R. 687, and Cir. 4, 1896, Cir. 6, 1899, and Cir. 7, 1904, C. of E.,—§§ 371, 372, 377, 386.

C. Reports of telegraph codes on hand. (Par. I, G. O. 84, W. D., 1904,—§ 15.)

(Cir. 6, C. of E., 1902, modified to date.)

28. Quarterly:

A. Return of employees (December 1, March 1, June 1, and September 1). Cir. 19, C. of E., 1903,—§ 475.

B. Inspection of fortifications (about February 28, May 31, August 31, and November 30). G. O. 23, amended by Par. II, G. O. 102, W. D., 1905,—§ 121.

(Cir. 6, C. of E., 1902, modified to date.)

29. Monthly:

A. Personal reports. A. R. 836.

B. 1. Vouchers. E. R. 23, A. R. 630 *et seq.*

2. Abstract of disbursements. E. R. 23, A. R. 630 *et seq.*

3. Accounts current. E. R. 23, A. R. 630 *et seq.*

4. Open-market purchases. A. R. 552.

5. Abstract of property paid for. Cir. 5, C. of E., 1892,—§ 382.

6. Changes in the classified service. Cir. 11, 1898, Par. VI, Cir. 14, 1902, C. of E., and C. S. R. XIII,—§§ 470-474.
7. Temporary employees. Par. VI, Cir. 14, C. of E., 1902, and C. S. R. XIII,—§§ 470, 471, 474.
8. Transportation requests. Cir. 15, C. of E., 1897,—§ 209.
 - C. 1. Report of operations. Cir. 2, 1896, Cir. 6, 1901, and Cir. 18, 1903, C. of E.,—§§ 38-48.
 2. Changes of armament. Cir. 18, C. of E., 1903,—§ 41.
- D. Estimates of funds. A. R. 581, and Cir. 3, C. of E., 1904,—§ 337.
 - E. Statistics of freight. Cir. 4, C. of E., 1902,—§ 181.
 - F. Changes affecting navigation on the Great Lakes. Circular letters, C. of E., June 4, Sept. 25, Oct. 1 and Oct. 16, 1901, May 28, 1902, and Apr. 22, 1903.
 - G. Statistics of passengers and freight (to newspapers on application). Cir. 8, C. of E., 1897,—§ 180.
 - H. Reports of typewriting machines purchased. Cir. 28, A. G. O., 1901,—§ 390*h*.
(Cir. 6, C. of E., 1902, modified to date.)

30. Special:

- A. Occupation of, trespass upon, or injury to, public works. G. O. 2, 1892, and Cir. 17, 1897, C. of E.,—§§ 176-178.
- B. Obstructions to navigation. G. O. 2, 1892, and Cir. 17, 1897, C. of E.,—§§ 176-178.
- C. Removal of wrecks, etc. Cir. 3, 1889, and Cirs. 4 and 30, 1905, C. of E.,—§§ 160-162.
- D. Completion of supervision of bridges. Letter of instructions.
- E. Receipt of new armament. Cir. 21, C. of E., 1897,—§ 128.
- F. Authority to mount new ordnance. Cir. 22, C. of E., 1900,—§ 137.
- G. Installation of motors on carriages for seacoast armament. Circular letters, C. of E., June 11, 1904,—§ 130.
- H. Menaces to navigation and removal of wrecks on the Great Lakes. Circular letters, C. of E., June 4 and Oct. 16, 1901, and Nov. 20, 1902.

I. Emergency use of Government property. Cir. 18, C. of E., 1896,—§ 361.

J. Change of station. A. R. 68, 835, and G. O. 11, C. of E., 1905,—§ 34.

K. Canceled or mutilated checks. A. R. 611.

L. Damaged mail packages. Cir., C. of E., Dec. 9, 1869,—§ 7.

M. Changes in channel location and depth, and removal of wrecks, etc., for Coast and Geodetic Survey. Cir. 20, C. of E., 1904,—§§ 182, 184.

N. Outstanding debts (when relieved). A. R. 634.

O. Inspection of engineering works (division engineer). G. O. 9, C. of E., 1901,—§ 108.

P. Office force and methods (division engineer). G. O. 9, C. of E., 1901,—§ 111.

Q. Absence on leave. A. R. 50, 64.

(Cir. 6, C. of E., 1902, modified to date.)

PERSONAL REPORTS, EFFICIENCY REPORTS, ETC., OF OFFICERS.

31. Residences to be shown in personal reports.—Officers of the Corps of Engineers will, on their monthly personal reports to the Chief of Engineers, report their residences, giving the addresses thereof in such detail as may be necessary to insure the delivery of telegrams at other than office hours. (Cir. 1, C. of E., 1892.)

32. Additional information in personal reports.—Officers' monthly personal reports to the Chief of Engineers should contain the following information just before the lists of their duties:

1. Whether the officer is married or not.

2. If married, whether he has any minor children, and if so, how many.

3. The name and address of the nearest relative or person who should be notified in case of accident or death.

(G. O. 10, C. of E., 1905.)

33. By whom to be submitted.—Paragraph 836, Army Regulations, as amended by General Orders, No. 25, War Department, February 15, 1905, so far as concerns the report to the Chief of

Engineers, is interpreted to cover the cases of officers serving with troops as well as those engaged on strictly staff duties:

836. An officer of a staff corps or department, or an officer serving therein by detail, will report to The Military Secretary of the Army and to the head of his corps or department on the last day of every month, giving his address, a statement of the duties on which he has been employed during the month, the date of his assignment thereto, and the authority by which so assigned. * * *

(Par. 1, G. O. 11, C. of E., 1905.)

34. Change of station.—When an officer changes station, the date of leaving one station and joining the other, and the authority for the change, will immediately be reported to the Chief of Engineers by the officer concerned. (Par. 2, G. O. 11, C. of E., 1905.)

35. Absences from Station.—All absences from an officer's station or its immediate vicinity are "on leave" or "on duty," and should be noted on personal reports under the heads of "Date of leaving station," "Date of return to station," and "On leave or on duty." (Cir. 6, C. of E., 1896.)

36. Efficiency reports.—Efficiency reports will be made on June 30 of each year and forwarded to The Military Secretary of the Army through intermediate commanders, who will indorse thereon such remarks as may be proper in each case:

* * * * *

2. By the chief of each staff department or corps and each staff bureau respecting each officer of his department, corps, or bureau not otherwise reported on.

* * * * *

4. By each officer of the Corps of Engineers serving as division engineer respecting each officer in charge of an engineering district within his division; and by each district officer respecting each officer on duty under his orders.

* * * * *

(A. R. 838.)

37. Citations and cross references:

(a) For general provisions regarding personal and efficiency reports, see A. R. 832-842,—Pars. 833 and 836 amended by G. O. 25, W. D., 1905.

(b) As to the meaning of the term "station," see Cir. 6, C. of E., 1896,—§ 516.

MONTHLY REPORTS OF OPERATIONS.

38. General provisions.—Monthly reports of operations should be so prepared as to give full and specific information regarding each work, and should contain all items relating to the progress of the work desirable for incorporation in the annual report. (Cir. 2, C. of E., 1896.)

39. Fortification works: Form to be used.—The following form, with such modifications as any particular work may require, will be used for works of fortification:

REPORT OF OPERATIONS FOR THE MONTH OF....., 19....,
FOR.....

(Give title of appropriation and name of harbor or fort.)

List of allotments.

(See § 40, below.)

* *Money statement.*

| | | |
|---|----|----|
| Amount expended on present project to end of last fiscal year | \$ | |
| Balance unexpended at end of fiscal year..... | \$ | |
| Amount expended from end of last fiscal year to end of previous month | \$ | |
| Amount expended during the month..... | \$ | |
| Balance unexpended at end of month | \$ | |
| In Treasury United States | \$ | |
| In hand..... | \$ | |
| † Outstanding liabilities at end of month..... | \$ | |
| ‡ Amount covered by existing contracts at end of month | \$ | \$ |
| Balance available at end of month | \$ | \$ |

Progress of the work.

(Here state briefly for each allotment what has been accomplished, the relation of the work done to the whole work author-

* Funds from appropriations of different titles will not be included in one statement.

† "Outstanding liabilities" should include amounts due for labor performed, for contracts completed, and for materials or land purchased.

‡ "Amount covered by existing contracts" has reference to incomplete formal contracts, and this should be estimated, if it can not be ascertained accurately. Probable engineering or contingent expenses attending the completion of the contracts will not be included.

ized, and its present condition, which, in case of construction of modern emplacements, should show the progress of each emplacement and its platform toward completion, the guns, mortars, and carriages received, and whether mounted or not. If work is being carried on by contract, give the names of the contractors, dates of contracts and of their approval, and time of commencement and completion. State when the work was inspected last by the engineer officer in charge.)

Operations during the month of , 19...

(A separate statement will be given for each allotment. Give a summary of the amount and character of the work done during the month, the results accomplished, and the nature and quantity of materials received.)

Probable operations for next month.

(To follow report of operations during month. A brief statement of the work proposed to be performed during the month next succeeding.)

(Pars. I and II, Cir. 2, C. of E., 1896, modified to date.)

40. Fortification works: Additional instructions.—Only one money statement for each harbor will be submitted for each of the following appropriations: "Searchlights for Harbor Defenses," "Preservation and Repair of Fortifications," "Supplies for Sea Coast Defenses," "Sea Walls and Embankments," "Casemates, Galleries, etc., for Submarine Mines," and "Torpedoes for Harbor Defense." For each of the following appropriations only one money statement for each fort will be submitted: "Gun and Mortar Batteries" (for battery construction), "Gun and Mortar Batteries" (for installation of range and position finders), "Fire Control at Fortifications," and "Sites for Fortifications and Seacoast Defenses." Similar consolidations of allotments will be made in the duplicate accounts current of future money accounts. Further consolidations than herein authorized must not be made.

All reports of operations upon fortifications will contain, immediately preceding the money statement, a list of all allotments accounted for therein, the list to show, for each allotment, its date, the act from which made, the purpose for which made, and the amount allotted. If the work under any allotment has been completed, a simple statement to that effect should be made under the heading, "Progress of the work;" if no work was done during

the month that fact should be stated and the reasons given therefor. In any case the exact condition of the work under *each* allotment included in the money statement must be clearly shown in each monthly report. The headings "Progress of the work," "Operations during the month," and "Probable operations for next month," will be used as provided in § 39. When any work has been completed and the funds allotted therefor expended, the allotments should still be carried in the list of allotments and in the money statement to the end of the fiscal year, and the final monthly report for the fiscal year should contain a statement of the allotments exhausted; thereafter these allotments will be dropped from the list of allotments and the money statement, and reports thereunder discontinued.

(Pars. 3 and 4, Cir. 18, C. of E., 1903, modified by G. O. 2, C. of E., 1906.)

41. Fortification works: Armament.—In each district all changes in armament which are sufficiently important to affect the fighting efficiency of the defense should be reported monthly on one report for the district, and not under each battery. In these monthly reports of changes in armament the emplacement numbers, as well as the gun numbers and carriage numbers, should always be stated. (Par. 2, Cir. 18, C. of E., 1903.)

(a) *Cross reference:* The condition of new armament, whether mounted or not, to be reported in the monthly reports of operations by all engineer officers responsible for such armament. (Cir. 21, C. of E., 1897, — § 128.)

42. River and harbor works: Form to be used.—The following form will be followed in reports of operations for works of river and harbor improvement:

REPORT OF OPERATIONS FOR MONTH OF.....
 FOR IMPROVING

(Give title of work as nearly as practicable in the words of the appropriation.)

Present project, adopted....., 19...

(A brief statement of the whole work, proposed and approved, the general object of the improvement, and the statement of cost.)

Statement of condition of appropriation or allotment.

| | | |
|---|----|-------------|
| Amount expended on previous projects | \$ | |
| Amount expended on present project to end of last fiscal year | \$ | |
| Balance unexpended at end of last fiscal year..... | \$ | |
| Amount expended from beginning of present fiscal year to end of previous month..... | \$ | |
| Amount expended during the month..... | \$ | |
| Balance unexpended at end of month..... | \$ | |
| In Treasury United States..... | \$ | |
| In hand..... | \$ | |
| | | <hr/> |
| *Outstanding liabilities at end of month | \$ | |
| †Amount covered by existing contracts at end of month..... | \$ | \$ |
| | | <hr/> |
| Balance available at end of month..... | \$ | <hr/> <hr/> |

Approved project for expenditure of available funds.

(Statement of any special objects to which the present available funds are to be devoted.)

Progress of the work.

(Here give summary of the condition of the work at the time of the adoption of the present project, and state briefly what has been accomplished, the relation of the work done to the whole project, and its present condition with respect to the object aimed at by the whole improvement. If the work is being carried on by contract, give the name of the contractor, date of contract and of its approval, and time of commencement and completion. State when the work was inspected last by the engineer officer in charge.)

Operations during the month of....., 19...

(Give a summary of the amount and character of the work done during the month and the results accomplished.)

* "Outstanding liabilities" should include amounts due for labor performed, for contracts completed, and for materials or land purchased.

† "Amount covered by existing contracts" has reference to incomplete formal contracts, and this should be estimated, if it can not be ascertained accurately. Probable engineering or contingent expenses, attending the completion of the contracts will not be included.

Probable operations for next month.

(A brief statement of the work proposed to be performed during the month next succeeding.)

(Sec. III, Cir. 2, O. C. E., 1896.)

REPORTS OF OPERATIONS, MONTHLY AND ANNUAL.

43. When project is completed.—If a project is completed and no estimates for further appropriations are to be submitted, either for additional work or for maintenance, and the balance, if any, remaining on hand can not be properly expended for contingent or office expenses, such balances should be deposited in the United States Treasury to the credit of the appropriation. A final report should be submitted in the next following annual report and the work thereafter dropped. A brief final monthly report should also be submitted, with a detailed statement of outstanding liabilities, if any.

If no work is proposed in advance of further appropriation, and the balance on hand, if any, can not be properly used for office or contingent expenses, such balance should be deposited in the United States Treasury to the credit of the appropriation.

(Cir. 6, C. of E., 1901.)

44. When funds are exhausted.—If no money is on hand and no work is proposed in advance of further appropriation, there should be substituted for the usual monthly report and money statement under the proper title of appropriation a simple statement that no work was done during the month, no money being available, and a reference made to the last full report of operations. If there are a number of such works, they may be reported on a single sheet as follows:

At following localities no work was done, no money being available—

Improving harbor at ———. See report dated ———.

Improving harbor at ———. See report dated ———.

Improving ——— River. See report dated ———.

(Cir. 6, C. of E., 1901.)

45. When no work done.—If no work is done or expenditures made during any month, even if money is available, such a report

as is referred to in paragraph next above, with proper modifications, may be substituted for the required monthly report if labor is thereby saved. (Cir. 6, C. of E., 1901.)

46. Object of expenditures to be stated.—If expenditures are made, the object of such expenditures should be stated in operations of the month even if no work is done. (Cir. 6, C. of E., 1901.)

47. Drawings accompanying annual reports.—Illustrations to accompany annual reports should be limited in number and confined to those that are directly related to the text and necessary to its clear understanding. To enable the Public Printer to produce the best results they will be sent in their original form. Maps, plans, and drawings, intended to be lithographed, must be on tracing linen or drawing paper, photographs must be the best possible prints from the negatives, and no photo-engraving or lithographic work will be ordered without special authority of the Secretary of War. (G. O. 89, A. G. O., 1901.)

48. Citations and cross references:

(a) The Chief of Engineers to present to the Secretary of War, on or before the 15th day of October in each year, a report of the operations of the Engineer Department for the year ending on the 30th day of June preceding. (E. R. 2.)

(b) Annual reports to be submitted in duplicate. (G. O. 6, modified by G. O. 10, C. of E., 1889,—§ 23.)

(c) No modification of the approved project for a work, or increased estimate for the completion of the project, to be included in an officer's annual report before the modified project or estimate has been submitted in a special report and has been duly approved. (G. O. 7, C. of E., 1891,—§ 153.)

(d) As to furnishing an itemized statement of expenses of operating canals and preserving certain channels, required by law to accompany the annual report of the Chief of Engineers, see Cir. 4, C. of E., 1898,—§ 156.

(e) Copies of all annual and monthly reports of operations to be furnished by all district officers to the respective Division Engineers. (G. O. 10, C. of E., 1903,—§ 115.)

(f) Copies of monthly reports of operations upon fortifications to be furnished to the Chief Engineer Officers of Military Divisions. (Cir. 17, C. of E., 1905,—§ 58.)

(g) Balances of appropriations held for repairs, etc., not to be charged with a greater percentage of contingent expenses than the actual work in connection with such balances justifies. (Cir. 17, C. of E., 1898—§ 512.)

REPORTS OF COMPLETED BATTERIES, ETC.

49. Form of report.—Officers in charge of fortification work will report annually, at the close of each calendar year, on the old works and on all completed modern batteries, range-finding stations, torpedo-defense structures, etc., which have been transferred to the artillery in their districts, using the appended condensed form.

For works completed before 1890 the data contained in the first two columns and the column of remarks only are required.

Report of completed batteries, etc.

For December 31, 190...

District in the charge of, Corps of Engineers.

| Name of harbor. | Name and armament of battery. | Date when turned over to artillery. | Total cost to that date. | Remarks. |
|-----------------|-------------------------------|-------------------------------------|--------------------------|----------|
| | | | | |

(Cir. 30, C. of E., 1900, modified by Cir. 18, C. of E., 1903.)

50. Batteries.—For all works the armament will be stated in the second column, showing the number and caliber of guns on hand, and whether mounted or not. In the column of remarks the general condition of old works will be tersely stated. In modern batteries the facts as to the wetness or dryness of magazines and whether an electric plant is installed or not, and, if so, its condition, will be given in this column. All reports of completed batteries will show the official name of each battery, and the individual number and name of the manufacturer of the gun or mortar and carriage mounted on each platform in modern works of defense, the gun and mortar platforms and mortar pits being designated in the manner prescribed in Par. II, G. O. 51, W. D., 1906,—§ 118. (Cirs. 30, 1900, and 18, 1903, C. of E.)

51. Motors on carriages.—The reports should contain information as to what carriages have been equipped with motors for retracting, traversing, elevating, or depressing. (Circular letters, C. of E., June 11, 1904.)

52. Range-finding stations.—The reports will also show, in the column of remarks, for each completed range-finding station, the reference of the site of the station and the reference of the axis of the instrument when mounted, with respect to mean low water; the number of rooms and the inside dimensions of each; and the character of the structure, whether of steel, concrete, or wood, and whether at a distance of four miles it is conspicuous or not when viewed from the usual channels of approach. (Cir. 18, C. of E., 1903.)

53. Electric plants.—Each electric plant which has been transferred to the Artillery will be entered as a separate item in the report of completed batteries, etc., and the following information will be given for each plant:

a. The location of the plant.

b. A description of the boilers, if any, including names of makers, actual horsepowers, approximate dates of purchases, types, etc.

c. A description of the engines, including names of makers, actual horsepowers, approximate dates of purchases, whether oil or steam, types, etc.

d. A description of the generators, including names of makers, approximate dates of purchases, voltages and kilowattages, whether currents are direct or alternating, etc.

e. A description of transformers, if any.

f. A description of storage batteries, if any, including names of makers, approximate dates of purchases, numbers and types of cells, the purposes for which the currents from the storage batteries are used, etc.

g. All purposes for which the current supplied by each independent plant is used, including a statement of exactly what emplacements, if any, are lighted therefrom; whether additional current is used in the emplacements for furnishing power for the ammunition service or for maneuvering the guns, and if so, to what extent; whether the plant is used for post lighting, and if so, to what extent; and the number and diameters of searchlights operated from the plant.

h. Kilowattage required for inside and outside illumination of defensive works; for motors; for searchlights; for telautographs, stated separately; also kilowattage required for post lighting.

i. Statement whether or not each power house and plant has been so designed as to permit the installation of parallel units, to meet future demands.

j. The total cost of each plant.

k. The date of its transfer to the Artillery.

(Cir. 3, C. of E., 1905.)

54. Searchlights.—Each searchlight projector, for whatever purpose it may be used, should be entered as a separate item in the report of completed batteries, etc., and for each projector information should be furnished as to its diameter; its maker; the approximate date of its purchase, or, if this is not known, the date of its receipt in the district and from whom received; whether projector is electrically controlled or hand controlled; which plant of those described supplies current for its operation; whether the projector and plant are fixed or are capable of being moved, and if movable, the degree of mobility; if the projector is fixed, where it is installed; the Department to which returns for each light are submitted; the cost of the projector, if known; and whether it has been transferred by the Engineers to the Artillery, and if so, the date of transfer. (Cir. 3, C. of E., 1905.)

55. Reports to be typewritten.—No forms for these reports will be printed, but they will be typewritten, as required by the Chief of Staff. (Cir. 18, C. of E., 1903.)

56. Scope of reports.—The above provisions apply only to *defensive works completed before 1890 and to those turned over to the artillery since 1890.* (Cir. 30, C. of E., 1900, modified to date.)

57. Additional pages when transfers are made to troops.—Whenever during the year a new battery or other defensive unit is completed or transferred to the troops for use and care, an additional page of the same size of paper as the original report, and, as far as the new battery is concerned, containing all the data called for by this order, will be promptly submitted to the Chief of Engineers. (Cir. 18, C. of E., 1903.)

COPIES OF REPORTS FOR CERTAIN OFFICERS.

58. Reports of operations and of completed batteries.—The reports of completed batteries, and all sheets supplementary thereto, directed by Circular No. 30, Office of the Chief of Engineers, October 12, 1900, and modified by subsequent circulars, (§§ 49–57) will hereafter be made in triplicate, one copy to be submitted by the District Engineer Officer to the Chief of Engineers, one copy to the Division Engineer, and one copy to the Chief Engineer Officer of the Military Division in which the work is located. To the latter officer District Engineer Officers having fortifications in their charge will also mail monthly a complete set of all their monthly reports of operations affecting fortifications. (Cir. 17, C. of E., 1905.)

(a) *Cross reference:* Copies of all annual and monthly reports to be filed with the respective Division Engineers. (G. O. 10, C. of E., 1903,—§ 115.)

CHAPTER III.

RECORDS.

59. Records to be kept in District Offices.—The following permanent records shall be kept in each Engineer Office in which are disbursed funds under the control of the Chief of Engineers:

1. *Finance.* In sufficient detail to show at any time the exact state of the public funds pertaining to each allotment or appropriation, and the expenditures made therefrom, and the liabilities incurred thereunder.

2. *Employment.* In sufficient detail to permit at any time the preparation or verification of the pay rolls pertaining to each allotment or appropriation.

3. *Supervision.* A daily journal of each season's operations to be kept by each employee in charge of independent work, to be turned in from time to time to form part of the permanent office records, and such other records and reports as will enable the Engineer Officer in charge to have at all times a thorough knowledge of the details of the work and to properly supervise it.

4. *Correspondence.* Copies of letters sent, sufficiently indexed; letters received or copies thereof, when necessary, sufficiently indexed.

5. *Civil service.* Such records as are required by the Engineer Department and the rules of the Civil Service Commission.

6. *Indexes.* Sufficiently in detail for the records of the office.

7. *Indexes.* Sufficiently in detail for the map files of the office.

8. *Property.* In sufficient detail to show the source, date of receipt, distribution, responsibility, and disposal of all property for which the officer is responsible.

9. Such other records as may be necessary for the proper, efficient, and economical prosecution of the work, keeping in mind the provisions of Circular No. 34, Office of the Chief of Engineers, 1900. (See § 61.)

(Cir. 7, C. of E., 1902.)

60. Changes in systems of records.—No radical changes will be made in the methods of keeping accounts and of recording and indexing correspondence in District Offices without the prior authority of the Chief of Engineers.

This is not intended to discourage the making of such changes when desirable, but to insure that changes when made shall be along lines that will lead to greater uniformity in office methods.

(Cir. 2, C. of E., 1906.)

61. Personal and office records.—All official communications received at District Offices upon any subject pertaining to the work of the district are to be considered as a part of the office records and are to be retained on the files of the office unless it is required by some law or regulation that the papers be attached to vouchers for payments or that some other disposition be made of them.

Such official records are not to be considered as a part of an officer's retained papers, except such as are by law or regulation required to be attached to retained vouchers. Neither is it considered necessary or proper that copies of such papers, except in some special case, should be made by office forces for the retained files of an officer. Many such papers may contain the authority for certain action, but that such papers are a part of an office record is considered proper official protection.

(Cir. 34, C. of E., 1900.)

62. Comptroller's decisions.—Volumes of Decisions of the Comptroller of the Treasury are forwarded for office use, and should be turned over by officers to whom they have been furnished to their successors upon change of station or surrender of office. (Cir. 2, C. of E., 1901.)

63. Government publications generally.—Government publications furnished to officers of the United States for their official use shall not become the property of these officers, but on the ex-

piration of their official term shall be delivered by them to their successors in office. (Sec. 74, act of Jan. 12, 1895; 28 Stats., 620, or 2 Sup. R. S., 360.)

64. Economy of clerical work.—Much clerical work can be avoided by reducing and simplifying methods, office reports, blanks, systems of briefing, indexing, references, etc. Systems more elaborate and detailed than is required by law or regulation should be avoided.

It is desirable to have office records sufficiently complete to permit a ready reference to any matter of importance, but in all offices there is found a large mass of correspondence and papers, of which the indexing and filing with the same detail that is applied to papers of importance is labor wasted.

(Cir. 34, C. of E., 1900.)

(a) *Cross reference.* Rigid economy to be exercised as to number of employees, office expenses, transportation, etc. (G. O. 1., C. of E., 1869,—§ 510.)

65. Copies for certification by War Department.—In preparing copies [of records and papers] for the seal of the [War] Department care must be taken that no words are inserted in the copy which are not contained in the original. The word "signed" before a signature, and the words "a true copy" or "official copy," etc., with signature, sometimes placed on copies of original papers, should be omitted, as they are evidently not contained in the original. The indorsement on the paper inclosing the copy should show that it is a true copy, or a statement may be pinned to the copy certifying to that fact.

In this connection attention is invited to the decision of the Department published in circular from this office of September 20, 1870, as follows:

"It is not deemed proper to intrust attested transcripts of the public records to private persons for use in controversies in which the United States has no real interest, except upon the certificate of the tribunals before which such controversies are to be decided that such transcripts of the public records are deemed essential to the ends of justice."

(W. D. Cir., Jan. 15, 1886, published by Cir. 3, C. of E., 1886.)

66. Authentication by impressed stamp.—Copies of any records or papers in the War Department or any of its bureaus, if authenticated by the impressed stamp of the bureau or office having custody of the originals (*e. g.*, “Adjutant General’s Office, Official Copy”), may be admitted in evidence equally with the originals thereof before any court-martial, court of inquiry, or in any administrative matter under the War Department. (Par. II, G. O. 91, A. G. O., 1900.)

67. Citations and cross references:

(*a*) For general provisions regarding military records, see A. R. 827–831.

(*b*) Officers or troops of the Corps of Engineers detached from the command of the Chief of Engineers will continue to conform to the regulations of the Engineer Department in regard to the keeping of records. (A. R. 1524.)

(*c*) When an officer is relieved from duty on any work he will, unless otherwise ordered, turn over the books and papers pertaining thereto to his successor. (E. R. 31.)

(*d*) The Division Engineer to exercise supervision over the office methods in each district in his division. (G. O. 9, C. of E., 1901,—§ 111.)

(*e*) The division engineer may call upon any district officer in his division for necessary data, reports, etc., from the files of the district office; unnecessary duplication of records, however, to be avoided. (G. O. 9, C. of E., 1901,—§ 110.)

(*f*) Hectograph impressions not to be used in the preparation of contracts or other papers where permanence is desired. (Cir. 12, C. of E., 1887,—§ 293.)

CHAPTER IV.

ENGINEER BOARDS AND DIVISION ENGINEERS.

REPORTS OF BOARDS.

68. Separate reports by individual members.—When the report of a Board of Engineers is signed by all the members, no individual member will submit an additional report, but when a member of a board can not sign the report of the Board he may submit his views in a minority report; it should, however, be remembered that questions are submitted to boards for consideration, discussion, and determination, and that minority reports are not to be encouraged. (G. O. 4, C. of E., 1892.)

THE BOARD OF ENGINEERS.

69. Division and district engineers to be associated with.—Whenever the defense or improvement of any particular locality or other work is under consideration by The Board of Engineers, the corresponding division engineer or district engineer, or both, may be associated with the Board as a member, or as members thereof, if in the opinion of the Chief of Engineers this can be done consistently with their other duties. (G. O. 6, C. of E., 1893.)

(a) *Citation:* For general provisions regarding The Board of Engineers, see E. R. 10-16.

INSTRUCTIONS FOR BOARDS OF PROMOTION.

70. Selection and composition.—The examination of all officers of the Corps of Engineers below the grade of major shall be conducted by boards selected in accordance with the act of Con-

gress approved October 1, 1890 (26 Stats., 562), published in General Orders, No. 116, 1890, Adjutant-General's Office, and composed of five members, two of whom shall be medical officers, and three shall, if practicable, be officers of the same corps or department as the officer to be examined and senior to him in rank. The junior member of the board, exclusive of medical officers, shall act as recorder. (G. O. 81, W. D., 1904.)

71. Organization.—The organization of boards shall conform to that of retiring boards, the recorder swearing the several members, including the medical officers, faithfully and impartially to examine and report upon the officer about to be examined, and the president of the board then swearing the recorder to the faithful performance of his duty. Proceedings shall be made separately in each case. (G. O. 81, W. D., 1904.)

72. Challenges.—Previous to the swearing of the board, members thereof may be challenged for cause stated to the board, the relevancy and validity of which shall be determined by the full board, according to procedure of courts-martial in like cases. The record shall show that the right to challenge was accorded. If the number of members is reduced by challenge or otherwise, the board shall adjourn, and report the facts to The Military Secretary, through the president of the board, for the action of the War Department. (G. O. 81, W. D., 1904.)

73. Reexamination: Members of prior board not to serve.—When an officer has been suspended from promotion for one year on account of failure in his professional examination, no officer of his branch of the service who served upon the board which found him deficient shall be a member of the board which reexamines such officer, provided the reexamining board can be so constituted without manifest injury to the service. (G. O. 81, W. D., 1904.)

74. Medical officers on boards.—Medical officers shall not take part in the professional examination except in the cases of assistant surgeons. They shall make the necessary physical examination of all officers, and shall report their opinion in writing to the board. All questions relating to the physical condition of an officer shall be determined by the full board. (G. O. 81, W. D., 1904.)

75. Evidence.—If anything should arise during the examination requiring the introduction of evidence, the inquiry shall proceed upon written interrogatories as far as possible, the board determining to whom questions shall be forwarded. When, in the opinion of the board, it becomes essential to take oral testimony the facts should be reported to the War Department for the necessary orders in regard to witnesses to be summoned from a distance. Witnesses examined orally shall be sworn by the recorder. (G. O. 81, W. D., 1904.)

76. Officer examined to be present.—All public proceedings shall be in the presence of the officer under examination. (G. O. 81, W. D., 1904.)

77. Statement of finding.—Whenever the board finds an officer disqualified for promotion from any cause the record shall contain a full statement of the case.

The finding of the board shall be stated according to circumstances as indicated below:

The board is of the opinion that ——— ——— has the physical, moral, general efficiency, and professional qualifications to perform efficiently the duties of the grade to which he will next be eligible, and does therefore recommend his promotion thereto; or, has the ——— ——— but has not the ——— ——— qualifications to perform efficiently the duties of the grade to which he will next be eligible, and does not, therefore, recommend his promotion thereto; or, is physically incapacitated for service. His disability is due to ——— ——— and was ——— contracted in line of duty. (G. O. 81, W. D., 1904.)

78. Authentication of record.—The record in each case where an officer is found physically disqualified shall be authenticated by all the members, including medical officers, and the recorder. In all other cases the medical officers will not be required to sign the proceedings. If any member dissents from the opinion of the board, it will be so stated. (G. O. 81, W. D., 1904.)

79. Findings to be confidential.—The conclusions reached and the recommendations entered in each case shall be regarded as confidential. (G. O. 81, W. D., 1904.)

80. Preparation and transmission of report.—The proceedings of examining boards shall be made up according to forms furnished by the War Department, and shall be forwarded to The Military Secretary, War Department, for final action of the Secretary of War. (G. O. 81, W. D., 1904.)

81. Order of examination.—The examination of an officer for promotion shall be conducted in the following order: First, as to physical; second, as to moral; third, as to general efficiency; fourth, as to professional qualifications; and the record of the final opinion of the board as to the fitness or unfitness of an officer for promotion shall show which of the above qualifications he does, and which he does not, possess. (G. O. 81, W. D., 1904.)

82. Physical examination.—Before proceeding with the physical examination, the officer about to be examined shall be required to submit, for the information of the board, a certificate as to his physical condition. In event of no cause for disqualification existing, the certificate shall take the following form:

“I certify, to the best of my knowledge and belief, I am not affected with any form of disease or disability which will interfere with the performance of the duties of the grade for promotion to which I am undergoing examination.”

The physical examination will be thorough, and shall include the ordinary analysis of the urine.

Defects of vision, resulting from errors of refraction, that are not excessive, and that may be entirely corrected by glasses, do not disqualify, unless they are due to or are accompanied by organic disease.

When the board finds an officer physically incapacitated for service, it shall conclude the examination by finding and reporting the cause which, in its judgment, has produced his disability, and whether such disability was contracted in the line of duty. (G. O. 81, W. D., 1904.)

83. Retirement of officer physically incapacitated.—Any officer reported by a retiring board as incapacitated by reason of physical disability, the result of an incident of service, shall, if the proceedings of said board are approved by the President, be regarded as physically unfit for promotion within the meaning

of section 3 of the act of October 1, 1890, and shall be retired with the rank to which his seniority entitles him whenever a vacancy occurs that otherwise would result in his promotion on the active list: *Provided*, That before the occurrence of such vacancy he shall not have been placed on the retired list. (G. O. 81, W. D., 1904.)

84. Moral fitness for promotion.—Examining boards should fully satisfy themselves with reference to this point, making careful inquiry in all cases of doubt. To this end company commanders will report in writing to commanding officers any facts relating to lieutenants which in their opinion indicate moral unfitness to perform the duties of an officer. Commanding officers shall, when any officer of their command is ordered for examination for promotion, at once report in writing to the president of the examining board any facts in their knowledge relating to such officer's moral disqualifications, at the same time furnishing a copy of said report to the officer concerned. These reports will be thoroughly inquired into and given due weight by examining boards in determining upon an officer's fitness for promotion. In the absence of any detrimental reports from commanding officers, from the records of The Military Secretary's Office, or other reputable and authentic sources, all officers shall be presumed to be of good character, and no testimonials or letters to that effect will be required, submitted, or attached to the proceedings of examining boards. (G. O. 81, W. D., 1904.)

85. Fitness as regards general efficiency.—The use an officer has made of his opportunities in the past, his ability to apply practically his professional knowledge, and his general trustworthiness in the performance of his official duties, will be taken under consideration. To this end, whenever an officer is ordered for examination for promotion, the commanding officer under whom he is serving shall, without further instructions, furnish to the examining board, in writing, a concise statement of the use the officer has made of his opportunities for perfecting himself in his professional duties and of his appreciation of his responsibilities as an officer. In case the statement contains facts showing any disqualifications or failure on the part of an officer in these

respects, a copy of the statement shall be furnished to the officer concerned at the time it is made. In the absence of evidence to the contrary from authoritative sources, an officer's fitness as to general efficiency shall be assumed. (G. O. 81, W. D., 1904.)

86. Professional qualifications: Method of examination.—Examinations in all professional subjects shall be oral and practical, with the exception hereinafter mentioned. (G. O. 81, W. D., 1904.)

87. Written examination: Where officer can not be present.—If, owing to the exigencies of the service, it is impracticable for an officer to appear before an examining board, his professional examination shall be conducted in writing alone, in the presence of an officer to be selected by his commanding officer, or such other officer as may be designated by the convening authority. Examining boards shall in such cases prepare questions and forward them to the commanding officer of the officer to be examined or to the designated officer, with instructions to have the questions answered in the manner above indicated, the medical examination having been first conducted by two medical officers especially designated for this purpose. The results of the examinations shall be forwarded by registered mail to the president of the board. (G. O. 81, W. D., 1904.)

88. Written examination: When oral examination is unsatisfactory.—Whenever the oral examination of any officer is unsatisfactory in any subject the board shall at once proceed with a written examination in that subject, and in case the officer is not found proficient, the questions and answers shall be attached to the proceedings. The examination shall be sufficiently comprehensive in scope to properly test the officer's knowledge of the whole subject. (G. O. 81, W. D., 1904.)

89. Written examination: Manner of conducting.—Written examinations may be conducted in the presence of one member of the board, or the recorder, for which purpose the board may be divided into committees, before whom the examination shall be conducted from day to day until completed; after which the board shall reassemble to consider its findings.

Papers should be so given out that everything in the hands of the officer being examined may be answered before a recess or adjournment. A statement showing that such was the procedure during the written examinations shall be embodied in the record.

(G. O. 81, W. D., 1904.)

90. Oral and practical examinations.—During oral and practical examinations all the members, excepting the medical officers, shall be present.

Where blackboard or other illustrations will facilitate the oral and practical examinations their use is authorized. Examinations will be conducted in a sufficiently exhaustive manner to determine not only that the subject is thoroughly comprehended, but the degree of proficiency of the officer being examined, and until the board is positively satisfied as to his ability to impart instruction in the various subjects.

(G. O. 81, W. D., 1904.)

91. Practical examination.—In case of unpropitious weather, practical exercises may be postponed from day to day, but never omitted or materially curtailed.

In case of failure in the practical examination in any subject, the board will at once proceed with a second practical examination of sufficient scope to properly test the officer's efficiency. If successful upon reexamination, the record shall show that he had two practical examinations. In case of failure, an outline of the exercises given and the percentages attained in both practical examinations will be attached to the record.

Commanding officers of posts at or in the vicinity of which boards may be appointed to meet shall, without further instructions, furnish, upon request, such available troops and material as may be required by boards in the execution of their duties.

(G. O. 81, W. D., 1904.)

92. Questions furnished by The Military Secretary.—To secure some degree of uniformity of examination of line officers, boards will be furnished by The Military Secretary with lists of questions, with values attached. Boards will not, however, be confined to the questions contained in these lists, but are authorized to ask any questions, selected from the publications recom-

mended herein for study, deemed necessary during the progress of the oral, written, or practical examinations.

The numerous questions embraced in each list, together with such original questions as may be formulated by the board, admit of considerable variation, and make it possible to arrange examinations radically different as regards particular questions, but essentially the same in respect to scope and character. It is desirable that the questions be selected indiscriminately in each case, to the end that each officer undergoing examination may have a different arrangement of questions, even when simultaneous examinations of a similar character are being conducted.

(G. O. 81, W. D., 1904.)

93. Publications recommended for special study.—For the present questions furnished by The Military Secretary for the use of examining boards will be prepared from Army Regulations, Drill Regulations, Firing Regulations for Small-Arms, General Orders, Circulars, and the following publications:

Abridgment of Military Law—Winthrop.

Horses, Saddles, and Bridles—Carter.

Manual of Field Engineering—Beach.

Military Topography and Sketching—Root.

Organization and Tactics—Wagner.

The Service of Security and Information—Wagner.

Military Hygiene—Woodhull.

International Law—Davis.

Under these conditions they are recommended for special study by officers preparing for examination for promotion.

(G. O. 81, W. D., 1904.)

94. Numerical values of questions.—In the oral and practical examinations the examining board shall give a numerical value to each head under which questions are asked or exercises given. In written examinations the board shall give a numerical value (to be previously entered on the margin) to each question, and in like manner shall subsequently enter the estimated value to each answer. In all cases, for convenience in calculating percentages, these values must be such as to aggregate 100 or some multiple thereof in each oral, written, or practical examination in each subject. (G. O. 81, W. D., 1904.)

95. Percentage in each examination to be reported.—Where both oral (or written) and practical examinations are required in the same subject the board shall report the percentages attained in each. No officer shall be passed who fails to obtain 75 per cent in each oral and in each practical examination in each subject; or, in case of reexamination, in the written or the second practical examination. (G. O. 81, W. D., 1904.)

96. Subjects.—The subjects upon which engineer officers may be examined to determine their mental fitness for promotion are as follows:

1. Seacoast defenses, including submarine mines.
2. Field and permanent fortifications, siege operations, and military mines.
3. Ordnance and gunnery, including guns, carriages, armor, and explosives.
4. Military bridges.
5. Practical electricity.
6. Duties of engineer officers and troops in war.
7. Art of war.
8. Military administration.
9. Hydrographic, topographic, and geodetic surveys.
10. Mechanics of engineering.
11. Construction, including foundations and building materials.
12. Improvement of rivers and harbors and construction of canals.
13. Light-houses and other aids to navigation, including location, character, and construction.
14. Military law.
15. Minor tactics.

(G. O. 81, W. D., 1904.)

97. * * *

98. Character and extent.—The character and extent of the examination in each subject will depend upon the length of the service and special experience of the candidate for promotion. For promotion to a first lieutenantcy, an officer should know at least as much on these subjects as he has had an opportunity of learning at the United States Military Academy or service schools; for promotion to a captaincy, his knowledge should have been con-

siderably extended by professional reading and practical experience; and for promotion to a majority, he should have a general knowledge of all subjects connected with the various duties with which the corps is charged. (G. O. 81, W. D., 1904.)

99. Practical experience of officer examined.—In examining an officer who has had practical experience, examining boards will give special attention to the character and quality of the officer's services and his knowledge within the field of the duties which he has performed; and the officers under whom he has served, upon application by the examining board, may furnish, through the office of the Chief of Engineers, full information as to his qualifications. (G. O. 81, W. D., 1904.)

100. Original reports.—Individual investigations, reports involving original studies of professional problems, and journals containing notes on professional reading, references to authorities, or other matters, may be submitted by the candidate to the board, and should be given due weight in the examination.

At the examination for promotion to a captaincy or a majority, the officer shall submit an original report or project prepared by himself upon some professional subject. This paper may be one which he has written in the course of his professional duties, or he may prepare it especially for the occasion. In addition to this paper the officer may be required to prepare and submit a paper on some subject selected by the board. Papers of special merit may be published for the information of the corps, and such publication will be considered an honorable distinction.

(G. O. 81, W. D., 1904.)

101. Diplomas from Engineer School.—Diplomas from the Engineer School shall be accepted for the period of two years from date of such diploma in lieu of all examination for promotion, except as to moral, physical, and general efficiency qualifications. (G. O. 81, W. D., 1904.)

102. General provisions as to thoroughness.—In all examinations it is expected that examining boards will apportion the subjects to members in such a manner as to insure thoroughness in conducting examinations. It should be borne in mind that the object of the examination is to determine the actual profes-

sional fitness of officers for promotion. Mere cramming is not a desirable feature in the examination of mature and generally well-educated men. Boards should so conduct examinations that the qualifications for promotion will be developed by the officer's ability to make practical application of all he has learned, rather than the committal to memory of equations and data which he would under ordinary conditions obtain from books of reference. Correct understanding of theory is indispensable, but should in all cases be coupled with the ability to make practical application of the knowledge. (G. O. 81, W. D., 1904.)

103. When officer is found deficient at service school.—Whenever an officer of the line has been pronounced deficient at any of the service schools, in any subject in the course of instruction, in which subject examination for promotion is required in his arm, information to that effect shall be furnished the examining board by The Military Secretary, when that officer is ordered to be examined for promotion for the next higher grade.

The board shall examine him in that subject in writing, and questions shall be prepared under all the heads which are prescribed for the oral examination and which relate to that subject: *Provided*, That in case of failure at the above-named schools in administration, military law, guard duty, or hippology, the examining board will prescribe the extent of written examination. This examination shall be final in that subject except as to the practical examination, which, when one is required, shall include exercises under all the prescribed heads relating to that subject. (G. O. 81, W. D., 1904.)

104. Certificate of officer examined.—At the conclusion of his examination, each officer shall be called upon to sign and submit a certificate in his own handwriting to the effect that he has not received assistance from any unauthorized source. (G. O. 81, W. D., 1904.)

DIVISION ENGINEERS.

105. Duties in general.—The division engineer will exercise general care and supervision over the execution of the public works assigned to his engineer division. In all cases he will use every possible endeavor to cause the work in his division to be

executed economically, efficiently, and in conformity with law and regulations.

He will familiarize himself with the laws and projects authorizing the works, and by frequent inspections and correspondence will assure himself that they are being carried on in accordance with the law and with the approved projects.

(G. O. 9, C. of E., 1901.)

106. Specifications.—Specifications prepared by the district officers, which require the approval of the Chief of Engineers, will be carefully scrutinized by the division engineer to ascertain if they are adapted to the requirements of the proposed engineering work. Should any corrections or modifications be deemed advisable in any case, the papers will be returned to the district officers with suggestions for explanation or further consideration. The specifications will be finally forwarded by the division engineer to the Chief of Engineers with recommendations. (G. O. 9, C. of E., 1901.)

107. Contracts.—The division engineer will familiarize himself with the details of existing contracts, and in his inspection of work under contract or by hired labor will verify the fact that the work is being done in accordance with the terms of the contract, or as authorized by the Chief of Engineers. (G. O. 9, C. of E., 1901.)

108. Inspections.—The division engineer will inspect the principal works in his division at least once a year, and at such other times as, in his opinion, the interests of the service demand, or as may be directed by the Chief of Engineers.

Upon the conclusion of each inspection he will submit to the Chief of Engineers a concise report stating the condition of each work visited and the progress being made upon it, with such recommendations as are pertinent. If no recommendations are deemed advisable, the fact will be so stated. A simple itinerary of a journey is not a report.

(G. O. 9, O. C. E., 1901.)

109. Advice, etc., to district officers.—The division engineer will counsel and advise with the district officers, and will render them such other assistance as may tend to promote the interests of the service. (G. O. 9, C. of E., 1901.)

110. Information from district officers.—The division engineer is authorized to call upon any district officer in his division for such data, reports, and charts belonging to the files of the office, and for such reasonable information or service as may be necessary for the consideration of matters relating to works of civil improvement and defense in his division, bearing in mind to avoid, as far as possible, the unnecessary duplication of records. To this end, it is believed that many papers can be profitably borrowed temporarily from the district officers, to be returned after the subject has had full consideration. (G. O. 9, C. of E., 1901.)

111. Office methods, etc.—The division engineer will exercise a proper supervision over the organization of the office force and office methods in the districts in his division, and will, from time to time, make such recommendations for changes and modifications as may seem desirable. (G. O. 9, C. of E., 1901.)

112. Forwarding papers.—No papers will be forwarded to the Chief of Engineers without a definite expression of opinion on the part of the division engineer.

The division engineer will especially scrutinize all estimates of cost, satisfying himself as to the correctness of quantities and prices. In his inspections he will ascertain whether quantities and prices vary from the express terms of a contract or from the authority granted by the Chief of Engineers.

The following papers will be forwarded through the division engineer:

Requests for authorities under Circular 18, Office of the Chief of Engineers, 1904, §§ 414–419, 421–424, 501–505; leaves of absence; projects and other papers relating to engineering features of works; specifications, proposals, and abstracts of bids relating to formal contracts.

(G. O. 9, C. of E., 1901, modified to date.)

113. Office force of division engineer.—In the performance of the duties required of him the division engineer will be allowed such office force as the Chief of Engineers may authorize, to be paid pro rata from the appropriations for the works in his division, but the Chief of Engineers desires that the office force and

records be reduced to the minimum compatible with the proper performance of the duties above outlined. (G. O. 9, C. of E., 1901.)

114. Mileage.—Mileage due to the division engineer as provided for by law, for travel in connection with works of river and harbor improvement or other nonmilitary works, will be paid by the district officers from the proper appropriations. For travel on duty connected with fortifications, or on any other military duty, the mileage will be paid by the Pay Department. (G. O. 9, 1901, and Cir. 23, 1905, C. of E.)

115. When district officers are above the rank of major.—The regulations and orders defining the duties of division engineers are not intended to require that official papers (except projects) emanating from engineering districts in the charge of officers above the rank of major shall pass through the hands of division engineers, but each division engineer will inspect the principal works of *all* engineering districts within the geographical limits of his division at least once a year, and at such other times as in his opinion the interests of the service demand, or as may be directed by the Chief of Engineers, and upon the conclusion of each inspection will submit to the Chief of Engineers a report thereof, in accordance with the provisions of General Orders, No. 9, Headquarters Corps of Engineers, August 28, 1901 (see § 108).

Except projects, all matters relating to the administration of a district under the command of an officer above the rank of major will be the subject of direct communication between the district officer and the Chief of Engineers; a copy of all annual and monthly reports for the district will, however, be filed with the division engineer for his information in connection with his inspection duties.

(G. O. 10, C. of E., 1903.)

116. Citations and cross references:

(a) As to the assignment of division engineers, see E. R. 17.

(b) Copies of reports of completed batteries, etc., to be furnished to the division engineer. (Cir. 17, C. of E., 1905,—§ 58.)

CHAPTER V.

FORTIFICATIONS.

ALTERATIONS AND ADDITIONAL STRUCTURES.

117. The attention of all officers of the Corps of Engineers is called to A. R. 1534, with a view to its enforcement as far as possible. (Cir. 15, C. of E., 1896.)

NUMBERING EMBLEMMENTS.

118. At all posts with fixed batteries the position of every gun, mounted or to be mounted, will have its number, which will be placed on the gun when in position.

Guns and mortars arranged in line will be numbered from right to left in separate series for each battery.

The two pits of each mortar battery will be lettered from right to left or from rear to front A and B. The mortars in each pit will be numbered as follows:

- No. 1. The right rear mortar.
- No. 2. The right front mortar.
- No. 3. The left rear mortar.
- No. 4. The left front mortar.

The mortar-pit letter will be painted with its median line on the median line of the front vertical wall or interior slope of the pit and with its middle point about 10 feet above the floor. The letter will be block, 10 inches high and 8 inches wide, painted in white on circular black background 16 inches in diameter. The mortar number will be painted with its median line on the upper element of the mortar, halfway between the median circular element of the trunnion band and the face of the breech, the top of the figure being toward the trunnion band. The number will be block, 4 inches high, painted white.

The tactical numbers of guns of 8 inches caliber and upward will be painted on the left half of the horizontal diameter of the face of the breech, halfway between the circumference of the opening of the breech recess and the circumference of the face of the breech. The numbers will be block, 4 inches high, painted in white.

The tactical numbers of guns of caliber less than 8 inches will be so located on the gun or carriage as to be easily visible from the rear, the location on each class of gun and carriage in an artillery district being uniform and being prescribed by the district commander. The numbers will be block, $1\frac{1}{2}$ inches high, painted in white.

Stencils for all gun and mortar batteries are furnished by the Ordnance Department.

(Par. II, G. O. 51, W. D., 1906.)

Citations:

(a) Seacoast batteries include guns of one caliber only.
(Cir. 42, A. G. O., 1903.)

(b) As to former designations of pits in batteries of sixteen mortars, see G. O. 82, A. G. O., 1902.

FORTIFICATIONS AT GARRISONED POSTS.

119. Repairs by Quartermaster and Engineer Departments.—When under the provisions of paragraph 1535, Army Regulations, any seacoast post or any part of it has been turned over to and garrisoned by the coast artillery, all repairs to the buildings, plumbing, water-supply and sewer systems, roads, walks, and grounds will be made by the Quartermaster's Department, governed in this work by the provisions of paragraph 1534, Army Regulations.

Repairs to the fortifications, including the ramps, gutters, etc., connected thereto, will remain in the hands of the Engineer Department.

(Cir. 23, W. D., 1905.)

120. Keys to be turned over.—Whenever emplacements, range-finder stations, magazines, or other structures pertaining to seacoast defenses are turned over by the Engineer Department to

the Artillery, all keys belonging to such structures will be turned over to the proper artillery officer at the time of the transfer. (Par. I, G. O. 172, W. D., 1905.)

INSPECTIONS.

121. By district engineer, commanding officer, and artillery engineer.—The district engineer officer will make an inspection of the engineering features of each garrisoned fort within his district during the last ten days of the second month of each quarter. He will give timely notice of the dates of his intended visit to the commanding officer of the artillery district, who, with the artillery engineer of the district, will accompany him in his visit of inspection, in order that they may present their views with reference to any defects in engineer appliances and electrical equipment. Each post commander will accompany the inspectors during the inspection of his post. Defects of a minor character which pertain to the work of the Engineer Department and are plainly the result of a normal and proper use of the emplacements and engineer appliances will be repaired at once by the district engineer officer, if the balances in his hands from the general allotment for preservation and repair of fortifications are sufficient. Defects which indicate imperfections in the installation of the engineer appliances or electrical equipment, or lack of care in operating, will be jointly investigated by the district engineer officer, the commanding officer of the artillery district, and the district artillery engineer. The district engineer officer will forward at the earliest practicable date a report of the inspection to the Chief of Engineers for such further action as he may deem necessary in the premises and a copy of the report will be furnished at the same time to the commanding officer of the artillery district. Should a post commander become aware at any time, other than at a regular quarterly inspection, that a serious defect has developed in the engineering appliances or electrical equipment it will be his duty to notify the artillery district commander who will inform the district engineer officer at once in order that the correction may be made, if possible, before the next regular quarterly inspection, and upon the receipt of such notification the district

engineer officer will make an investigation with the least practicable delay and submit a special report thereon to the Chief of Engineers.

The tour of the commanding officer of the artillery district and his engineer officer made in compliance with this order will be reckoned as one of the visits required by General Orders, No. 27, Headquarters of the Army, Adjutant General's Office, March 11, 1903.

At those harbors where there are no artillery district headquarters, the duties devolved in this order upon the commanding officer of the artillery district and the district artillery engineer will be performed respectively by the post commander and the post artillery engineer.

(G. O. 23, W. D., 1905, amended by Par. II, G. O. 102, W. D., 1905.)

122. Reports to show availability of funds.—Where any defect is noted by the district engineer officer in his quarterly inspection report, a statement should be made as to whether correction will be made with funds in his hands or not. The relative urgency for allotments to remove defects for which additional funds are needed should also be given clearly. (Circular letter, C. of E., June 23, 1905, E. D. 55786.)

123. Citations:

(a) Public works in the charge of the Corps of Engineers to be inspected at least once a year, and when completed, by officers of the Corps of Engineers, duly designated. (E. R. 9.)

(b) As to inspections by commanding officer, in company with the district engineer officer, on the occasion of the transfer of seacoast fortifications or their adjuncts to the artillery for use and care, see G. O. 65, A. G. O., 1901.

CONFIDENTIAL NATURE OF PLANS, ETC.

124. Visitors, descriptions for publication, etc.—No persons, except officers of the Regular Army and Navy of the United States, and persons in the service of the United States and employed in direct connection with the construction or care of these

works, will be allowed to visit any parts of the coast defenses of the United States, the care and custody of which are in the Engineer Department, without the written authority of the officer in charge.

Officers of the Corps of Engineers having charge of fortifications are directed to exercise such caution in the care of them as will insure a strict compliance with this order.

(G. O. 2, C. of E., 1897.)

125. References to modern defenses to be omitted from all maps.—All officers of the Corps of Engineers in charge of works of defense should exercise care to see that when maps of military reservations are to be made for any authorized person not directly connected with fortification construction, no description or location of any modern defensive work shall show thereon. (Cir. 20, C. of E., 1902.)

126. Confidential maps, etc., to be furnished through the Chief of Engineers.—When applications are made by officers of other branches of the service to district engineer officers for copies of confidential maps, drawings, or reports, the desired copies should, if available, be forwarded to the Chief of Engineers, with the correspondence, for issue. The only case to which this does not apply is that of the blueprints of emplacements, etc., furnished at the time of transfer to the troops. (G. O. 6, C. of E., 1903.)

127. Citations:

(a) For provisions in the Army Regulations regarding visits to fortifications, and descriptions thereof for publication, see A. R. 353, 354.

(b) No written or pictorial description of tests by the Government of the United States of arms or munitions of war to be made for publication without the authority of the Secretary of War; no information, written or verbal, concerning them which is not contained in the printed reports or documents of the War Department to be given to any unauthorized person. (A. R. 1585.)

(c) As to the persons entitled to witness tests of arms or munitions of war, see A. R. 1586, 1587.

ORDNANCE.

128. Examination upon receipt.—The maintenance in good condition of all new seacoast armament is enjoined upon officers of the Corps of Engineers temporarily responsible for the same. To this end the armament will be inspected frequently and the necessary measures taken to preserve it from rust and deterioration. The piston rods and all bearing surfaces should receive particular attention.

A careful inspection will be made of all new armament as soon as received, and a special report setting forth its condition will be submitted. The condition of the new armament, whether mounted or not, will hereafter be reported in the monthly reports of operations by all officers responsible for such armament.

Timely requisitions for cleaning and preserving materials should be made to the Chief of Ordnance, with a view to having them on hand when needed. In cases of emergency these materials may be purchased by the Engineer Department.

(Cir. 21, C. of E., 1897.)

129. Disappearing carriages.—The amount of lead counterweight furnished with some disappearing carriages is much greater than that found to be necessary to raise the guns properly to the firing position when the carriages are in good condition, the excess of counterweight being designed for use only when necessary. The proper amount of counterweight is that which will bring the gun loaded to the firing position without shock to the buffers or stops, and in no case should any more weight be used than that necessary to accomplish this result, and officers in charge of these carriages should be cautioned against allowing all of the counterweight received with a carriage to be piled unless found by tentative trials to be necessary. When the cylinders are partially filled with oil less counterweight will be required to raise the gun, and the proper amount should be determined in each case.

When the gun is in the loading position the ends of the gun levers should be about two inches from the recoil buffers, and to avoid breaking the retracting chains efforts should not be made to retract the gun below this position.

(Letter of Acting Chief of Ordnance, dated April 27, 1899, published in Cir. 9, C. of E., 1899.)

130. Motors on carriages.—Whenever additional motors for retracting, traversing, elevating, or depressing are installed, a report should be submitted to the Chief of Engineers, showing the name of the battery and the number of the emplacement in which each is installed and whether the present electric plant is sufficient to supply the power required. (Circular letters, C. of E., June 11, 1904.)

131. Citations:

(a) For certain instructions regarding the care of ordnance material, see G. O. 200, A. G. O., 1899; Par. II, Cir. 6, A. G. O., 1901; Par. I, Cir. 11, A. G. O., 1902; Cir. 30, A. G. O., 1902, amended by Par. II, Cir. 43, A. G. O., 1902; Par. I, Cir. 43, A. G. O., 1902, amended by Par. I, Cir. 30, A. G. O., 1903; Cir. 46, A. G. O., 1902; Par. II, Cir. 56, A. G. O., 1902; Cir. 59, A. G. O., 1902; Cir. 36, A. G. O., 1903; and Cir. 48, W. D., 1905.

(b) Pent houses or other forms of shelter for seacoast artillery not to be provided. (Cir. 8, A. G. O., 1901.)

(c) As to the methods to be pursued in making repairs to ordnance material, and as to district armament officers of the Ordnance Department and the limits of their districts, see G. O. 109, W. D., 1904.

MOUNTING ARMAMENT.

132. To be done, as a rule, by the artillery.—The work of mounting heavy guns, mortars, or carriages in fortifications will, as a rule, be done by the artillery troops. (Par. 2, Cir. 5, A. G. O., 1896.)

(a) *Citation:* As to the appropriation chargeable with the cost of moving armament from the wharf to the battery, see 4 Comp. Dec., 65.

133. At posts garrisoned or under artillery commander.—This course will be followed habitually in all garrisoned fortifications which are neither in whole nor in part under the control of the engineers. When guns, etc., are to be mounted in a garrisoned fortification or in an ungarrisoned work upon a military

reservation under the control of an artillery commander, these works being still in whole or in part under the control of the engineers, the engineer officer in charge of construction will, after consulting with the artillery commander, decide whether the mounting shall be done under his own direction and by the use of the machinery and labor of the Engineer Department, or under the direction of the artillery commander and by the labor of the troops. The former course will be followed whenever it is so desired by the Engineer Department as being necessary to prevent interference with other work of construction upon the fortification, and the artillery commander will afford the engineer officer in charge, and upon the latter's request, all possible assistance by the loan of machinery and by details from his command. In like manner, when the work is done under the direction of the artillery commander the engineer officer in charge will, with the approval of the Chief of Engineers, afford him whatever assistance may be practicable. (Par. 2, Cir. 5, A. G. O., 1896.)

134. At ungarrisoned works.—In fortifications which are as yet ungarrisoned the engineer officer may himself conduct the work of mounting the guns, etc., using his own machinery and labor and, if necessary, the aid of materials and details from convenient artillery commands, which will be given on application to the department commander; or, if the engineer officer so request, the department commander will direct that the work be done entirely by the artillery troops. (Par. 2, Cir. 5, A. G. O., 1896.)

135. When mounted by artillery.—If it be decided that the guns, etc., shall be mounted under the direction of the artillery commander, the latter will designate the most competent officer of his command to conduct the work, and this officer will confer from time to time with the engineer officer with a view to so conducting it as not to interfere with the engineer work on the fortifications. If, in his judgment, it be necessary, the commanding officer will apply to the department commander for the detail of an artillery officer from another command to conduct the work, and if such officer be not available he will request the services of an ordnance officer for that purpose. (Par. 2, Cir. 5, A. G. O., 1896.)

136. Inspection by ordnance officer.—When gun carriages and guns are to be assembled or mounted in seacoast fortifications, they shall be subject to the inspection of an officer of the Ordnance Department both during process of erection and after its completion, in order to insure that all parts are correctly assembled and in proper working order. Such officer of the Ordnance Department shall, under instructions from the Chief of Ordnance, take all measures necessary, including, if deemed desirable, the firing of the piece, to give assurance of the perfect serviceability of the armament before it shall be turned over for use.

Installed armament shall be subject at any time to the inspection of ordnance officers, to be designated by the Chief of Ordnance, to see that it is in efficient condition for use, and to place it in such condition if it shall not be so. Department commanders will instruct commanding officers to furnish such assistance as may be necessary to carry out the inspections and to perform necessary work on the armament.

(Cir. 19, A. G. O., 1898, published in Cir. 13, C. of E., 1898.)

137. Authority of Chief of Engineers required.—No guns, mortars, or carriages, large-caliber or rapid-fire, will be assembled or mounted until written authority is received. Application for this authority should be made to the Chief of Engineers in time to permit him to communicate with the Chief of Ordnance and return the papers to the district officer before the latter is ready to do the mounting.

The *date* on which the guns are desired to be mounted should in all cases be distinctly stated.

(Cir. 22, C. of E., 1900.)

ELECTRIC PLANTS AND SEARCHLIGHTS.

138. Care and operation.—Where electric light and power plants have been installed they will be put in operation once a month. In firing boilers the temperature in the fire box should be raised very gradually to avoid sudden expansions of the metal shell. All machinery, such as engines, pumps, and boilers, will be kept in good working order at all times. Lubricating material

and electrical supplies will be secured on quarterly requisitions from the proper supply departments. (Par. IV, G. O. 68, A. G. O., 1897.)

139. Increase of load upon electric plants.—No increase of load upon any fortification electric plant beyond that contemplated at the time of installation, or transfer, or any change in the electrical connections shall be made without the approval of the Chief of Engineers. Should additions to load or changes in connections be desired, a statement of the reasons therefor, accompanied by detailed information relative thereto, will be forwarded by the commanding officer of the artillery district to the Chief of Engineer through the district engineer officer. (G. O. 23, W. D., 1905, amended by Par. II, G. O. 102, W. D., 1905.)

140. Occasional repairs to be made by ordnance mechanics.—Resident ordnance machinists are authorized to make such repairs to the machinery of the engineer power plants as may be required from time to time in the maintenance and care of such plants, provided such work does not interfere with their regular duties in connection with the maintenance and care of the seacoast armament; all such repairs to be made under the direct supervision of the District Ordnance Officer. (Letter of Chief of Ordnance to District Armament Officers, published in Cir. 21, C. of E., 1904.)

141. Not to be transferred to troops without prior authority of Chief of Engineers.—No searchlight projector, searchlight plant, or electric plant will hereafter be transferred to the Artillery for use and care without prior authority from the Chief of Engineers. (Cir. 3, C. of E., 1905.)

142. Citations and cross references:

(a) For general provisions regarding the various classes of electrical equipment to be furnished by each of the supply departments, see G. O. 72, W. D., 1906,—§§ 404–407.

(b) For provisions regarding the use of fortification electric plants for lighting buildings and grounds, see A. R. 1066.

(c) As to the test to be given to storage batteries by the receiving officer at the time of their transfer to the troops, see Par. II, G. O. 6, A. G. O., 1902.

(d) Searchlights and their accessories for use in connection with submarine defense are to be accounted for on Engineer returns. (G. O. 47, W. D., 1905.)

(e) As to information regarding electric plants and searchlights to be included in reports of completed batteries, etc., see Cir. 3, C. of E., 1905,—§§ 53, 54.

FIRE CONTROL.

143. Changes in installations.—Fire-control installation approved by the Secretary of War, in progress or completed at coast fortifications, will not be changed in any respect without his express sanction. (Par. II, G. O. 66, W. D., 1905.)

144. Designations of stations.—The position-finder stations of a single fire command at a seacoast fort shall hereafter be known and designated as follows:

The Primary Station..... Fire Command (F')
 The Secondary Station..... Fire Command (F'')
 The Supplementary Station Fire Command (F''')

The stations used in connection with the position-finder service of a battery shall hereafter be known and designated as follows:

The Primary Station, Battery (B')
 The Secondary Station, Battery (B'')
 The Supplementary Station, Battery..... (B''')

The abbreviations given in each case are authorized for use in official correspondence and on charts and maps.

The abbreviation B in use on harbor charts furnished by the Engineer Department will be changed to B', and shall be read, "Primary Station, Battery"

If at any post a vertical-base system only is installed the several stations shall be known and designated as "Primary Station, Fire Command" and "Primary Station, Battery" as designated above.

(Par. II, G. O. 61, W. D., 1903.)

Citations:

(a) The abbreviation C is used for the stations of the Battle Commander. (Indorsement of the Chief of Artillery, dated October 29, 1904,—E. D. 33778/751.)

(b) The abbreviations M', M'', and M''', are authorized for the stations of a mine command, for use in official correspondence and on charts and maps. (Artillery Memorandum No. 3, W. D., 1904.)

145. Base lines.—At each coast artillery post the Engineer Department will establish a base line between two mutually inter-visible distant position-finder stations from which as wide a horizontal field of view as possible can be obtained. The true astronomical azimuth and the length of this base line will be furnished as a basis from which the artillery will determine such other azimuths and distances as they wish to appear on the harbor charts. These data will be furnished the Chief of Engineers by the artillery district commanders concerned through the Chief of Artillery. (Par. II, G. O. 36, W. D., 1904.)

146. Installation of Signal Corps apparatus.—With a view to prompt settlement of local questions relating to emplacement cutting or to special duct installation in connection with work previously authorized, and in order to coordinate the work of the Engineer Department, Signal Corps, and Artillery Engineers, so far as possible, the following instructions are issued:

When informed by the local representative of the Signal Corps that that Corps is ready for the installation of apparatus in any battery, emplacement, or range-finder structure the district engineer officer will confer in person, or through his military or civilian assistants, with the local representatives of the Signal Corps, and with the Artillery Engineers, in order that convenient locations may be selected for the cut-out cabinets, telephones, telautographs, bells, etc.

When the location for the apparatus has been so decided upon, any excavation required, either in the concrete or in the approaches, will be executed by the district engineer officer, if he has funds available for and applicable to the work, a wooden cover being provided by the Engineer Corps for cables where trenching is necessary.

The installation of the cables or iron-armored conduit in connection with Signal Corps cabling, together with the securing of such cables, conduits, and instruments to the walls of the emplacement, is to be done by the Signal Corps.

The district engineer officer will, upon request of the local representative of the Signal Corps, give the latter all information in connection with details of the engineer installations necessary to insure harmony between the plans of cable runs of the two corps.

Where difficulties arise which can not be met locally, they will be submitted for decision of higher authorities through the usual channels.

(Circular letter, C. of E., October 6, 1905.)

147. Citations and cross references:

(a) For general provisions regarding fire-control systems and the work devolving upon each of the supply departments in connection therewith, see G. O. 72, W. D., 1906,—§§ 409-412.

(b) As to the supplies to be furnished by the Engineer, Ordnance, and Quartermaster's Departments, and by the Signal Corps, in connection with temporary fire-control installations at seacoast fortifications, see G. O. 13, and Par. I, G. O. 54, W. D., 1906.

(c) As to the telephone systems to be installed at seacoast fortifications, see G. O. 58, W. D., 1906.

GENERAL CITATIONS AND CROSS REFERENCES.

148. Projects:

(a) Projects for commencing new works to be submitted to the Chief of Engineers. When plans for public works have been sanctioned by the Secretary of War or the Chief of Engineers, they must not be departed from in any particular without express permission. (E. R. 7, 8.)

(b) An officer charged with any work involving the expenditure of money to submit a project for the manner in which it is proposed to apply the funds, with an estimate of the probable monthly expenditures. (E. R. 20.)

(c) Every project for any special work to be accompanied by an itemized estimate of cost. (Par. II, G. O. 1, C. of E., 1868,—§ 6.)

(d) Projects of permanent fortifications to be prepared or revised by The Board of Engineers. (E. R. 10.)

149. Reports:

(a) As to rendition of annual and monthly reports of operations, see Cir. 2, 1896, Cir. 6, 1901, and Cir. 18, 1903, C. of E.,—§§ 38-41, 43-48.

(b) As to reports of completed batteries, etc., see Cir. 30, 1900, Cir. 18, 1903, and Cir. 3, 1905, C. of E.,—§§ 49-57.

(c) As to copies of reports on fortifications to be furnished to certain officers, see Cir. 17, 1905, and G. O. 10, 1903, C. of E.,—§§ 58, 115.

150. Transfers of completed works to the troops:

(a) As to the transfer of completed fortification works to the troops for use and care, see A. R. 1535.

(b) As to inspections by commanding officer, in company with the district engineer officer, on the occasion of the transfer of seacoast fortifications or their adjuncts to the artillery for use and care, see G. O. 65, A. G. O., 1901.

(c) When completed works of fortification are turned over to the artillery the receipt from the artillery officer should state that all the articles have been turned over to him in good order and condition. (Cir. 2, C. of E., 1900,—§ 369.)

(d) As to transfers of property on invoices and receipts in connection with turning over fortification works to the artillery, see Par. 3, Cir. 2, C. of E., 1900,—§ 369.

(e) As to the test to be given to storage batteries by the receiving officer at the time of their transfer to the troops, see Par. II, G. O. 6., A. G. O., 1902.

(f) Searchlights and electric plants not to be transferred without prior authority of the Chief of Engineers. (Cir. 3, C. of E., 1905,—§ 141.)

151. Sites for fortifications and supervision thereover:

(a) For provisions of law regarding the acquisition of land for fortification purposes, see fortification appropriation act approved August 18, 1890; 26 Stats., 315, or 1 Sup. R. S., 780; 25 Stats., 357, or 1 Sup. R. S., 601; and R. S. 355, 3736.

(b) No public money to be expended upon any site or land purchased by the United States for the purposes of erecting thereon any armory, arsenal, fort, fortification, navy-yard,

custom-house, light-house, or other public building, of any kind whatever, until the written opinion of the Attorney-General is had in favor of the validity of the title, nor until the consent of the legislature of the State in which the land or site may be, to such purchase, has been given. (R. S. 355; A. R. 708.)

(c) The expense of procuring an abstract of title to land owned by the United States is payable from the appropriation for contingencies of the Department procuring the abstract. (5 Comp. Dec., 62.)

(d) The expense of procuring an abstract of title to land to be used as a site for a fortification is a proper charge against the appropriation made for the purchase of the site if the abstract is needed by the United States attorney to assist him in examining the title, provided the land is to be purchased and not condemned. (3 Comp. Dec., 216.)

(e) When recommendation is made for the purchase of land it should be accompanied by the specific statement that the price agreed upon and recommended to be paid is reasonable and the best obtainable under all the circumstances. (Cir. 11, C. of E., 1904—§ 189.)

(f) As to payment of taxes on land to be acquired by the United States before title is finally approved by the Attorney-General, see Cir. 9, C. of E., 1904—§§ 186-188.

(g) As to Federal and State jurisdiction over military reservations, see Cir. 38 and 53, A. G. O., 1900.

(h) Department commanders to supervise all military reservations within the limits of their commands. Permission to a civilian not in the employ of the Government to occupy any part of a reservation not to be given, except by the Secretary of War. (A. R. 209.)

(i) Military posts temporarily evacuated by troops and lands reserved for military use will be under the charge of the Quartermaster's Department. (A. R. 211.)

(j) Permanent works of defense, and the lands appurtenant thereto, are under the supervision of the Engineer Department. (A. R. 211.)

(k) As to erection of temporary fortifications, under emergency, on land not owned by the United States, see joint

resolution approved April 11, 1898 (30 Stats., 737), published in Par. II, G. O. 21, A. G. O., 1898.

(*l*) For opinions of the Judge-Advocate-General of the Army regarding licenses granted by the United States to do certain acts on land owned by the Government, see Dig. Op., J. A. G., 1599-1616.

(*m*) The Secretary of War may lease land under his control for periods not exceeding five years. (Act of July 28, 1892; 27 Stats., 321, or 2 Sup. R. S., 56.)

152. Miscellaneous:

(*a*) For provisions regarding the supplies to be furnished and the work to be done at seacoast fortifications by the various supply departments, see G. O. 13, 51, and 72, W. D., 1906,—§ § 118, 404-413.

(*b*) The fouling by a vessel of cable or other material forming part of the seacoast defenses to be reported to The Military Secretary by the commanding officer of the post or station, in order that the proper steps may be taken under the act of July 7, 1898 (30 Stats., 717, published in Par. VI, G. O. 96, A. G. O., 1898), or otherwise. (Par. I, G. O. 30, W. D., 1905.)

(*c*) For provisions regarding the artillery staff officers of coast artillery posts and districts, and their duties, see G. O. 109, W. D., 1904, and A. R. 296-300.

(*d*) Vouchers for mileage in connection with fortification work will be presented to the nearest paymaster. (Cir. 23, C. of E., 1905,—§ 197.)

(*e*) For general provisions regarding contracts and other methods of procuring supplies and executing work in connection with fortifications, see G. O. 4, 1901 (amended by G. O. 3, 1902, and by G. O. 6, 1905), and G. O. 5, 1905, C. of E.,—§ § 251-259.

(*f*) Submarine-mine property not to be used for other purposes without prior authority of the Chief of Artillery. (Par. II, G. O. 86, W. D., 1905.)

(*g*) Cable tanks to be kept filled with fresh water so far as practicable. (Par. II, G. O. 86, W. D., 1905.)

(h) As to items of property at fortifications which are expendable and those which are not expendable, see Cir. 45, A. G. O., 1901,—§§ 379, 380.

(i) Officers in charge of fortification works in the United States to keep in their possession at any one time only so many surveying instruments as are in actual use, as may be needed for *probable* emergencies, or as will certainly be required for use within the next succeeding four months. (Cirs. 6, 1871, and 15, 1904, C. of E.,—§ 364.)

(j) For instructions regarding the ventilation of magazines, see pp. 22-24, 56, and 57, Artillery Circular D, revised edition, 1903.

(k) For concealment of batteries, seeds, nuts, acorns, etc., will be planted by the troops on the slopes and grounds adjacent to the batteries. Where necessary, the seeds may be supplied by the Engineer Department. (Letter of The Military Secretary, dated August 12, 1904; E. D. 51394/3; Cir. 7, Atlantic Division, 1904.)

CHAPTER VI.
RIVERS, HARBORS, AND CANALS.

PROJECTS.

153. Proposed modifications to be omitted from annual reports.—No modification of the approved project or plan for a work or increased estimate for the completion of the project shall be included in the annual report of any officer in charge of a district before the modified project or estimate has been submitted to this office in a special report and approved by the Chief of Engineers or Secretary of War. (G. O. 7, C. of E., 1891.)

Citations:

(a) Projects for commencing new works of river and harbor improvement to be submitted to the Chief of Engineers. When plans for river and harbor works have been approved by the Chief of Engineers, they must not be departed from in any particular without express permission. (E. R. 7, 8; E. D. 54554.)

(b) An officer charged with any work involving the expenditure of money to submit a project for the manner in which it is proposed to apply the funds, with an estimate of the probable monthly expenditures. (E. R. 20.)

154. Not to be modified without proper authority.—The river and harbor act of June 3, 1896, makes provision for the completion of certain works in accordance with projects which have been sanctioned by Congress, and in each case a limit is fixed for the cost of the improvement. In the case of some of these works the law provides that the Secretary of War shall not obligate the Government to pay more than \$400,000 annually.

In other cases this annual allotment is placed at 25 per cent of the amount authorized to be expended.

It is the understanding of the Chief of Engineers that "the amount authorized to be expended" in each case is not the limiting cost mentioned, but is the actual cost of the items of the projects which have been approved by Congress. It is not considered permissible to modify, without proper authority, such projects or add to them without further action by Congress, even though the execution of work for less than the estimate leaves a balance of the sum fixed as limiting cost.

It is understood that the authority granted by Congress is for certain work and not for the expenditure of the certain sums named as limits of cost. It was the expectation of Congress that the method of contract authorized would result in a less cost than that estimated and that a saving to the Government would thereby result.

The remarks herein, regarding modification or extension of projects which have been approved by Congress, apply with equal force to all works of improvement as well as to those carried on under continuing contract.

(Cir. 5, C. of E., 1898.)

EXAMINATIONS AND SURVEYS.

155. Reports to contain information as to commerce.—Full statements of all existing facts tending to show to what extent the general commerce of the country will be promoted by works of improvements contemplated by examinations and surveys, must accompany each and every report upon an examination or survey ordered by Congress. (G. O. 2, C. of E., 1879; R. S., 231.)

Cross references:

(a) All reports on examinations and surveys and other reports required to be transmitted to Congress to be submitted in duplicate; one copy to be made on legal-cap paper (8 by 12½ inches), written on one side only, for the use of the printer. (G. O. 6, modified by G. O. 10, C. of E., 1889,—§ 23.)

(b) Drawings accompanying reports which will probably be transmitted to Congress and printed to be so prepared that they may be immediately placed in the hands of the engraver or photolithographer. (Cir. 16, C. of E., 1880,—§ 25.)

OPERATING AND CARE OF CANALS AND OTHER WORKS OF
NAVIGATION.

156. Statement of expenses for annual report.—The river and harbor act approved July 5, 1884, makes provision, in section 4 (23 Stats., 147), for the expenses of operating canals and preserving certain channels, and requires “that an itemized statement of said expenses shall accompany the annual report of the Chief of Engineers.”

It is understood to be the intent of this law to require a statement of expenditures in sufficient detail to show that the appropriation is not being used for any other purpose except the payment of actual expenses of operating and keeping in proper repair certain works of improvement. It is thought that the intent of the law will be complied with in all such cases by a statement similar to that on page 2652 of the Annual Report of the Chief of Engineers for 1901, relative to operating snag boats on the Ohio River. (Cir. 4, C. of E., 1898, modified to date.)

157. Projects and estimates to be submitted annually.—Officers in charge of works operated and maintained under the authority granted in section 4 of river and harbor act of July 5, 1884, will submit as soon after the end of each fiscal year as it is practicable to ascertain the expenses incurred during that year a project with an estimate of the probable cost of operating and maintaining the works during the next fiscal year, in order that an additional allotment necessary for their maintenance during that period may be made. The amount estimated to be necessary for each work should be diminished by the balance of the allotment made for the preceding year which remains unexpended and that is not needed for liquidating the outstanding liabilities at its close. The following money statement should accompany each project:

| | |
|--|---------|
| Amount required for fiscal year ending June 30, 19..... | \$..... |
| Balance remaining from allotment of preceding year, exclusive of outstanding liabilities..... | \$..... |
| Additional allotment required for fiscal year ending June 30, 19..... | \$..... |

(Circular letter, C. of E., July 23, 1889.)

158. Information to be furnished in connection with annual estimates.—For consideration in connection with their annual estimates, officers having charge of works the operation and care of which are carried on under allotments from the indefinite appropriation (section 4 of the river and harbor act of July 5, 1884,—23 Stats., 147) will submit a statement giving in comparative tabular form for each work in their charge, operated under such indefinite appropriation, the items of approved project, amounts authorized to be expended under each item of such approved project, and the amount actually expended under each item. (Cir. 12, C. of E., 1897.)

159. Citation:

The indefinite appropriation made by the fourth section of the act of July 5, 1884, chapter 229, for "operating and care of canals and other works of navigation," is not applicable to river and harbor improvements generally, but only to a particular class of public works, such as canals, locks, etc., in the use of which both operating expenses and expenses for repairs are necessarily incurred. (18 Op. A. G., 188; Cir. 13, C. of E., 1885.)

REMOVAL OF WRECKS, ETC.

160. Special report upon completion.—Officers who are charged with the removal of wrecks obstructing or endangering navigation will upon the completion of such removal submit a special report thereof for the information of the Chief of Engineers. This report is in addition to the usual monthly reports of operations. (Cir. 3, C. of E., 1889.)

161. Information for Light-House Inspector.—Whenever any wreck, which has been buoyed by the Light-House Establishment, has been so far removed or destroyed that buoys are no longer needed, this fact will be reported at once, by the officer under whose direction the wreck was removed, to the Light-House Inspector of the district in which the wreck was located. (Cir. 30, C. of E., 1905.)

162. Obstructing craft to be taken charge of by agents of the United States.—Whenever any vessel, boat, water craft, or raft sinks, grounds, or is unnecessarily delayed in any canal, lock,

or other improvement controlled or owned by the United States, or in any of the navigable waters of the United States under circumstances of emergency, the officer in charge of such lock, canal, improvement, or district will take charge of such vessel, boat, water craft, raft, or other obstruction, with a view to its immediate removal or destruction, using his best judgment, in all cases, to prevent any unnecessary injury. Any action taken under the above instructions will be reported forthwith to the Chief of Engineers for the information or action of the Secretary of War.

Requests for allotment of any funds that may be required in connection with the removal of obstructions under this order must be made as usual to the Department.

(Cir. 4, C. of E., 1905, publishing instructions of the Secretary of War based on sec. 20 of the river and harbor act of March 3, 1899—30 Stats., 1154-1155.)

163. Citations:

(a) The Treasury Department is authorized to remove at once, without notifying the War Department of the locality of the same, any wrecks or derelicts found within the three-mile limit by the several vessels of the Revenue-Cutter Service designated by the President for winter cruising along the Atlantic coast when such obstructions can not be towed into port. (Cir. 34, C. of E., 1904.)

(b) For certain opinions of the Judge-Advocate-General of the Army regarding the removal of wrecks, etc., obstructing or endangering navigation, see Dig. Op., J. A. G., 1488, 1789.

(c) For certain provisions of law regarding the removal of wrecks obstructing or endangering navigation, see 21 Stats., 197, or 1 Sup. R. S., 296; 22 Stats., 208, or 1 Sup. R. S., 369; 26 Stats., 454, or 1 Sup. R. S., 802.

SPECIAL PRIVILEGES.

164. Identity of grantee to be established.—When an act of Congress granting a privilege to an individual or a corporation contains a clause requiring the approval of the Secretary of War to certain matters of detail, the grantee will be required to establish his identity; if the grant is to a corporation, there will be required a copy of its charter or articles of incorporation, and of

the minutes of the organization of the company; also extracts from the company minutes showing the names of the present officers of the company and the acceptance by the company of the provisions of the act of Congress, all properly authenticated. (Rule of Secretary of War of July 31, 1886, published in Cir. 6, C. of E., 1886.)

165. Form of approval of plans, etc.—The identity of the grantee having been established, and the provisions of the law having been complied with, the terms, conditions, requirements, etc., will be reduced to writing. This paper will be approved by the Secretary of War, one copy thereof to be filed in the War Department and the other given the grantee. (Rule of Secretary of War of July 31, 1886, published in Cir. 6, C. of E., 1886.)

166. Fish weirs, traps, etc.—Prior to action by the Department on an application for permission to construct a fish weir, trap, or similar contrivance in any navigable waters of the United States, the applicant shall be required to furnish the Department with evidence that the proper license has been granted by the State or municipal authorities in cases where the laws prescribe such requirements, or to show that there is no State law or municipal regulation relating to the subject. (Decision of Secretary of War, Nov. 11, 1897, published in Cir. 19, C. of E., 1904.)

167. General permission to Western Union Telegraph Company to replace existing cables.—General permission, revocable at will by the Secretary of War, has been granted the Western Union Telegraph Company to lay telegraph cables under the navigable waters of the United States, to take the place of existing cables which may become defective and unserviceable, subject to the following conditions:

1. That the cables shall be so laid and the operations in connection therewith shall be so conducted as not to obstruct or interfere in any way with navigation.

2. That each cable shall be laid and all the work in connection therewith executed under the supervision and to the satisfaction of the engineer officer in charge of river and harbor improvements in the district where it is laid.

(Cir. 23, C. of E., 1904.)

168. Water-power privileges in navigable waters.—The following report on a bill introduced and considered at the third session of the Fifty-eighth Congress is published for the information of officers of the Corps of Engineers in charge of river and harbor works, it being thought that the important legal propositions discussed, and a knowledge of the Department's position regarding the subject-matter, may be of interest and value:

WAR DEPARTMENT,
January 17, 1905.

Respectfully returned to the chairman Committee on Interstate and Foreign Commerce, House of Representatives, inviting attention to the accompanying report of the Chief of Engineers, U. S. Army, of yesterday's date, and to drafts of bills therein referred to. *The report seems to me to be very comprehensive, accurate, and instructive.*

WM. H. TAFT,
Secretary of War.

WAR DEPARTMENT,
OFFICE OF THE CHIEF OF ENGINEERS,
Washington, January 16, 1905.

HON. WM. H. TAFT, *Secretary of War.*

SIR: 1. I have the honor to return herewith a letter, dated the 13th ultimo, from the Committee on Interstate and Foreign Commerce of the House of Representatives, inclosing, for the views of the War Department thereon, H. R. 16298, Fifty-eighth Congress, third session,—“A bill to provide for and regulate the use of the navigable rivers and streams of the United States for manufacturing, industrial, and other purposes by means of water power obtained therefrom.”

2. There are two distinct propositions embraced in the bill, as follows:

(a) To authorize the Secretary of War to grant leases and licenses to private persons or corporations for the use of water power created by dams and other structures built by the Government on navigable waters for the benefit of navigation.

(b) To empower the Secretary of War to authorize private persons or corporations to construct dams and other structures, and to develop and use water power at points on navigable rivers, where the Government has not built such structures.

3. In connection with legislation of this kind careful consideration should be given to the question of the limitations of the power of the Federal Government over navigable waters. By virtue of

its power to regulate commerce, Congress may exercise control over the navigable waters of the United States, but only to the extent necessary to protect, preserve, and improve free navigation. The Federal Government has no possessory title to the water flowing in navigable streams, nor to the land comprising their beds and shores, and hence Congress can grant no absolute authority to any one to use and occupy such water and land for manufacturing and industrial purposes. The establishment, regulation, and control of manufacturing and industrial enterprises, as well as other matters pertaining to the comfort, convenience, and prosperity of the people, come within the powers of the States, and the Supreme Court of the United States holds that the authority of a State over navigable waters within its borders, and the shores and beds thereof, is plenary, subject only to such action as Congress may take in the execution of its powers under the Constitution to regulate commerce among the several States.

4. Many of the provisions of the bill under consideration appear to conflict with these principles of law, and particularly sections 3 and 6, which propose to confer upon the United States, and upon any lessee or grantee under the provisions of the bill, the power to condemn any land or other property bordering on or adjacent to the river or stream to be used. Eminent domain is the right to take property for *public uses*, and is inherent in the United States by virtue of its sovereignty. Private property can be expropriated by the Federal Government, however, for public purposes only; that is, when it is necessary for the use of the Government in the exercise of any of its legitimate powers. To take or to authorize the taking of the property of one individual for the use and benefit of another in carrying on a private business or industry, as proposed by the bill, is not a proper exercise of the right of eminent domain. There may be certain enterprises of a quasi-public character, such as electric-light and railway companies, that would desire to avail themselves of the use of water power, and to which the right to condemn private property could properly be granted; but the granting of such right is believed to be a function of the States, inasmuch as the organization and incorporation of these enterprises, as well as the title and ownership of the property affected, are matters for State control and regulation. In view of the foregoing, I am unable to recommend favorable consideration of the bill in its present form.

5. To legislation authorizing the Secretary of War to lease water power created by works constructed by the Government, I see no special objection, but I know of no demand for it in the public interest. The right of Congress to regulate, control, and dispose of such water power is believed to be unquestionable, inasmuch as the power constitutes a valuable property created at the public expense, and when utilized by private persons or corporations should be paid for. Whether a general policy of this kind should

be adopted, however, is a question that should be very carefully considered. Locks and dams are built and operated for the purpose of facilitating navigation and commerce, and nothing should be permitted that would tend to impair their usefulness or interfere with their operation for this purpose. Partnerships or quasi partnerships between the Government and private persons or corporations have not been generally favored in the past, as experience has shown that they are apt to be attended by many annoying complications. I do not believe that sufficient revenue would be derived from renting water power to compensate for the trouble and inconvenience that might ensue from the adoption of such a policy. Congress has heretofore authorized the renting of land and water power at the locks and dams on the Muskingum River and Green and Barren rivers; but it is understood that this was done for the reason that at the time these works came into the possession of the United States there was in existence a number of leases granted by the former owners which constituted an easement on the property, some of which leases had many years to run. In cases where a new privilege is asked, it has been customary to invite public competition, setting a minimum price; but no active competition has been developed. There is also one company which uses land and water power at Lock No. 4 on the Kentucky River, under a lease granted by the State of Kentucky, which expires in 1977. During the past fiscal year there were in existence 27 different leases, and the total gross revenue received by the Government was only \$4,500, and in a number of instances in the past the Government has been compelled to resort to suits against lessees to collect the rental. While many applications would be made for permission to use Government water power, if no charge was made therefor, it is believed that few leases would be made, and then only at favored localities, if adequate compensation were exacted. In the river and harbor act of June 13, 1902, Congress authorized the leasing of water power at the locks and dams on the Cumberland River. Before the enactment of this law a number of persons appeared to be desirous of using water power in this river, but although the law has been in existence more than two years not a single lease has been applied for or granted. If, however, Congress should decide to adopt this policy, I beg to recommend that the legislation take the form of the accompanying draft of a bill which, in my opinion, is so drawn as amply to protect the interests of the Government.

6. Regarding the proposition to empower the Secretary of War to authorize the use and development of water power at localities not improved by the United States, it should be borne in mind that natural water power, that is, power made available by the existence of natural falls and rapids in a river, is appurtenant to riparian ownership, and the right to use it is governed by State laws on the subject of private property. As above set forth, the

Federal Government can regulate and control it only to such extent as may be necessary in the interest of navigation. Sections 9 and 10 of the river and harbor act of March 3, 1899, cover cases of this kind, and under this law the interests of the Government can, in my opinion, be better protected than by a law general in its scope, as contemplated by the bill. I do not favor the proposed legislation, but if any is enacted it should be permissive in its character, simply giving the consent of Congress, with suitable limitations, to the erection of the necessary structures in navigable streams for the development of water power, this consent to be executed through the Chief of Engineers and the Secretary of War, to whom should be left entire control in the matter of plans and details. A draft of a bill embodying these views is submitted herewith for the consideration of the committee.

* * * * *

Very respectfully,

A. MACKENZIE,
Brig. Gen., Chief of Engineers, U. S. Army.

(Cir. 14, C. of E., 1905.)

169. Citations:

(a) No Executive Department of the Government can give private parties the exclusive privilege of harvesting ice from any part of a navigable river of the United States. (Dig. Op., J. A. G., 1795.)

(b) A contractor engaged upon river and harbor work for the Government may obstruct navigation to the extent necessary to do his work, if such obstruction can not reasonably be avoided. He is, however, liable both civilly and criminally for an unauthorized obstruction, and the Secretary of War is without authority to relieve him from such liability. (Dig. Op., J. A. G., 1497.)

PUBLIC HEARINGS IN GENERAL.

170. General instructions in the case of bridges.—Whenever complaint is made that a designated bridge over a navigable waterway of the United States is an obstruction to navigation, the Chief of Engineers shall refer such complaint to the engineer officer in charge of the district in which the bridge is situated, who shall personally inspect and investigate the same and report thereon. If he finds the bridge an unreasonable obstruction to

navigation he shall specify the character of the obstruction and the changes necessary to render navigation through or under the bridge reasonably free, easy, and unobstructed, and state what will be a reasonable time in which to make them. If the Secretary of War believes it an unreasonable obstruction, the matter will be again referred to the engineer officer, who shall give the owners and controllers of the bridge, as well as the complainants, and all known parties in interest, a reasonable opportunity to be heard.

The notice shall state when and where the hearing will be and the changes required, and the time considered reasonable to make them in. It shall specifically designate the particular locality, street, number, and room in the city, town, or village where the hearing is to be held. It shall also state whatever else the Secretary or Chief of Engineers may suggest for the particular case. The hearing shall be had before the engineer officer in charge, or before a Board of Engineer Officers as the Chief of Engineers may direct. Every party in interest shall have a reasonable opportunity to be heard. The evidence, statements, propositions, and arguments shall be required to be in writing, but no interested party shall be denied being heard orally if insisted upon. A full report of the hearing shall be made to the Chief of Engineers, who will submit it with his views and recommendations to the Secretary of War for his action.

(G. O. 6, modified by G. O. 8, C. of E., 1891; 26 Stats., 453; 30 Stats., 1153.)

171. Form of notice:

[NOTICE OF HEARING.]

To

.....:
Whereas the Secretary of War has good reason to believe that the bridge over.....
is an unreasonable obstruction to the free navigation of.....
.....
on account of.....

It is proposed to require the following changes to be made in said bridge by the.....day of....., 19 , to wit:

.....
In order to give you an opportunity to be heard as required by the act of Congress approved March 3, 1899, you are hereby

notified that a hearing will be had before.....
, at, in,
 at.....o'clock m., on the.....day of.....19 ,
 where and when you will be given an opportunity to be heard in
 the matter. As all the papers will be laid before the Secretary of
 War for his decision it will perhaps best suit your purpose to sub-
 mit in writing whatever you may wish to present.

By authority of the Secretary of War.

[AFFIDAVIT OF SERVICE OF NOTICE, INDORSED ON FIRST FOLD OF
 THE NOTICE OF HEARING.]

..... } ss.

..... being duly sworn, on his oath
 states that he made service of the within on the*.....
 by personally delivering a copy thereof to†..... of
 said company at, on the.....day
 of, 19 .

Subscribed and sworn to this..... day of.....
 19 , before me.

Copies of the above form (No. 26) will be furnished by this
 office when required.

(G. O. 6, modified by G. O. 8, C. of E., 1891.)

172. Object.—Public hearings regarding matters in which the
 interests of navigation are involved are frequently directed by the
 War Department to be held by district officers. The object of
 such hearings is: First, to give the public an opportunity to hear
 all the evidence in the case, and to express its views frankly,
 fully, and publicly upon the expediency and advisability of the
 particular work which is the cause of the hearing; second, to
 secure all available facts bearing upon the matter for the informa-

*Name of company.

† Name of proper official.

tion of the reviewing authority, so that speedy action may be taken by the Secretary of War when the papers are submitted to him for consideration. (Cir. 25, C. of E., 1902.)

173. Publicity.—To insure the fullest attendance the district officers will give the greatest possible publicity to the proposed hearings, and at the opening of the proceedings will read each and every paper bearing on the case, previously received, and invite from every person present a thorough and candid discussion of the pending matter in all its bearings. (Cir. 25, C. of E., 1902.)

174. Delays for additional evidence.—If it be alleged by anyone present at the hearing that important evidence exists which is pertinent to the inquiry, but can not be prepared properly in time for presentation at the hearing, the district officer may at his discretion either adjourn the hearing for a reasonable period or may delay transmitting his report until after the receipt of the evidence and its examination by the opposition. (Cir. 25, C. of E., 1902.)

175. Decision upon evidence and arguments presented to be final.—The district officer will keep in mind the main object of the hearing, and impress upon all interested parties that it is the intention of the Department that the matter in question be completely and finally settled upon the evidence and arguments presented at the hearing, and that *ex parte* evidence and arguments will not be entertained later by the reviewing authorities. (Cir. 25, C. of E., 1902.)

PROSECUTIONS FOR VIOLATIONS OF LAW.

176. District attorney to be informed of violations.—Section 17 of the river and harbor act of March 3, 1899 (30 Stats., 1153) makes it the duty of officers and agents having the supervision of works in progress for the preservation and improvement of the navigable waters of the United States to enforce the provisions of the act *by giving information to the district attorney of the United States* for the district in which any violation of the provisions of this act shall have been committed. (G. O. 2, C. of E., 1892, modified to date.)

177. Engineer officers not to demand reparation.—All officers of the Corps of Engineers and agents of the Engineer Department are prohibited from demanding of any person or persons who may have committed any violation of the provisions of the act any sum of money or any reparation whatever because of said violation, or because of any damage arising within the provisions of this act or otherwise. (G. O. 2, C. of E., 1892.)

178. Information to be furnished direct to the district attorney.—Section 771, Revised Statutes, makes it the duty of every district attorney to prosecute in the district to which he is appointed all delinquents for crimes and offenses cognizable under the authority of the United States. If evidence presented by officers tends to show a violation of law, the district attorney is authorized to begin prosecutions without specific instructions from the Attorney-General.

Violations of the laws for the preservation and protection of navigable waters coming to the knowledge of officers will be promptly reported by them to the proper United States district attorney, with such evidence as may be in their possession. For the information of the Department of Justice a statement of each case, in duplicate, will be forwarded to the Chief of Engineers, together with copies, in duplicate, of any correspondence had with the district attorney in relation thereto.

(Cir. 17, C. of E., 1897; circular letter of Oct. 19, 1905, E. D. 57216.)

COMMERCIAL STATISTICS.

179. To be furnished by owners, agents, etc., of vessels:

AN ACT to facilitate the collection of commercial statistics required by section two of the river and harbor appropriation acts of eighteen hundred and sixty-six and eighteen hundred and sixty-seven.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That owners, agents, masters, and clerks of vessels arriving at or departing from localities where works of river and harbor improvement are carried on shall furnish, on application of the persons in local charge of the works, a comprehensive statement of vessels, passengers, freight, and tonnage.

SEC. 2. That every person or persons offending against the provisions of this act shall, for each and every offense, be liable to a fine of one hundred dollars or imprisonment not exceeding two months, to be enforced in any district court in the United States within whose territorial jurisdiction such offense may have been committed.

Approved, February 21, 1891.

(Cir. 2, C. of E., 1891; 26 Stats., 766.)

180. To be furnished to newspapers.—Officers will furnish monthly to newspapers, upon application, statistics of number of passengers and tons of freight passing through canals and up and down rivers in their charge. (Cir. 8, C. of E., 1897.)

181. To be furnished to Bureau of Statistics.—When monthly statistical reports are received, officers will send to the Bureau of Statistics, Department of Commerce and Labor, at the end of each month, the totals of the different classes of freight passing at the more important locks. (Cir. 4, C. of E., 1902.)

COOPERATION WITH COAST AND GEODETIC SURVEY.

182. Information to be furnished by Engineer Department.—Officers having charge of improvements of rivers and harbors included in charts of the United States Coast and Geodetic Survey will send to this office, from time to time, as results are accomplished, or changes discovered, for transmission to the Superintendent of the Coast and Geodetic Survey, a description of improvements effected in those waters, or of changes in channel location and depth, with such maps (tracings or blueprints) and such other information as may be necessary to permit the existing charts to be corrected to date. When surveys of those waters are made, a blueprint of the map will be sent in each case for the above purpose. All maps should contain sufficient data to permit the fixed plane of reference, bench marks, base lines, etc., to be determined and located from them at any time without reference to notebooks. (Par. 2, Cir. 20, C. of E., 1904.)

183. Data to be furnished by Coast Survey.—Should a resurvey of any body of water, which has previously been mapped by

the Coast and Geodetic Survey, become desirable, the Superintendent of the Coast and Geodetic Survey will furnish all available data relating to the earlier survey on application through this office. (Par. 3, Cir. 20, C. of E., 1904.)

184. Information as to removal of wrecks, etc.—In the case of the removal of a wreck or other obstruction to navigation, information as to the name of the vessel, its class, approximate location, low-water depth at spot after removal, date of removal, and any further details which may be available, will be furnished for transmission as above. (Par. 4, Cir. 20, C. of E., 1904.)

185. Triangulation stations to be shown on maps of Engineer surveys.—Where no unreasonable expenditure of time or labor is involved, officers will record and show on the maps prepared under § 182 one or more triangulation stations of the Coast and Geodetic Survey. Geographic data and descriptions concerning such stations will be furnished by the Coast and Geodetic Survey. (Cir. 24, C. of E., 1903.)

ACQUISITION OF LAND.

186. General statements.—Under R. S. 355, “No public money shall be expended upon any site or land purchased by the United States for the purpose of erecting thereon any armory, arsenal, fort, fortification, navy-yard, custom-house, light-house, or other public building of any kind whatever until the written opinion of the Attorney-General shall be had in favor of the validity of the title,” and by the proviso in the act of March 2, 1889, 25 Stats., 941, “hereafter in the procurement of sites for such public buildings it shall be the duty of the Attorney-General to require of the grantors in such case to furnish free of all expenses to the Government all requisite abstracts, official certifications, and evidences of title that the Attorney-General may deem necessary.”

Evidences of title are required to be furnished under such rules and regulations as the Attorney-General may direct, one of which is that a deed of the property shall be prepared and “submitted by the grantor for acceptance” on the part of the Government when the validity of the title to the land is established.

The delivery of the deed to the officers of the Government is not an acceptance of title at the time of the delivery. The deed is submitted for acceptance provided that the title proves to be good in the proposed grantor on investigation of same as provided by R. S. 355.

While delivery is essential to the transfer of title it is not the completion of same. Title vests in the grantee when he accepts a duly executed deed. (*Hanfes v. Schultz*, 2d Ill. App., 196, and A. & E. Ency. of Law, 2d ed., p. 161.)

Executed deeds are delivered in execution of contracts to sell property to the Government, with the intention that they shall become presently operative when the Attorney-General approves of the titles. (See opinion of the court in *Ryan v. U. S.*, 136 U. S., p. 86.)

The Government has no right to enter and take possession before the approval of the title by the Attorney-General. A vendee under an executory contract can not maintain ejectment against his vendor.

In order to enforce a specific performance by ejectment the vendee must have paid or tendered the purchase money. (*Warvelli on Vendors* [1902], 2d vol., p. 1048, sec. 887; *Vincent v. Huff*, 4 Serg. & R. Pa., p. 298, and *Bell v. Clark*, 111 Pa. St., p. 92.)

(Cir. 9, C. of E., 1904.)

187. Taxes.—Until a title is examined and approved by the Attorney-General according to law no acceptance of the deed takes place, the property remains vested in the proposed grantor, and does not come into possession of the Government until that time; therefore any taxes which may become due before the approval of the title by the Attorney-General and payment of the purchase money are payable by the owners of the property. (Cir. 9, C. of E., 1904.)

188. Taxes may be paid by U. S. if stipulated in writing as a part of the purchase price.—Officers in charge of river and harbor works are authorized, in making contracts for the purchase of land needed in the prosecution of such works, to enter into a stipulation in writing that, in addition to the price

agreed upon to be paid for the land, the Government shall discharge any taxes that may be lawfully assessed against the property between the date of the execution and delivery of the deed of conveyance and the payment of the purchase money. (Cir. 9, C. of E., 1904.)

189. Statement required as to price agreed upon for purchase.—In all requests for authority to purchase land by voluntary agreement with the owner, the Chief of Engineers desires that officers specifically state, for the information of the Secretary of War, that the price agreed upon and recommended to be paid is reasonable and the best obtainable under all the circumstances. (Cir. 11, C. of E., 1904.)

190. Citations:

(a) For provisions of law regarding the acquisition of land for use in connection with the improvement of rivers and harbors, see 25 Stats., 94, or 1 Sup. R. S., 584; 25 Stats., 357, or 1 Sup. R. S., 601; and R. S. 355, 3736.

(b) In the absence of an appropriation for the works, or express authority from Congress, the Secretary of War is prohibited by R. S. 3736 from acquiring lands for river and harbor improvements. (Dig. Op., J. A. G., 1491.)

(c) The expense of procuring an abstract of title to land owned by the United States is payable from the appropriation for contingencies of the Department procuring the abstract. (5 Comp. Dec., 62.)

(d) In a suit in a United States court brought to condemn land for use in connection with the work of improving a river, the expenses of taking the jury to view the land are payable from the appropriation of the Department of Justice made for the expenses of United States courts, and not from the War Department appropriation for the improvement in connection with which the land is needed. (2 Comp. Dec., 201.)

(e) The owner of lands flooded by dams constructed in improving navigation is entitled to compensation for damages sustained by such flooding. The Secretary of War has authority, under the act of April 24, 1888 (25 Stats., 94; 1 Sup. R. S., 584), to purchase lands flooded by dams constructed in

river and harbor improvements, or the right to flood the same, and where springs are located on such lands this fact may properly be considered in determining the amount to be paid. (Dig. Op., J. A. G., 1492.)

(*f*) The Secretary of War is authorized to acquire, by purchase or condemnation, land, right of way, or material needed to maintain, operate, or prosecute works for the improvement of rivers and harbors when provision for the same has been made by law. But he can not lease land unless appropriation has been made to pay the rental thereof. He may permit the use of land under his control by revocable license or by lease under the act of July 28, 1892. (Dig. Op., J. A. G., 2307.)

(*g*) No public money to be expended upon any site or land purchased by the United States for the purposes of erecting thereon any armory, arsenal, fort, fortification, navy-yard, custom-house, light-house, or other public building, of any kind whatever, until the written opinion of the Attorney-General is had in favor of the validity of the title, nor until the consent of the legislature of the State in which the land or site may be, to such purchase, has been given. (R. S. 355; A. R. 708.)

GENERAL CITATIONS AND CROSS REFERENCES.

191. (*a*) Every project for any special work to be accompanied by an itemized estimate of cost. (Par. II, G. O. 1, C. of E., 1868,—§ 6.)

(*b*) Public works to be inspected at least once a year, and, when completed, by an officer of the Corps of Engineers duly designated. (E. R. 9.)

(*c*) As to reports of names, etc., of civilian engineers employed on river and harbor works, to be submitted annually, see E. R. 19.

(*d*) Statements to be rendered annually at the close of the calendar year, showing balances in the Treasury pertaining to appropriations for river and harbor works. (Cir. 25, C. of E., 1903,—§ 335.)

(*e*) As to rendition of monthly and annual reports of operations, see Cir. 2, 1896, and Cir. 6, 1901, C. of E.,—§§ 38, 42-46.

(f) For general provisions regarding contracts and other methods of procuring supplies and executing work in connection with river and harbor improvements, see G. O. 4, 1901; G. O. 3, 1902; and G. O. 5 and 6, 1905, C. of E.,—§§ 251-259.

(g) Officers in charge of river and harbor works in the United States to keep in their possession at any one time only so many surveying instruments as are in actual use, as may be needed for *probable* emergencies, or as will certainly be required for use within the next succeeding four months. (Cir. 6, 1871, and Cir. 15, 1904, C. of E.,—§ 364.)

(h) Appropriations for continuing the improvement of rivers and harbors, not being limited to a particular fiscal year and being made (by section 5 of the act of June 20, 1874) available until otherwise ordered by Congress, may be used for the payment of expenses properly incurred at any time after the work for which they are made was authorized. (2 Comp. Dec., 496.)

(i) An appropriation made for the improvement of a river by dredging the channel can not be used to build a training wall as a part of the improvement. (3 Comp. Dec., 32.)

(j) For certain provisions of law regarding navigation on the Great Lakes and their connecting and tributary waters, see act approved Feb. 8, 1895; 28 Stats., 645, or 2 Sup. R. S., 370.

(k) For provisions of law regarding harbor lines, see sec. 5, act of July 13, 1892 (27 Stats., 111, or 2 Sup. R. S., 30), and sec. 11, act of March 3, 1899 (30 Stats., 1151, or 2 Sup. R. S., 996.)

(l) For opinions of the Judge-Advocate-General of the Army regarding licenses granted by the United States to do certain acts on land owned by the Government, see Dig. Op., J. A. G., 1599-1616.

(m) For decision of the Comptroller of the Treasury regarding an exchange of old material for services, or articles, under act of June 13, 1902 (32 Stats., 373), see 9 Comp. Dec., 311,—§ 370 l.

(n) For opinions of the Judge-Advocate-General as to what constitute navigable waters of the United States, see Dig. Op., J. A. G., 614, 1777.

CHAPTER VII.

TRAVEL AND TRANSPORTATION.

TRAVEL BY OFFICERS.

192. Necessity for travel.—Applications to the Chief of Engineers for orders to travel, in addition to the requirements of General Orders, No. 3, 1880 H. Q. C. of E., (§§ 194, 195), will contain a certificate of the following form: “This travel is necessary for the public service.” (Par. 1, G. O. 6, C. of E., 1882.)

193. General authority not to be given.—The regulations respecting orders to travel on duty contemplate that, as a rule, an order shall cover a single journey only. General authorities to officers to visit their works, or make other journeys at their discretion, will not be issued. (Par. 2, G. O. 6, C. of E., 1882.)

194. Prior order or subsequent approval necessary.—Travel must be covered by a specific order issued prior to the commencement of the journey. Such orders will be issued only where the journey is on account of, and indispensable to, the public service.

Where urgent public duty requires travel without previous orders, the case must be reported without delay to the proper superior, whose approval, in subsequent orders, shall be accepted in lieu of a previous order in the case.

In every case where the necessity for a journey on duty connected with any of the works of the Engineer Department can be foreseen in time to receive an answer before the desired date of departure, the order contemplated in the above extract will be asked for.

In any case where the necessity for a journey can not be foreseen in time to receive an answer before the desired date of departure, the journey will be made and approval will be requested, as stated above.

In the former case the intended date of departure will be stated approximately. In the latter case the dates of departure and return to station, and the fact that the necessity for the journey could not have been foreseen will be stated, and in either case, the reasons for the journey will be set forth in such manner that the Chief of Engineers may judge of the necessity for the journey. (G. O. 3, C. of E., 1880; E. R. 5.)

195. Visits to works on same general route.—Visits to works upon the same general route of travel will be made as far as practicable in the same journey, and separate orders to visit such works should not be asked for, except in cases where the interests of the service make separate journeys indispensable. (G. O. 3, C. of E., 1880.)

196. Applications for orders.—Applications for travel orders will be forwarded direct to the Chief of Engineers. (G. O. 12, C. of E., 1901.)

197. Payment of mileage.—Officers of the Corps of Engineers, or those on Engineer duty, traveling on service connected with works of public improvement which are not of a military nature, will be paid their travel allowances from the special appropriations for the work. When traveling on duty connected with fortifications, or on any other military duty, the mileage will be paid by the Pay Department. (A. R. 1536, modified to date in accordance with decision of the Comptroller of the Treasury, published in Cir. 23, C. of E., 1905.)

198. Travel to the Philippine Islands.—Officers of the Army who are individually ordered to proceed to the Philippines Division will, immediately after receiving their orders, apply to the Quartermaster-General of the Army for transportation on the army transport upon which such orders require them to embark, or on the first transport to leave San Francisco, California, after their arrival at that place.

Officers who are on leave of absence in the United States and who are required to return to the Philippine Islands will apply, at the earliest date practicable, to the Quartermaster-General of the Army for transportation to Manila on the first transport to leave San Francisco after the expiration of their leaves of absence. Officers who fail through their own neglect to secure transportation on the first transport sailing after the expiration of their leaves will be required to return to Manila, at their own expense, upon the first commercial vessel leaving San Francisco after the departure of the transport upon which they should have secured accommodations.

(Par. I, G. O. 182, W. D., 1905.)

199. Citations and cross references:

(a) As to travel on duty by officers, see A. R. 68-75.

(b) For general provisions regarding mileage for officers traveling on military duty, see A. R. 1307-1326,—Par. 1316 amended by G. O. 189, W. D., 1904, and Par. 1320, by G. O. 135, W. D., 1905.

(c) If an officer is traveling on a transport on which troops are not being transported,—the officers and men constituting the regular personnel or staff of the transport, and detachments of less than ten armed or unarmed men, such as guards and nurses for disabled or insane officers or soldiers or escorts for inspectors, paymasters, or others, or the public funds and property in their charge, being disregarded,—he is not traveling with troops within the meaning of the laws and regulations. (Cir. 10, W. D., 1905.)

(d) As to orders by the Chief of Engineers for travel, or subsequent approval thereof by him, see E. R. 5.

(e) As to travel by members and associates of The Board of Engineers, see E. R. 16.

(f) Mileage to the division engineer to be paid by the district officers from the proper appropriations, except when journey pertains to fortifications or other military duty, when it will be paid by the Pay Department. (G. O. 9, 1901, and Cir. 23, 1905, C. of E.,—§ 114.)

(g) When property is to be inspected, information as to its location and the best way to reach it should be furnished the inspecting officer. (Cir. 3, C. of E., 1898,—§ 375.)

(h) As to visits by officers to works within, and works without, their districts, see Cir. 6, C. of E., 1896,—§§ 517, 518.

(i) An officer who is ordered to change station while he is on leave of absence is entitled to mileage from the place of the receipt by him of the order to his new station. (Cir. 19, W. D., 1905.)

(j) Officers on leave of absence may visit Mexico, Canada, Porto Rico, and Hawaii without special permission from the War Department. (Cir. 9, C. of E., 1905,—§ 520.)

(k) A charge for eight days' board by an officer of the Army who was delayed in New York City awaiting the sailing of the steamer, while en route from Washington, D. C., to Puerto Principe, Cuba, under orders, is warranted by General Orders, No. 68, A. G. O. of 1899. (See A. R. 1308). (5 Comp. Dec., 903.)

(l) The expense for transportation to a point not located on a railroad incurred by an officer of the Inspector-General's Department in inspecting unserviceable river and harbor material is properly payable from the appropriation for the river and harbor work. (3 Comp. Dec., 3.)

(m) For decisions of the Comptroller of the Treasury regarding mileage for travel over land-grant and bond-aided roads, see 5 Comp. Dec., 196, 364.

(n) For decisions of the Comptroller of the Treasury regarding the payment of mileage to officers of the Army while traveling under orders while on leave of absence, see 8 Comp. Dec., 161; 10 do., 113; 11 do., 537.

(o) For certain decisions of the Comptroller of the Treasury regarding the general subject of mileage and travel allowances to officers, see 1 Comp. Dec., 115, 118; 2 do., 544; 3 do., 128, 210; 4 do., 175, 429; 5 do., 55, 70, 664, 687, 691, 705, 721, 955, 958; 6 do., 351, 479, 578, 622; 10 do., 51, 396; 11 do., 178.

TRAVEL OF CIVILIAN EMPLOYEES.

200. Beyond limits of district.—Journeys made by civil employees under the Engineer Department which take them beyond the limits of the district in which they are employed require the antecedent authority of the Chief of Engineers, except in emergency, when approval of the journey will be requested by

the district officer, with the usual statement that the emergency was such that antecedent authority could not be obtained.

Requests covering journeys of this character should invariably include the statement that the travel is, or was, necessary for the public service.

Certified copy of the authority or approval should be attached to the travel-expense voucher.

(Cir. 14, C. of E., 1904.)

201. Expenses of civilian electricians.—Travel expenses of civilian electrician experts, on duty under the Chief of Artillery, will not be paid from Engineer-Department appropriations. (Cir. 13, C. of E., 1903.)

202. Citations and cross references:

(a) For general provisions regarding the travel of civilian employees, see A. R. 735-742,—Par. 736 amended by G. O. 207, W. D., 1905.

(b) Civilian employees are entitled to actual traveling expenses for travel on duty under orders. (E. R. 34.)

(c) As to payment of traveling expenses of civilian employees in cases of transfers, see Cir. 3, C. of E., 1896,—§ 491.

(d) Discharged civilian employees who are entitled to return transportation to the United States must avail themselves of the privilege by the first available army transport. (Par. 1, G. O. 166, W. D., 1905.)

(e) For provisions regarding the traveling expenses of civilian employees summoned as witnesses before military courts, see A. R. 998.

(f) A clerk who is ordered to a new station and is granted leave of absence, and who at the expiration of such leave proceeds to his new station, is entitled to traveling expenses not to exceed the amount which it would have cost him to proceed directly to his new station. (8 Comp. Dec., 189.)

(g) An employee appointed or employed while in Washington, D. C., as a stenographer and typewriter at Portland, Me., is not entitled to traveling expenses for proceeding to his place of service, the contract with him not having provided therefor. (5 Comp. Dec., 179; see also 5 Comp. Dec. 662.)

(h) For decisions of the Comptroller of the Treasury regarding the traveling expenses incurred by civilian employees while on leave of absence, see 8 Comp. Dec., 161; 9 do., 614; 11 do., 705.

(i) Ordinarily the cost of lodging incurred by an employee while traveling will be regarded as pertaining to the day in which the night for which the lodging was procured began. (7 Comp. Dec., 338.)

(j) For certain decisions of the Comptroller of the Treasury upon the general subject of the traveling expenses of civilian employees, see 5 Comp. Dec., 369; 6 do., 672; 8 do., 328; 9 do., 105, 156, 359; 11 do., 190, 339, 442, 683.

ENGINEER-DEPARTMENT TRANSPORTATION REQUESTS.

203. Blank requests to be supplied on requisition.—Blank requests for transportation will be issued to disbursing officers and agents of the Corps of Engineers, on their requisition, which may be used for travel in connection with works of fortification and river-and-harbor improvements. (Par. 2, Cir. 15, C. of E., 1897, modified by army appropriation act of March 15, 1898,—30 Stats., 321.)

204. When not to be used.—These requests will not be used in connection with travel on duty which is purely military, nor in connection with travel by officers on duty connected with fortifications. For journeys of this nature transportation, in kind, may be procured from the nearest officer of the Quartermaster's Department, and be paid for by that Department. (Par. 3, Cir. 15, O. C. E., 1897, modified by Cir. 23, C. of E., 1905,—§ 197,—and by army appropriation act approved March 15, 1898,—30 Stats., 321.)

205. Routes of travel.—The requests will be filled out in full, and will clearly designate the various lines over which the journey is to be made, and in every case the roads which furnish the lowest through rate between the terminal points of the journey will be selected. Preference will be given to land-grant and bond-aided roads whenever practicable. (Par. 4, Cir. 15, C. of E., 1897.)

206. Date of order for travel, etc., to be shown.—Across the face of the request the date of the order covering the journey, or the date of approval of the journey, will be written in red ink. (Par. 4, Cir. 15, C. of E., 1897.)

207. By whom payment is to be made.—The requests will be payable by the officer or agent who has to his credit the appropriation chargeable with the journey. Payments for requests should be made on the ordinary voucher, to which should be attached the request. When travel, or any part of it, covered by a particular request, has been over land-grant, bond-aided, or 50-per-cent roads, the requests, accompanied by a bill for the service showing the proportionate share of each road when more than one road is concerned, will be forwarded for settlement by the Treasury Department. (Pars. 6 and 7, Cir. 15, C. of E., 1897.)

208. Separate settlements with each road.—If the carriers prefer that a separate settlement be made with each road forming part of the through line, that course may be pursued. In such event the initial company will bill only for its proportion and state on the bill the through rate and the proportions accruing to each line of road, the sum of which makes the through rate. Vouchers accompanied by bills and properly signed will warrant payment to the separate companies, reference being made to the voucher to which the request is attached. (Par. 8, Cir. 15, C. of E., 1897.)

(a) *Cross reference:* Through transportation requests should be issued in all instances covering service from stated point to destination. (Cir. 18, C. of E., 1902,—§ 237.)

209. Care of blank requests.—Officers and agents are cautioned to exercise the same care of these requests as is taken of check books. At the close of each month officers and agents having blank requests in their charge will render with their money accounts a statement showing the number of requests used during the month, and will forward all mutilated requests or such as have been filled out and are not to be used to this office, with the word "canceled" written on the face of the request over the officer's signature. (Par. 9, Cir. 15, C. of E., 1897.)

210. Travel by civilian employees.—These requests should be used for travel of civilian employees on duty connected with fortifications or other military work over any of the land-grant or bond-aided railroads. When civilian employees travel under proper orders on duty connected with purely civil works over any railroad, it will not be necessary to issue transportation requests for such travel. Under such circumstances the civilian employees may pay their fare and be reimbursed in the usual manner. They are also to be used for sleeping and parlor car transportation authorized by A. R. 1134, as amended by G. O. 53, W. D., 1906. (Par. 10, Cir. 15, C. of E., 1897, modified by Cir. 12, C. of E., 1901.)

211. Printed copies of requests.—Printed copies of the requests, not good for transportation, will be furnished for the information of railroad officials, and it is considered advisable that the passenger agents of the roads on which these requests are to be drawn should be supplied with a sufficient number of such printed copies for the information of the local agents. (Par. 11, Cir. 15, C. of E., 1897.)

212. Requests upon The Pullman Company.—Transportation requests for accommodations on cars of The Pullman Company should be drawn in favor of "The Pullman Company." (Cir. 1, C. of E., 1900.)

213. Citations:

(a) When transportation is furnished to officers for travel over free, land-grant, or bond-aided railroads, transportation requests must be used. (A. R. 1307.)

(b) For tables of land-grant and bond-aided railroads and general provisions, etc., regarding same, see G. O. 140, A. G. O., 1899, amended by G. O. 47, A. G. O., 1901, by G. O. 114, A. G. O., 1901, and by G. O. 178, W. D., 1905.

ACCOUNTS FOR TRANSPORTATION SERVICE.

214. Original bills of lading, etc., to be filed.—Original bills of lading or express receipts should be filed with all accounts for transportation service. (Par. 1, Cir. 8, C. of E., 1899.)

215. What bill of lading, etc., should show.—The date of shipment, shipping point, destination, name of consignor and consignee, weight (or quantity), rate, kind of property, receipt of consignee with condition of property when delivered to him, and amount charged, should be shown on bill of lading or otherwise for each shipment, whether by ordinary freight or express.

The kind of property and the use for which intended should be detailed sufficiently to indicate clearly the classification and rate of charge, and the appropriation chargeable with the cost of transportation.

(Pars. 2 and 3, Cir. 8, C. of E., 1899.)

216. Erasures, etc., to be explained.—Erasures, interlineations, or alterations in bills of lading should be explained thereon by the proper person over his signature. (Par. 5, Cir. 8, C. of E., 1899.)

217. Private property shipped at Government expense.—When private property is shipped at Government expense it should be so indicated, and the reason and authority therefor should be shown. (Par. 6, Cir. 8, C. of E., 1899.)

218. Shipments by express.—Whenever regulations of a department or service require the necessity or authority for shipment by *express* to be shown, such regulations will be strictly enforced. (Par. 7, Cir. 8, C. of E., 1899.)

Citations:

(a) The prepayment to an express company of charges for transportation is prohibited by section 3648, Revised Statutes, which provides that "no advance of public money shall be made in any case whatever, and in all cases of contracts for the performance of any service, or the delivery of articles of any description, for the use of the United States, payment shall not exceed the value of the services rendered or of the articles delivered previously to such payment." (4 Comp. Dec., 544.)

(b) Charges by the Adams Express Company for transportation for the Government over land-grant railroads are not subject to deduction on account of aid received by such railroads by grant of land. (7 Comp. Dec., 334.)

219. Evidence as to rates charged the public.—The published tariffs effective at the time of shipment should be referred to by number or other convenient designation and furnished to the accounting officers of the Treasury whenever requested. In the absence of published tariffs, other satisfactory evidence of the rates charged the public should be furnished. (Par. 8, Cir. 8, C. of E., 1899.)

220. Bill of lading to accompany accounts.—The bill of lading should be furnished with the accounts transmitted to the Treasury Department, or its absence satisfactorily accounted for. (Par. 9, Cir. 8, C. of E., 1899, modified to date.)

221. Loss of bill of lading or express receipt.—In case of the loss of a bill of lading or express receipt, satisfactory evidence of its loss and of the facts required to be substantiated by it should be furnished. (Par. 10, Cir. 8, C. of E., 1899.)

222. Payment by disbursing officers.—Payment by disbursing officers should be by check on a designated depository, and should be drawn to the order of the person, firm, or corporation rendering the service, which fact, with the date and number of check and name of depository, should be stated on the voucher: *Provided*, That in case of a small payment for an occasional service, when it is impracticable to issue a check as above indicated, the receipt of the company by its local agent, when the disbursing officer is satisfied that the person receiving and receipting for such local agent, will, in the absence of any counter evidence, be accepted. (Par. 11, Cir. 8, C. of E., 1899.)

223. Accounts of bond-aided and fifty-per-cent roads.—Accounts involving transportation over the bond-aided and fifty-per-cent railroads should be forwarded to the Chief of Engineers for settlement by the Treasury Department. In no case should they be paid by disbursing officers. (Par. 12, Cir. 8, C. of E., 1899; Cir. 16, C. of E., 1889.)

224. Bond-aided and land-grant roads to be used when practicable.—Public policy and regard for economy in the service dictate that the bond-aided and land-grant railroads should be

used whenever practicable unless as favorable rates for the Government are obtained from other lines. (Par. 14, Cir. 8, C. of E., 1899.)

225. Citations:

(a) No deduction is required to be made in freight charges over a line of railroad not aided by the Government, although owned and operated by a land-grant road. (1 Comp. Dec., 391.)

(b) For decision of the Comptroller of the Treasury regarding the settlement of charges for transportation, part of which was over a bond-aided or land-grant railroad, of envelopes shipped by the contractor to the purchasing officer, see Cir. 9, C. of E., 1900.

226. Shipments by the Quartermaster's Department.—

Under the provisions of the act of July 5, 1884 (23 Stats., 111), the Quartermaster's Department of the Army will ship all freight that may be delivered to it, securely packed and properly marked by any Government officer or agent. The facilities thus provided may in many cases be utilized with advantage. (Par. 15, Cir. 8, C. of E., 1899.)

227. General provisions.—The evidence above required should be furnished with all accounts for transportation service, whether by ordinary freight or express. (Par. 16, Cir. 8, C. of E., 1899.)

228. Citations and cross references:

(a) For regulations regarding transportation by the Quartermaster's Department, see A. R. 1146-1150.

(b) Rigid economy to be exercised in the means of transportation belonging to the Engineer works, surveys, posts, and depots, such as steamboats, sailing vessels, boats, barges, wagons, animals, etc. (G. O. 1, C. of E., 1869,—§ 510.)

(c) The utmost economy to be exercised in gathering un-serviceable property together by the use of Government transportation whenever practicable. (Cir. 7, C. of E., 1894,—§ 384.)

(d) Where a portion of an officer's personal baggage, in the course of transportation by rail at Government expense, has

been stolen, the remedy of the officer is against the railroad company, not against the United States. (Dig. Op. J. A. G. 787,—§ 522c.)

(e) A common carrier receiving goods for shipment, although not accompanied by a bill of lading or shipping directions, is liable for their loss as such common carrier, provided there was no unreasonable delay by the shipper in furnishing the necessary shipping directions. (7 Comp. Dec., 65.)

(f) An officer of the Army who, on retirement, procured the transportation of his personal effects from his duty station to his home, is not entitled to reimbursement for the cost thereof. (6 Comp. Dec., 84.)

(g) A disbursing officer is prohibited by R. S. 3648 from paying more than a proper proportion of the entire contract price agreed upon for the transportation of public property when only a portion of the property has been delivered. (3 Comp. Dec., 221.)

(h) For certain decisions of the Comptroller of the Treasury regarding claims for demurrage, see 2 Comp. Dec., 179; 3 do., 337; 5 do., 305.

SHIPMENT OF INSTRUMENTS OF THE ENGINEER DEPARTMENT.

229. To be placed in the special cases provided for them.—Surveying and other delicate instruments belonging to the Engineer Department should always be transported in the special cases provided for them. These cases are provided for carrying purposes and not for shipping and should therefore be inclosed in a box for shipment. Such instruments always come into rigid contact with some part of their special cases, and a cushion of elastic material should be placed on all sides between the case and the shipping box to prevent the direct transmission of shocks to the instrument from rough or careless handling in transit. As an additional precaution against injury, particularly from loose parts, the instrument case should be filled with soft, dustless material. (G. O. 14, W. D., 1905.)

230. Packing boxes.—Packing boxes should be made of light, sound lumber, securely and rigidly put together. Half-inch boards

for the top, sides, and bottom and one-inch for the ends are generally sufficient for single instruments. For more than one instrument or for large instruments one-inch lumber should be used.

They should be made at least two inches and preferably four inches larger in all dimensions, inside measurements, than the instrument case, to provide a one or two inch space all around for a cushion of packing material.

Transits, levels, and other delicate instruments will be less liable to injury if the packing box is provided with a carrying strap or rope to facilitate gentle handling in transit.

(G. O. 14, W. D., 1905.)

231. Packing material.—Excelsior, straw, hay, cotton waste, or any other material that produces or contains dust, chaff, lint, or litter will under no circumstances be used as packing material inside of instrument cases, since the dust, etc., gets into the crevices, telescopes, and delicate parts of the instrument and necessitates a thorough and minute cleaning of the instrument before it can be used. Such materials may be used for packing the instrument case in the shipping box, but when so used the instrument case should have a double wrapping of paper to prevent dust entering the case through cracks around the door or lid.

For packing an instrument in its case there should be used only soft, tough tissue paper, or similar material, crushed in the hand into pads and stuffed gently around the instrument so as to form a complete, firm cushion on all sides, great care being taken to avoid injury to delicate parts.

(G. O. 14, W. D., 1905.)

232. General rules.—Before packing the instrument the case will be carefully examined to determine whether it is in sufficiently good condition for the safe transportation of the instrument, particular attention being given to the door or lid, the receptacles for detached parts, and the base or seat upon which the instrument rests. When repairs are required to the case, they will, if possible, be made before shipment to the extent necessary for the safe transportation of the instrument, and when such repairs are impracticable the following precautions will be taken: Loose or broken doors or lids will be firmly secured in place by

lashing, but without the use of tacks, nails, or screws. Detached parts for which the receptacles are broken or for which none is provided will be so secured in the case as to absolutely forbid their getting loose, and when this can not be done with certainty they will be shipped separately. If the seat upon which the instrument rests and that part of the lid that rests upon the instrument have lost any of their padding, it will be replaced by a thin pad of soft cloth or blotting paper secured so as to remain in position in transit.

Place the instrument in the case in such manner that it rests in the seat provided for it, that the lid or door closes without difficulty, and that the instrument touches the case or lid only at such points as are provided for supporting or steadying it. Place the detached parts in their receptacles and adjust the stops to hold them securely in place. Stuff the case with soft tissue paper, as above described, and close and lock it, attaching the key to the handle, strap, or other fixture on the case. Wrap separately in two thicknesses of paper to prevent dust, etc., entering the case and pack with hay, excelsior, or any other elastic material in a suitable box. (G. O. 14, W. D., 1905.)

233. Theodolites and transits.—Theodolites and transits, especially such as have vertical limbs (arcs or circles), are by reason of their construction most difficult to pack and most liable to injury in transit, particularly if not carefully packed. Especial care will therefore be exercised in preparing them for shipment, following these rules:

Examine the baseboard and its attached screw plate to see that they are in good order and will hold the instrument securely in place. Screw the instrument firmly upon the screw plate, lift the compass needle from its pivot, adjust leveling screws to approximate evenness, place in case and shift the instrument until it fits easily and the door can be closed without making contact between the instrument and the case at any point excepting where such contact is intended. Screw up all clamp screws so as to hold all parts of the instrument firmly in position, using judgment and avoiding force. Place the detached parts in their receptacles, seeing that none is omitted, and secure them carefully. Much damage frequently results from a plumb bob or other accessory

becoming loose in the case in transit. Crumple soft paper into pads and stuff them gently all around the instrument, taking care not to wrench, twist, or break any of the delicate attachments. Construct thus a perfect cushion, filling the case and permitting the door to close with light pressure. Close the door, secure and lock it, and attach the key to the outside of the case.

(G. O. 14, W. D., 1905.)

234. Tripods.—Tripods should be boxed or crated, as they are liable to damage in transit unless protected by a rigid case. The box or crate must be long enough to provide for a pad of packing material at each end for the protection of the head and shoes. The tripod cap should be firmly screwed in place, and if it is missing the screw threads should be fully protected by other means. (G. O. 14, W. D., 1905.)

235. Shipping directions.—Packages should be marked "Delicate Instruments, Handle with Care," and shipments should be made by express and not by ordinary freight.

Shipments of instruments from one military post or station to another or between posts and division or department headquarters, or between military headquarters or posts and engineer depots, will be turned over to the Quartermaster's Department with request for transportation by express.

Shipments made from engineer depots to officers who have charge of public works and who have funds at their disposal, or from such officers to engineer depots, will be made on Engineer-Department bill of lading (Forms 34 and 34a) at the charge of the appropriations for such works.

(G. O. 14, W. D., 1905.)

236. Cross reference:

Surveying instruments turned in to the engineer depot should be sent by express.

(Cir. 15, C. of E., 1904,—§ 364.)

THROUGH TRANSPORTATION REQUESTS AND BILLS OF LADING.

237. To be used in all cases.—Through requests and bills of lading should be issued in all instances covering service from stated point to destination. (Comptroller's decision of December 20, 1901, as published in Cir. 18, C. of E., 1902.)

TRANSPORTATION IN VESSELS OF THE UNITED STATES.

238. To be used for supplies for Army and Navy:

AN ACT to require the employment of vessels of the United States for public purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That vessels of the United States, or belonging to the United States, and no others, shall be employed in the transportation by sea of coal, provisions, fodder, or supplies of any description, purchased pursuant to law, for the use of the Army or Navy unless the President shall find that the rates of freight charges by said vessels are excessive and unreasonable, in which case contracts shall be made under the law as it now exists: *Provided*, That no greater charges be made by such vessels for transportation of articles for the use of the said Army and Navy than are made by such vessels for transportation of like goods for private parties or companies.

SEC. 2. That this act shall take effect sixty days after its passage.
Approved, April 28, 1904.

(Cir. 27, C. of E., 1904; 33 Stats., 518.)

CHAPTER VIII.

CONTRACTS AND OTHER METHODS OF PURCHASE.

GENERAL PROVISIONS.

239. Obligations not to be incurred in excess of Congressional authority.—No Department of the Government shall expend in any one fiscal year any sum in excess of appropriations made by Congress for that fiscal year or involve the Government in any contract or obligation for the future payment of money in excess of such appropriations unless such contract or obligation is authorized by law. Nor shall any Department or officer of the Government accept voluntary service for the Government or employ personal service in excess of that authorized by law, except in cases of sudden emergency involving the loss of human life or the destruction of property. All appropriations made for contingent expenses or other general purposes except appropriations made for the fulfillment of contract obligations expressly authorized by law, or for objects required or authorized by law without reference to the amounts annually appropriated therefor, shall, on or before the beginning of each fiscal year, be so apportioned by monthly or other allotments as to prevent undue expenditures in one portion of the year that may require deficiency or additional appropriations to complete the service of the fiscal year; and all such apportionments shall be adhered to except when waived or modified in specific cases by the written order of the head of the Executive Department or other Government establishment having control of the expenditure, but this provision shall not apply to the contingent appropriations of the Senate or House of Representatives; and all such waivers and modifications, together with the

reasons therefor, shall be communicated to Congress in connection with estimates for any additional appropriations required on account thereof. Any person violating any provision of this section shall be summarily removed from office, and may also be punished by a fine of not less than one hundred dollars or by imprisonment for not less than one month.

(R. S., 3679, amended by deficiency appropriation act approved March 3, 1905—33 Stats., 1257—published in Cir. 8, C. of E., 1905.)

(a) *Citation*: Generally, the authority of the accounting officers to certify a balance in favor of a person depends upon the validity of the contract under which the claim arose. If the contract transcends the law, it is illegal to that extent. When the authority to enter into a contract depends wholly upon an appropriation for that purpose, no officer can create a liability therefor beyond the amount appropriated. (4 Comp. Dec., 314.)

240. Contracts for labor of convicts of the United States forbidden:

AN ACT to prohibit any officer, agent, or servant of the Government of the United States of America to hire or contract out the labor of prisoners incarcerated for violating the laws of the Government of the United States of America.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall not be lawful for any officer, agent, or servant of the Government of the United States to contract with any person or corporation, or permit any warden, agent, or official of any State prison, penitentiary, jail, or house of correction where criminals of the United States may be incarcerated to hire or contract out the labor of said criminals or any part of them who may hereafter be confined in any prison, jail, or other place of incarceration for violation of any laws of the Government of the United States of America.

SEC. 2. That any person who shall offend against the provisions of this act shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be imprisoned for a term not less than one year nor more than three years, at the discretion of the court, or shall be fined not less than five hundred dollars nor more than one thousand dollars for each offense.

SEC. 3. That all acts or parts of acts inconsistent with the provisions of this act are hereby repealed; and this act shall take effect and be in force from and after its passage.

Approved, February 23, 1887.

(Cir. 6, C. of E., 1887; 24 Stats., 411.)

241. Contracts for labor of convicts of States, etc., forbidden.—*Whereas*, By an act of Congress which received Executive approval on February 23, 1887, all officers or agents of the United States were as a matter of public policy forbidden, under appropriate penalties, to hire or contract out the labor of any criminals who might thereafter be confined in any prison, jail, or other place of incarceration for the violation of any laws of the Government of the United States of America;

It is hereby ordered, That all contracts which shall hereafter be entered into by officers or agents of the United States involving the employment of labor in the States composing the Union, or the Territories of the United States contiguous thereto, shall, unless otherwise provided by law, contain a stipulation forbidding, in the performance of such contracts, the employment of persons undergoing sentences of imprisonment at hard labor which have been imposed by courts of the several States, Territories, or municipalities having criminal jurisdiction.

(Executive Order of May 18, 1905, published in Par. II, G. O. 78, W. D., 1905.)

242. Rent of offices, etc.—Hire of rooms and buildings and leases of land, vessels, etc., must be covered by a written agreement in the form contemplated by R. S., 3744, (Cir. 10, C. of E., 1905.)

Citations and cross reference:

(a) Contracts for lease or hire not to be filed with vouchers; the copies of such contracts to be treated like those of all other contracts. (Cir. 43, C. of E., 1905,—§ 294.)

(b) Where the rent to be paid by the Government for leased premises is derived from an annual appropriation a lease for a period longer than the fiscal year for which the appropriation is made would be in derogation of the existing law. Where it is desired to occupy the premises for a longer term

than one year the lease should be taken to the end of the current fiscal year at a certain rent, and a new lease be then entered into for the next fiscal year, and so on, a lease *de novo* being necessary for each fiscal year, though the successive leases be mere repetitions and extensions of the original lease, and though it be expressly stipulated in the original lease that the United States shall have the privilege of such extensions if desired. (Dig. Op., J. A. G., 886.)

(c) R. S. 3477, 3737, which prohibit the transfer or assignment of claims against, or contracts with, the United States, have no application to the payment of rent by the Government to a lessor who is the agent of the owner of the leased premises. (9 Comp. Dec., 611.)

(d) Where a lease made to the United States, of land to be used for public purposes, contained no stipulation other than one for the payment of certain rent, such lease was not annulled by transfer under R. S. 3737, but was legally assignable. (Dig. Op., J. A. G., 1587.)

(e) The laying of conduits and wires in premises occupied by the United States under a lease from the owner is an improvement of the premises, and unless provision has been made in the lease for the making of such an improvement by the United States as a consideration, in whole or in part, for the use thereof, payment of the cost of such an improvement is not authorized. (6 Comp. Dec., 943.)

(f) Under an agreement in a lease that the Government would deliver the property on expiration of the lease in as good condition as when received, ordinary wear and tear excepted, the Government is liable for unnecessary injury to the property during its occupancy. (9 Comp. Dec., 488.)

(g) For decisions of the Comptroller of the Treasury regarding notice to vacate leased premises, see 7 Comp. Dec., 342; 9 do., 366; 11 do., 784.

243. Envelopes.—The Postmaster-General shall contract for all envelopes, stamped or otherwise, designed for sale to the public, or for use by his own or other Departments, and may contract for them to be plain or with such printed matter as may be prescribed by the Department making requisition therefor: *Provided*, That no



envelope furnished by the Government shall contain any business address or advertisement. (Sec. 96, act of Jan. 12, 1895; 28 Stats., 624, or 2 Sup. R. S., 364.)

Schedules of contracts entered into by the Postmaster-General for supplying the Executive Departments of the Government with envelopes are published annually in general orders from The Military Secretary's Office.

244. Citations:

(a) For general provisions regarding the purchase of supplies and engagement of services, see A. R. 514-519, 548-552.

(b) All executory contracts under the War Department must be in writing and signed at the end thereof by both parties. (Comptroller's Decision, Dec. 8, 1904, published in Cir. 54, W. D., 1904.)

(c) In the absence of clear proof, a contract will not be construed as having been made with reference to a local custom in conflict with the general law of bailments. (5 Comp. Dec., 15.)

(d) R. S. 3744, which requires that all contracts made by the Secretaries of War, the Navy, and the Interior shall be "reduced to writing and signed by the contracting parties with their names at the end thereof," is mandatory, and a written order by the Secretary of War for the purchase of arms and cartridges does not constitute a valid executory contract which can be enforced. (6 Comp. Dec., 880; see also Cir. 44, A. G. O., 1900.)

(e) For certain decisions of the Comptroller of the Treasury regarding claims for demurrage, see 2 Comp. Dec., 179; 3 do., 337; and 5 do., 305.

GENERAL INSTRUCTIONS OF THE WAR DEPARTMENT REGARDING CONTRACTS FOR SUPPLIES FOR THE ARMY.

(The following provisions affect the work of the Engineer Department, except in so far as they are inconsistent with special legislation governing work under appropriations for fortifications or river and harbor improvements.)

245. Advertisements.—Advertisements for supplies should contain the instruction to bidders, who are not manufacturers of the goods called for to submit the name of the manufacturer from whom such goods are to be obtained, unless it be manifestly impracticable to furnish this information. (Par. 1, G. O. 167, W. D., 1905.)

246. Grounds for rejection of bids.—Lack of commercial standing on the part of the bidder or inadequate facilities or plant on the part of the manufacturer will constitute good and sufficient grounds for the rejection of bids. Abnormally low bids should be subjected to the strictest scrutiny and comparison with prevailing market rates.

All bids received from contractors who have failed unjustifiably to fill former contracts with the Government shall be rejected. (Pars. 2 and 3, G. O. 167, W. D., 1905.)

247. Individual bondsmen.—Careful investigation will be made of the financial status of individual bondsmen offering themselves as sureties on contractor's bonds, and no bonds of individuals will be accepted until it is conclusively shown to the satisfaction of the contracting officer that such bonds afford ample security to the United States for the fulfillment of the undertaking in question. (Par. 4, G. O. 167, W. D., 1905.)

248. Contracts to be strictly construed.—Contracts once executed will be strictly construed and no variation from standards or specifications will be permitted or authorized. If it be demonstrated that contract requirements are unreasonable, or that the prescribed tests are not practical, or that for any reason the stipulations can not be rigidly applied or enforced, such contract must not be modified, but may be annulled, with the approval of the Secretary of War, if for the best interests of the Government; and after again inviting competition from bidders, who are fully informed of the changed requirements, a new award and contract can be entered into. To sanction variations or to relax stringency in any particular of an existing contract is irregular, and is likely to give the contractor an advantage which is unfair to competitors whose proposals were based on the expectation of being held to the strictest observance of the published requirements. (Par. 5, G. O. 167, W. D., 1905.)

249. Inspections.—*Raw material* used by manufacturers in furnishing finished products will be as frequently inspected as the interests of the Government may require, by inspectors especially qualified for such work, subject to frequent *personal* supervision by a commissioned officer.

All supplies furnished under contract or otherwise will be subjected, whenever practicable, to the personal inspection of a commissioned officer at the time of delivery; otherwise such inspections will be made by civilian inspectors, under his personal supervision, subject to test and verification at irregular intervals and at unexpected times by such officer.

Commissioned officers charged with such inspections and with the supervision of civilian inspectors must qualify themselves by study, observation, and practice for such supervision as shall effectively protect the Government interests.

(Pars. 6-8, G. O. 167, W. D., 1905.)

SPECIAL PROVISIONS GOVERNING FORTIFICATION WORK AND WORK OF IMPROVEMENT OF RIVERS AND HARBORS.

250. Legislation on which based.—“That it shall be the duty of the Secretary of War to apply the money herein and hereafter appropriated for improvements of rivers and harbors, other than surveys, estimates, and gaugings in carrying on the various works, by contract or otherwise, as may be most economical and advantageous to the Government. Where said works are done by contract, such contract shall be made after sufficient public advertisement for proposals, in such manner and form as the Secretary of War shall prescribe; and such contracts shall be made with the lowest responsible bidders, accompanied by such securities as the Secretary of War shall require, conditioned for the faithful prosecution and completion of the work according to such contract.” (Sec. 3, river and harbor act of July 31, 1888,—25 Stats., 423.)

A similar provision, applicable to the funds therein appropriated for the work of the Engineer Department, is contained in the fortification appropriation act of June 6, 1902, and each subsequent fortification act.

251. Proposed method of purchase, etc., to be stated in project.—Every new project submitted will contain a recommen-

dation, with reasons therefor, as to the method to be employed in purchasing necessary supplies, and executing the work required. (Par. I (a), G. O. 4, C. of E., 1901, amended by G. O. 3, C. of E., 1902.)

252. Advertisement to be made when practicable.—In procuring supplies and nonpersonal services, advertisement will be made, when practicable and to the advantage of the Government, either in newspapers, by poster, or by written notice, as prescribed in Army Regulations for expenditures from appropriations other than those for fortification work or for river and harbor improvement. (Par. I (b), G. O. 4, C. of E., 1901, amended by G. O. 3, C. of E., 1902.)

253. Methods of purchase, etc.—Supplies and nonpersonal services will be procured as conditions warrant and require—

1. By formal contract.
2. By emergency contract.
3. By written notice and written acceptance.
4. By oral agreement, after inquiry, in the manner common among business men.

(Par. I (c), G. O. 4, C. of E., 1901, amended by G. O. 3, C. of E., 1902.)

254. Formal contracts.—Formal contract will be entered into when time permits and other conditions make that method the most economical and advantageous to the Government; otherwise one of the other above-mentioned methods (§ 253) will be employed. (Par. I (d), G. O. 4, C. of E., 1901, amended by G. O. 3, C. of E., 1902.)

255. Emergency contracts.—Where the interests of the United States do not allow time for the preparation of a formal contract, but where the delivery of supplies or performance of nonpersonal service will necessarily extend over a considerable period of time, the form of emergency contract will be used. (Par. I (e), G. O. 4, C. of E., 1901, amended by G. O. 3, C. of E., 1902.)

256. Written notice and written acceptance.—Written notice and written acceptance will be employed when advertising

by newspapers or posters is incompatible with the interests of the Government, but circumstances permit and justify seeking a greater degree of competition than seems practicable under oral agreement. (Par. I (*f*), G. O. 4, C. of E., 1901, amended by G. O. 3, C. of E., 1902.)

257. Oral agreement.—The method by oral agreement will be employed in the following cases:

1. In an emergency, as when the public exigencies require immediate delivery of supplies or performance of services, and there is no time to advertise by newspapers, posters, or written notice.

2. When it is impracticable to secure competition.

3. When proposals have been invited and none received.

4. When proposals are above the market price or otherwise unreasonable.

5. When, in the opinion of the responsible disbursing officer, it is most economical and advantageous to the Government to dispense with advertising.

A. R. 549 does not revoke case 5.

(Par. I (*g*), G. O. 4, C. of E., 1901, amended by G. O. 3, C. of E., 1902, and by Par. 1, G. O. 5, C. of E., 1905.)

258. Requirements as to formal contracts.—Formal contracts are subject to all the requirements of law and regulations relating thereto. (Par. I (*h*), G. O. 4, C. of E., 1901, amended by G. O. 3, C. of E., 1902.)

259. Certificate as to award.—Every formal or emergency contract must be accompanied by a certificate to the effect that the award was made to the lowest responsible bidder for the best and most suitable article or service. (Par. I (*i*), G. O. 4, C. of E., 1901, amended by G. O. 3, C. of E., 1902.)

260. Citation:

For general provisions regarding the various methods of procuring supplies or services for the Army, see A. R. 518, 548-552.

SPECIFICATIONS.

261. General requirements.—In all cases where advertisements are to be issued inviting proposals for material or labor for works of improvement of rivers and harbors or other works of the Engineer Department, full and detailed specifications must be prepared in time to supply all parties desiring to bid under the advertisement.

The specifications should be comprehensive, clear, and sufficiently detailed to enable bidders to understand fully what is required; and as it is designed that these, together with the advertisement, be attached to and form a part of the contract, it is important that great care be observed in their preparation, in order that all probable questions which may arise during the execution of the contract may be settled and determined by reference to the instrument itself. A copy of the advertisement should form a prefix to the specifications. (Cir., C. of E., September 13, 1871.)

262. Previous approval of Chief of Engineers required.—When a contract is intended to be made, the advertisement and specifications must have the prior approval of the Chief of Engineers, except in case of an emergency contract (E. R. 35). The specifications will state the amount of the bond to be required (E. R. 36.) (Cir. 3, C. of E., 1899, modified to date.)

263. Drawings.—When forwarding specifications for approval officers will transmit at the same time copies of all drawings necessary to a clear understanding of the work proposed, unless such drawings have been filed in this office at some previous time. In the latter case the letter forwarding the specifications should refer to the drawings in such manner as to insure their identification.

In cases where it will facilitate a bidder's understanding of the specifications such drawings as may be necessary for this purpose may be prepared suitably for reproduction and binding with the specifications. Prior authority for such illustration will be requested.

(Cir. 10, C. of E., 1903.)

264. Standard specifications for cement.—Compliance with the standard specifications of the Engineer Department for hydraulic cement is enjoined, but changes in essential features due to the special requirements of a particular work may be made by authority of the Chief of Engineers. (Cir. 10, C. of E., 1901.)

265. Copies for office of Chief of Engineers.—One hundred and seventy-five copies of all printed specifications, except specifications for stationery, drawing materials, office supplies, and articles of a kindred nature will be forwarded to the Chief of Engineers. (Cir. 1, 1893, amended by Cir. 16, 1902, C. of E.)

266. Citation and cross references:

(a) Authority to have specifications printed may be granted by the Chief of Engineers. Vouchers for printing to be addressed to the chief clerk of the War Department. (Cir. 10, C. of E., 1897,—§ 506.)

(b) Specifications to be submitted through the division engineer. (G. O. 9, 1901, and G. O. 10, 1903, C. of E.,—§§ 112, 115.)

(c) Specifications to be carefully scrutinized by division engineers. (G. O. 9, C. of E., 1901,—§ 106.)

(d) When it is intended to provide for liquidated damages in the contract, care should be taken that the specifications do not conflict with the contract provisions; the sum to be charged per day as damages should be stated in the specifications. (Cir. 25, 1899, and Cir. 27, 1905, C. of E.,—§ 285.)

(e) For provisions regarding job printing, see A. R. 509-513.

ADVERTISING.

267. Requests for authority.—Requests for authority to advertise should be forwarded through the Chief of Engineers. (Cir., C. of E., July 26, 1872.)

268. Approximate anticipated expenditure to be stated.—Requests for authority to invite proposals by advertisement will state in the letter of transmittal the approximate amount of money to be expended under the advertisement. (Cir. 9, C. of E., 1897.)

269. General authority.—Disbursing officers engaged in making frequent purchases and contracts will, before the commencement of a fiscal year, request general authority to advertise for the ensuing fiscal year. Such authority will be granted to the office, not to the officer. Accounts for publishing advertisements will be submitted for audit, in accordance with A. R. 505, as soon as practicable after their receipt from the publisher or proprietor of the newspaper in which the advertisement was published. (Par. II, Cir. 4, A. G. O., 1902, republished in Cir. 2, C. of E., 1902.)

270. Period of advertising.—All newspaper advertisements for bids shall allow at least thirty days to intervene between the date of first insertion and the date of opening, excepting in emergencies, when the letter requesting authority to advertise must set forth the character of the emergency. Contracts made after public notice or circulars of ten days, or more, must be accompanied by a certificate setting forth the fact that the circumstances were such as not to permit longer advertisement. (Cir. 3, C. of E., 1899; see also A. R. 520.)

271. In newspapers published in the District of Columbia.—No advertisement for contracts for the public service shall be published in any newspaper published and printed in the District of Columbia unless the supplies are to be *delivered* or the labor is to be performed in said District. (W. D. Cir., Jan. 21, 1884, published in Cir. 3, C. of E., 1884.)

272. Copies to be furnished to certain papers.—When proposals for work, materials, or supplies are invited by newspaper advertisement officers of the Corps of Engineers in charge of Government works will furnish, direct from their offices, copies of such advertisements to the "U. S. Government Advertiser," the "Associated Trade and Industrial Press," and to the "Government-Contract Information Bureau," Washington, D. C. (Cir. 16, C. of E., 1905.)

273. Citations and cross references:

(a) For regulations for advertising, see A. R. 498-508, 520-524.

(b) Advertisements calling for proposals for contract work, except in case of an emergency contract, to be submitted to the Chief of Engineers for his approval before publication. (E. R. 35.)

(c) Vouchers for printing and for advertising and requests for authority to publish advertisements to be addressed to the chief clerk of the War Department. (Cir. 10, C. of E., 1897—§ 506.)

(d) Before disbursing officers can be allowed credit for payment of bills for publishing advertisements, there must be presented with each voucher a properly certified copy of the written authority for the publication. (Cir. 6, W. D., 1905.)

(e) Advertisements for supplies to require bidders who are not manufacturers of the goods called for to submit the name of the manufacturer from whom the goods are to be obtained, unless this be manifestly impracticable. (Par. 1, G. O. 167, W. D., 1905,—§ 245.)

(f) When supplies or nonpersonal services are procured by contract or by circular notice, in connection with fortification or river and harbor work, advertisement will be made as prescribed in Army Regulations for expenditures from other appropriations. (Par. I (b), G. O. 4, C. of E., 1901, amended by G. O. 3, C. of E., 1902,—§ 252.)

(g) The written authority of the head of the Department required by section 3828, Revised Statutes, for publishing in any newspaper any advertisement, notice, or proposal is required to be given before publication thereof, and a subsequent approval or ratification will not legalize publication without such previous authority. (5 Comp. Dec., 166.)

(h) The cost of advertising for proposals for supplies or other articles is payable from the appropriation for the fiscal year within which the advertising was actually done, although the supplies or other articles are required for the service of the ensuing fiscal year. (9 Comp. Dec., 243.)

PROPOSALS AND AWARDS.

274. Abstracts of proposals.—In the case of all formal contracts (not including emergency contracts, as to which see § 298) the abstract of bids, accompanied by one copy (original) of each proposal received (A. R. 547; E. R. 37), will be forwarded, with recommendation for action, to the Chief of Engineers for his approval antecedent to any action thereon. The abstract will show the totals of the respective bids and the amount available for payments under the proposed contract. To obtain the amount available all outstanding liabilities and amounts covered by existing contracts should be deducted from the unexpended appropriations for the work in so far as their expenditure has been authorized by approved projects. A copy of the advertisement and of the specifications, if any, will be attached to the abstract of bids (A. R. 539), and the abstract will show the title of the appropriation and the allotment, if any, the dates of the advertisement and of the opening, and the work or materials for which bids are asked. All bids received and opened will be entered upon the abstract, and any informalities will be noted in the column of "remarks." (Cir. 3, 1899, and Cir. 20, 1888, C. of E., modified to date.)

275. Original estimates to be shown.—Abstracts of bids for work or materials, other than small supplies of which the market price is well known, will contain a column showing the originally estimated cost of the items for which bids were received.

This information should not appear in the abstracts which accompany the annual report, nor on those furnished for publication. (Cir. 32, C. of E., 1905.)

276. Citations and cross references:

(a) For general regulations regarding proposals and awards, see A. R. 525-547.

(b) Proposals and abstracts of bids to be submitted through the division engineer. (G. O. 9, 1901, and G. O. 10, 1903, C. of E.,—§§ 112, 115.)

(c) For certain grounds for the rejection of bids for furnishing supplies for the Army, see pars. 2 and 3, G. O. 167, W. D., 1905,—§ 246.

(d) Were it not for the provisions of R. S. 3744, the acceptance of a bid would, under the general law of contracts, bind the United States. But this section has been construed by the Supreme Court as being in the nature of a statute of frauds and mandatory in its requirements, and therefore making it essential that a contract, to be legal and obligatory, shall be in writing and signed by the parties. The mere proposal of a bidder accepted on the part of the Government does not therefore operate as a contract, but is simply a proceeding preliminary to contract; nor does such an acceptance bind the United States to enter into a contract. (Dig. Op., J. A. G., 879.)

GENERAL PROVISIONS AS TO FORMAL CONTRACTS.

277. What are contracts.—All agreements “reduced to writing and signed by the contracting parties, with their names at the end thereof,” are *contracts* such as are contemplated by section 3744, Revised Statutes, and by the Regulations (A. R. 548). To *all* such contracts, and to them alone, are applicable the provisions of the statutes and regulations relating to this subject. (Cir. 3, C. of E., 1899.)

278. Contracts must be authorized by law.—No contract on behalf of the United States shall be made unless the same is authorized by law or is under an appropriation adequate to its fulfillment (R. S., 3679, 3732, 3733; 33 Stats., 1257,—§ 239; A. R. 514, 580), and for the violation of this prohibition a penalty is prescribed (R. S., 5503, and 33 Stats., 1257,—§ 239), the officer charged with the duty of making a contract being responsible under the laws and regulations for his action (A. R. 519). (Cir. 3, C. of E., 1899, modified to date.)

279. Supplemental contracts.—Every legally executed contract is equally binding upon both parties thereto, and none of the provisions of such a contract can be materially modified without at the same time affecting the rights of one or both of the contracting parties. Any changes in the specifications such as would increase or diminish the cost of the work must be agreed upon in writing by the contracting parties, with a full statement of the reasons for the change and of the prices substituted for those of the

original contract. Such supplemental agreements must have the approval of the Secretary of War, and, in order to enable payments thereunder to be made, must be signed and approved before the obligation arising under such modification was incurred. Supplemental agreements have been criticised as to their legality, and unless the reasons for their execution show the interest of the United States to be better protected thereunder than under the original contract the Chief of Engineers will not feel warranted in recommending their approval by the Secretary of War. In all cases antecedent authority to enter into such agreements should be obtained. Vexatious claims sometimes arise from failure to observe the above-noted contract requirements, and many of them are such as can not be liquidated by any executive officer, even where their equity is conceded. Such claims are usually made in an amount greater than the terms obtainable under an antecedent agreement, and their settlement inflicts hardships upon the contractors by forcing them to resort to judicial proceedings to obtain payment. The necessity of adhering closely to the provisions of contracts as set forth therein, and of avoiding any modification of their terms by verbal or written understandings other than in accordance with contract requirements, can not be too strongly impressed upon officers and agents. (Cir. 3, C. of E., 1899.)

280. Radical changes in quantities, etc.; supplemental contracts.—The terms “more or less” as used in specifications and contracts are not to be considered as authorizing any material change in the approximate quantities given, unless percentage of increase or decrease is provided for definitely in the contract. “More or less” is considered to be introduced to allow for errors in estimates and not to cover, except when otherwise specially provided, an increase or decrease to exceed 10 per cent of approximate quantities on which bid is made. The approximate quantities named in a bid must have an important bearing on the prices submitted, and to change them after making contract is a radical change of terms of contract not permitted by the law, and in many cases unjust to other bidders. If new conditions require, without question, radical changes in quantities or other essential elements in terms of a contract, such changes must be provided for by supplemental contracts. Supplemental contracts are not considered

desirable, and will be recommended for approval only in cases of most evident necessity and when the modifications do not in any way work an injustice to others who may have originally submitted bids for the work. (Par. 3, Cir. 22, C. of E., 1898.)

(a) *Citation:* For certain decisions of the Comptroller of the Treasury regarding supplemental contracts, see 5 Comp. Dec., 540; 7 do., 350; 9 do., 43.

281. Time of commencement.—Contracts requiring the approval of the Chief of Engineers can not be considered to be legally in effect until such approval is given, and a contractor can not be required to commence a work until he or his authorized agent is officially notified that the contract has been approved. Delays due to errors in contracts and bonds can not be avoided at times, and when dates are fixed for commencement and completion it frequently happens that a portion of the time estimated as necessary for completing the work has passed before a legal commencement of contract can be made. It is therefore considered preferable, when conditions permit, that completion be required within a certain number of days (Sundays and legal holidays being excepted, if such be intended) from date of notification of approval of contract, rather than fixed dates, and, when practicable, that a fixed rate of progress be required. (Par. 4, Cir. 22, C. of E., 1898.)

282. Notification of approval.—In all cases where contracts specify the time of commencement and of completion as so many days, or months, from *date of notification of approval of contract*, the local officer will make his notification of the approval of the contract in duplicate, sending one copy to the Chief of Engineers for file. (Cir. 15, C. of E., 1899.)

283. Extension of time for completion.—It is desired that officers give careful consideration to the time fixed for completion of contracts, so that extensions for causes for which the United States may be held responsible may be entirely avoided. Time forms, or should form, an important element in determining the prices bid by a contractor, and an extension of time is, as a rule,

a radical change in the terms of a contract and unjust to other bidders who have taken time into consideration in their bids. The possibility of having contracts extended encourages bidding by a class of contractors who are not capable of, or do not anticipate, living up to their contracts, and extensions must therefore, as a principle, be considered as very injurious to the interests of the Government. Payment of expenses of superintendence and inspection does not prove a sufficient forfeiture in most cases, and there is always the hope with the contractor that such forfeiture may be waived. It is desirable that all specifications for contracts and the contracts themselves be so drawn that contractors may be made fully responsible for the damages which may result from delay in completion, and that so far as practicable the terms be such as to prevent any escape from the responsibility. (Par. 5, Cir. 22, C. of E., 1898.)

Citations:

(a) The approval of the Chief of Engineers must be obtained for extensions of time for the completion of contracts. (E. R. 39.)

(b) When it is proposed to extend the time of completion of a contract to a future specified date, the extension must be covered by a supplemental contract. (8 Comp. Dec., 104.)

284. Deductions for extensions of contracts.—Whenever a contract is extended and because of such extension deductions are to be made from sums due or to become due the contractor, the deductions shall be shown upon the vouchers and the balance shall be paid to the contractor. Payment of the expenses due to extensions of contracts shall never be demanded of contractors, or received from them by officers of the Corps of Engineers, or agents in the employ of the Engineer Department. (Par. 1, G. O. 2, C. of E., 1892.)

285. Liquidated damages.—It is desired that more general use shall be made of the form of contract providing for liquidated damages in cases where by delay in completion the United States will be damaged to an indeterminate extent. The amount specified for deduction should be a *reasonable* measure of the damage.

In preparing specifications care should be taken that they do not conflict with contract provisions. The sum to be charged per day as damages should be stated in the specifications.

(Cir. 25, 1899, and Cir. 27, 1905, C. of E.)

286. Use of liquidated-damage clause.—When the use of the liquidated-damage clause is contemplated, the language of the specifications should conform to that of contract Form 19, and Form 19 should be used in executing the contract, omitting, in emergency-contract cases, references to approval of contract by the Chief of Engineers. (Cir. 6, C. of E., 1905.)

287. Citation:

For certain decisions of the Comptroller of the Treasury regarding delays in completing contracts, extensions of time for completion, and penalties and liquidated damages, see 2 Comp. Dec., 635; 3 do., 306; 4 do., 663, 681; 5 do., 83, 540, 748; 7 do., 482, 721; 8 do., 104, 133, 185, 238, 487, 504, 568, 646, 672, 764; 9 do., 506; 10 do., 8, 317, 605, 694; 11 do., 113, 266, 394, 513; Cir. 27, C. of E., 1900.

288. Corporations as principals and as sureties.—A. R. 530, 558, and 572 prescribe the evidence to be furnished with proposals, contracts, and bonds when the principal is a corporation. A. R. 572 specifies a rule for the authentication of the execution of bonds by corporations as principals, which should also be applied to the execution of contracts under A. R. 558, in order to insure their approval. Before a corporation will be accepted as surety it must obtain authority in writing from the Attorney-General to do business under the act of August 13, 1894, and must file with the Secretary of War a copy of such authority (A. R. 574). Stockholders who are not officers of a corporation may be accepted as sureties for such corporation (A. R. 571), but officers of a corporation may not, and a director of a corporation is held to be an officer thereof. (Cir. 3, C. of E., 1899, modified to date.)

289. Corporations; authority of officers to sign.—A large proportion of contracts made with incorporated companies by officers of the Corps of Engineers and agents of the United States

employed under the Engineer Department, when forwarded for approval, are found to be defective in the evidence of the authority of the officers signing on behalf of the particular contracting company to bind their principal, and the approval of the Chief of Engineers is in many cases delayed because it is necessary to return contracts for correction or for additional evidence.

In sending contracts and bonds to incorporated companies for execution, care should be exercised to fully specify the requirements of the War Department in the way of evidence showing the authority of the officials who sign on behalf of the company to bind their principal. Such evidence should be as required by A. R. 558 and 572, and must consist of—

- (a) An extract of so much of the records of the company as is necessary to show the election of the officers executing the contract and bond on behalf of the corporation.
- (b) A copy of the by-law or resolution adopted by the governing body of the corporation, showing the grant of authority to the officials who execute the contract and bond. Enough of the proceedings in this case should be copied to show that the by-law or resolution was adopted.
- (c) The above copies should be certified by the custodian of such records, under the seal of the corporation, to be true copies of the records of the company.

The foregoing evidence should specifically cover *the bond* as well as the contract. The mere certificate of the secretary or other officer of the corporation that the officers were elected and were authorized to sign the contract and bond is not sufficient.

The instructions contained herein are not applicable to surety companies as sureties on bonds which are required by A. R. 573 to qualify before the War Department.

(Cir. 23, C. of E., 1902, modified to date.)

290. General provisions.—All contracts and papers connected therewith will be made on the printed forms authorized by the Secretary of War and furnished by this office (A. R. 553; E. R. 38); they will be made in the name of and signed by the officer designated to perform this duty (A. R. 554), and will be executed in triplicate, the copies being disposed of as prescribed (A. R. 559). They (emergency contracts excepted) require the approval

of the Chief of Engineers (A. R. 560). Contracts will be accompanied by a copy of the advertisement and a certificate of its due publication. (Cir. 3, C. of E., 1899, corrected to date.)

291. Copies for Auditor and Returns Office.—All contracts shall be deposited in the office of the Auditor for the War Department (* * * Comptroller of the Treasury) within ninety days after their respective dates (R. S. 3743); shall be reduced to writing and signed by the contracting parties with their names at the end thereof, and a copy shall be filed by the officer signing the same in the Returns Office within thirty days after the contract is made, together with certain papers relating thereto (R. S. 3744; A. R. 561); an affidavit of prescribed form shall be attached to the copy filed in the Returns Office (R. S. 3745), and any officer failing to comply with the last two named sections shall be deemed guilty of a misdemeanor (R. S. 3746). Officers authorized to make contracts shall be furnished with instructions and blank forms of contracts and the affidavit thereto (R. S. 3747). (Cir. 3, C. of E., 1899.)

292. First-impression copies for Auditor.—The copy of the contract intended for the Auditor must be a first-impression copy, not a carbon copy. (Cir. 11, C. of E., 1903.)

293. Hectograph impressions.—Hectograph impressions will not be used in contracts or other cases where permanence is desired. (Cir. 12, C. of E., 1887.)

294. Disposition of contracts for lease or hire.—Contracts for lease or hire must be disposed of as other contracts and not attached to vouchers. (Cir. 43, C. of E., 1905.)

295. Citations and cross references:

(a) For general provisions regarding formal contracts, see A. R. 553-564,—Par. 556 amended by G. O. 135, W. D., 1905.

(b) The Division Engineer to familiarize himself with the details of existing contracts, and to supervise work thereunder. (G. O. 9, C. of E., 1901,—§ 107.)

(c) As to certificates of inspectors and disbursing officers on vouchers for payments on formal contracts, see Cir. 22, C. of E., 1897,—§ 322.

(*d*) Contracts for supplies for the Army are to be strictly construed. (Par. 5, G. O. 167, W. D., 1905,—§ 248.)

(*e*) As to inspections under contracts for furnishing supplies for the Army, see Pars. 6-8, G. O. 167, W. D., 1905,—§ 249.

(*f*) Every formal or emergency contract must be accompanied by a certificate that the award was made to the lowest responsible bidder for the best and most suitable article or service. (Par. I (*i*), G. O. 4, C. of E., 1901,—§ 259.)

(*g*) For certain decisions of the Comptroller of the Treasury regarding percentages retained from contract payments, see 2 Comp. Dec., 503; 4 do., 687; 10 do., 59, 495; 11 do., 326.

(*h*) For certain decisions of the Comptroller of the Treasury on the general subject of contracts, see 9 Comp. Dec., 93, 391, 423, 443, 470, 645, 700; 10 do., 26, 159, 168, 201, 353, 598; 11 do., 93, 114, 585.

(*i*) Where by supplemental drawings furnished a contractor he is required to furnish stone of specific dimensions, instead of stone of dimensions not specified, as shown in the original drawings on which his bid was made, such supplemental drawings must be held to modify the original contract; and in accordance with a provision therein for allowance where changes are made which increase the cost of the work the contractor is entitled to an extra allowance for dimension stone so furnished, unless the parties agree that no extra allowance shall be made by reason of such change. (6 Comp. Dec., 769.)

(*j*) It is not essential that the requirements of the act of August 1, 1892 (the eight-hour law,—see § 478), be embodied in a contract, the law itself being self-acting. The responsibility rests on contractors to comply with it, irrespective of the terms and conditions of their contracts. The officers who enter into contracts on behalf of the United States are not charged with the duty of enforcing the law with reference to those with whom they contract, the latter being directly responsible in the matter. Any construction by the War Department of the requirements of the act would, if erroneous and not sustained by the courts, be no protection to contractors. (Dig. Op. J. A. G., 1237.)

EMERGENCY CONTRACTS.

296. River and harbor and fortification works.—In connection with river and harbor and fortification works, Form 19*b* will be used as prescribed in G. O. 4, Headquarters Corps of Engineers, 1901,—§§ 251–259. (Par. 2, G. O. 6, C. of E., 1901.)

297. Other works.—In connection with works other than those upon fortifications and for river and harbor improvement, Form 19*b* is intended to be used *in emergencies not allowing time for the preparation and approval of formal contracts* but where the delivery of supplies or performance of nonpersonal service is expected, from the circumstances of the case, to necessarily extend over a considerable period of time. (Par. 3, G. O. 6, C. of E., 1901.)

298. General provisions.—Except as regards newspaper advertising and job printing, emergency contracts and the specifications and advertising deemed necessary therefor do not require the approval of the Secretary of War or Chief of Engineers. In all other respects emergency contracts are subject to the regulations governing formal contracts, except that copies of bids need not be forwarded to the Chief of Engineers unless called for in particular cases. (Par. 7, G. O. 6, 1901, modified by Cir. 31, 1904, C. of E.)

299. Time for completion.—The time fixed for the completion of emergency contracts shall not be waived except with the prior sanction of the Chief of Engineers. (Cir. 10, C. of E., 1902.)

300. Appropriation chargeable to be stated.—In forwarding to this office copies of emergency contracts the letter of transmittal will state the title of the appropriation or appropriations chargeable with the obligation incurred by the contract. (Cir. 11, C. of E., 1901.)

301. Prior authority of Chief of Engineers required when consideration exceeds \$6,000.—Without the prior sanction of the Chief of Engineers, the emergency-contract method of engaging supplies or services and the emergency-contract form, 19*b*, will not be used when the amount of the proposed contract will be in excess of \$6,000.

In cases when the amount of the proposed contract will be in excess of \$6,000, and the officer in charge of the work believes the emergency-contract method applicable and advisable, authority to employ this method may be requested, setting forth fully all the facts and the reasons why it is deemed advantageous to enter into emergency contract, and giving the estimated amount of the proposed contract.

(Cir. 7, C. of E., 1903.)

CONTRACTORS' BONDS AND GUARANTIES.

302. Qualified surety companies.—Lists showing surety companies which have qualified to do business in the various United States judicial districts are published from time to time in circulars from The Military Secretary's office. (See A. R. 571.)

303. Supplemental contracts; consent of bondsmen.—The following form of consent by bondsmen to supplemental contracts will be used in all cases of supplemental contracts where different or additional work is provided for:

We,, bondsmen for the due performance of a contract dated....., between the United States represented by....., Corps of Engineers, U. S. Army, and, for....., hereby give our full consent to the supplementary articles of agreement, dated....., providing for, and we hereby agree that our bond shall apply to and cover the due performance of the original contract as modified and extended by said supplemental contract.

In presence of—

..... as to [SEAL.]
 as to [SEAL.]

(Cir. 10, C. of E., 1898.)

304. Rights of contractors' creditors to sue on bond:

AN ACT to amend an act approved August thirteenth, eighteen hundred and ninety-four, entitled "An act for the protection of persons furnishing materials and labor for the construction of public works."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act entitled "An

act for the protection of persons furnishing materials and labor for the construction of public works," approved August thirteenth, eighteen hundred and ninety-four, is hereby amended so as to read as follows:

"That hereafter any person or persons entering into a formal contract with the United States for the construction of any public building, or the prosecution and completion of any public work, or for repairs upon any public building or public work, shall be required, before commencing such work, to execute the usual penal bond, with good and sufficient sureties, with the additional obligation that such contractor or contractors shall promptly make payments to all persons supplying him or them with labor and materials in the prosecution of the work provided for in such contract; and any person, company, or corporation who has furnished labor or materials used in the construction or repair of any public building or public work, and payment for which has not been made, shall have the right to intervene and be made a party to any action instituted by the United States on the bond of the contractor, and to have their rights and claims adjudicated in such action and judgment rendered thereon, subject, however, to the priority of the claim and judgment of the United States. If the full amount of the liability of the surety on said bond is insufficient to pay the full amount of said claims and demands, then, after paying the full amount due the United States, the remainder shall be distributed pro rata among said interveners. If no suit should be brought by the United States within six months from the completion and final settlement of said contract, then the person or persons supplying the contractor with labor and materials shall, upon application therefor, and furnishing affidavit to the Department under the direction of which said work has been prosecuted that labor or materials for the prosecution of such work has been supplied by him or them, and payment for which has not been made, be furnished with a certified copy of said contract and bond, upon which he or they shall have a right of action, and shall be, and are hereby, authorized to bring suit in the name of the United States in the circuit court of the United States in the district in which said contract was to be performed and executed, irrespective of the amount

in controversy in such suit, and not elsewhere, for his or their use and benefit, against said contractor and his sureties, and to prosecute the same to final judgment and execution: *Provided*, That where suit is instituted by any of such creditors on the bond of the contractor it shall not be commenced until after the complete performance of said contract and final settlement thereof, and shall be commenced within one year after the performance and final settlement of said contract, and not later: *And provided further*, That where suit is so instituted by a creditor or by creditors only one action shall be brought, and any creditor may file his claim in such action and be made party thereto within one year from the completion of the work under said contract, and not later. If the recovery on the bond should be inadequate to pay the amounts found due to all of said creditors, judgment shall be given to each creditor pro rata of the amount of the recovery. The surety on said bond may pay into court, for distribution among said claimants and creditors, the full amount of the sureties' liability, to wit, the penalty named in the bond, less any amount which said surety may have had to pay to the United States by reason of the execution of said bond, and upon so doing the surety will be relieved from further liability: *Provided further*, That in all suits instituted under the provisions of this act such personal notice of the pendency of such suits, informing them of their right to intervene as the court may order, shall be given to all known creditors, and in addition thereto notice of publication in some newspaper of general circulation, published in the State or town where the contract is being performed, for at least three successive weeks, the last publication to be at least three months before the time limited therefor."

Approved, February 24, 1905.

(Cir. 7, C. of E., 1905; 33 Stats., 811.)

305. When bonds are required.—Without reference to the amount of the consideration of the contract, bonds will be required with all contracts involving the *performance of nonpersonal service* in the construction or repair of public buildings and public works. Bonds will also be required for the faithful performance of all contracts for supplies or service when the consideration is \$5,000 or

more and the contract can not be fully performed within sixty days from its date. (Par. 4, G. O. 6, C. of E., 1901; Par. 2, G. O. 6, C. of E., 1905.)

306. When bonds may be waived.—Except as required by § 305, bonds may be waived in the discretion of the disbursing officer. (Par. 2, G. O. 6, C. of E., 1905.)

307. Meaning of term “supplies.”—The term “supplies” as used in § 305 is intended to include all articles and materials required to be purchased from public funds for the public service. (Par. 8, G. O. 6, C. of E., 1901.)

308. Citations and cross reference:

(a) For general provisions regarding contractors' bonds, see A. R. 567-579.

(b) A lowest bidder failed to furnish a guaranty, one for \$500 being specifically required in the instructions to bidders, but submitted his certified check, adding to his proposal and signing the following statement: “In lieu of above we submit certified check to the amount of guaranty.” The instructions specified the terms to be embodied in the guaranty and the certified check was submitted in lieu of such guaranty. It could therefore be applied to securing the United States under the conditions specified and should be treated as a substantial compliance with the provisions of A. R. 533. (Dig. Op., J. A. G., 878.)

(c) Where, at the end of the ten days specified in his guaranty, the accepted bidder had failed to enter into the contract, the liability of the guarantors had attached, and, the public interests not being prejudiced, the contract might legally be entered into with one of the guarantors as an open-market transaction in which he takes the risk on his own account at the rate proposed in the bid. (Dig. Op., J. A. G., 875.)

(d) Where individuals are offered as sureties on contractors' bonds, their financial status to be carefully investigated before acceptance. (Par. 4, G. O. 167, W. D., 1905,—§ 247.)

(e) Under the provisions of R. S. 3739, 3740, and 3741, a Member of Congress may be lawfully accepted as a surety on the bond of a contractor with the United States. (Cir. 22, C. of E., 1885; 18 Op. A. G., 286.)

(f) If after the execution of a bond a material change be made in the name or description of the principal, by erasure, interlineation, or otherwise, without the assent of the sureties or a surety, even though such change be made to correct a mistake, the surety or sureties not consenting will be released. Where the name of one of two sureties is erased and a new surety is substituted without the consent of the remaining surety, the written assent of the latter to the erasure and substitution should be obtained. (Dig. Op., J. A. G., 555.)

(g) Where a corporation is principal in a bond given to the United States its full legal corporate name should be expressed. Thus, where the laws of the State in which such a corporation was created required that the name of a corporation should always include the name of the city or county in which it was formed, and a corporation obligor had been incorporated as "The . . . Company of Baltimore City," the bond was incomplete unless this addition was set forth and the instrument executed accordingly. (Dig. Op., J. A. G., 546.)

(h) Where a corporation is named as principal in a bond, its corporate name and seal (if it has one) should be affixed by the officer having authority to do so. (Dig. Op., J. A. G., 547.)

(i) The sureties of the contractor who has abandoned his contract are not entitled to receive the unpaid balance of the contract price for completing the work under the contract. (4 Comp. Dec., 611.)

(j) Where a contractor, having failed to complete the work provided for in the contract with him, died, and the contract has not been annulled or rescinded, the sureties are authorized to complete it; but there is no authority to pay to them percentages retained from payments made to the contractor,

nor to pay them for work which they may do, except upon an adjustment of all equities of the decedent. (8 Comp. Dec., 552.)

(*k*) A contractor having failed to complete the work provided for in the contract with him, a supplemental contract may be entered into with him and his sureties by which it may be provided that the work shall be completed by the sureties and payment made to them therefor, and also, from the amounts retained from payments made to the original contractor, for any excessive cost thereof, less the amount of any damages suffered by the Government. (9 Comp. Dec., 43.)

CHAPTER IX.

MONEY ACCOUNTABILITY.

Subchapter 1.—RENDITION OF ACCOUNTS.

309. General citations and cross reference:

(a) For general provisions regarding the rendition of money accounts, see E. R. 21-24, 26, 27, 33.

(b) The Chief of Engineers to supervise all disbursements by officers of the Corps, and his approval, so far as relates to the necessity or expediency of the expenditures, and the prices paid, to be final. (E. R. 1.)

(c) Officers or troops of the Corps of Engineers detached from the command of the Chief of Engineers will continue to conform to the regulations of the Engineer Department in regard to the rendition of accounts. (A. R. 1524.)

(d) Reports of changes among employees to be made in connection with the money accounts and forwarded to the Chief of Engineers under the same cover. (Cir. 11, C. of E., 1898,—§ 472.)

310. General provisions as to rendering accounts.—Commencing with an assignment to a new station, each disbursing officer not under bond will keep and render each account so as to show the particular station and duty to which the account pertains.

Upon being relieved from duty at a station, he will either transfer to his successor, or deposit in some United States designated depository to the credit of the United States, the unexpended balance of public funds remaining in his hands or standing to his credit in a depository, close his accounts, and make final returns, marking the same—

“Final accounts at _____ station.”

Upon being transferred to another station, the officer will open new accounts entirely separate and distinct from previous accounts, and continue the same as required by law and regulations so long as he remains on duty at such new station.

In submitting explanations to suspended items or in deposits of balances, or deposits to cover disallowed items, reference will be made to the particular accounts (naming the station or period) to which the explanations or deposits pertain.

If a disbursing officer remain at the same station four years or more, he will, on the 30th day of June next following the termination of the four-year period, close his accounts and open new ones, as required in cases of change of station.

The fact that an officer may be required to receive and disburse the same appropriations at his new station that he disbursed at his old one will not relieve him from the duty of closing his accounts as herein required.

In settling accounts which have been segregated as required above, the settlements by the accounting officers will be kept separate and distinct, by stations or periods, as the case may be, and will be stated as from the date of entrance on duty at a station or beginning of a period to the date of the last accounts considered in each settlement.

When an officer closes his accounts and opens new ones he should deposit his unexpended balance and not carry the same forward into his new accounts.

(Cir. 1, C. of E., 1899.)

311. Time of rendition and transmittal of accounts.—All monthly accounts shall be mailed or otherwise sent to the proper officer at Washington within ten days after the end of the month to which they relate, and quarterly and other accounts within twenty days after the period to which they relate, and shall be transmitted to and received by the Auditors within * * * [sixty] days of their actual receipt at the proper office in Washington in the case of monthly [accounts covering expenditures from appropriations for the army,] and sixty days in the case of quarterly and other accounts. Should there be any delinquency in this regard at the time of the receipt by the Auditor of a requis-

tion for an advance of money, he shall disapprove the requisition, which he may also do for other reasons arising out of the condition of the officer's accounts for whom the advance is requested; but the Secretary of the Treasury may overrule the Auditor's decision as to the sufficiency of these latter reasons: *Provided*, That the Secretary of the Treasury shall prescribe suitable rules and regulations, and may make orders in particular cases, relaxing the requirement of mailing or otherwise sending accounts, as aforesaid, within ten or twenty days, or waiving delinquency, in such cases only in which there is, or is likely to be, a manifest physical difficulty in complying with the same, it being the purpose of this provision to require the prompt rendition of accounts without regard to the mere convenience of the officers, and to forbid the advance of money to those delinquent in rendering them: *Provided further*, That should there be a delay by the administrative departments beyond the aforesaid twenty or sixty days in transmitting accounts, an order of the President in the particular case shall be necessary to authorize the advance of money requested: *And provided further*, That this section shall not apply to accounts of the postal revenue and expenditures therefrom, which shall be rendered as now required by law.

The Secretary of the Treasury shall, on the first Monday of January in each year, make report to Congress of such officers as are then delinquent in the rendering of their accounts or in the payment of balances found due from them for the last preceding fiscal year. Sections two hundred and fifty and two hundred and seventy-two of the Revised Statutes are repealed.

Section thirty-six hundred and twenty-two of the Revised Statutes is amended by striking therefrom the following words: "The Secretary of the Treasury may, if in his opinion the circumstances of the case justify and require it, extend the time hereinbefore prescribed for the rendition of accounts."

(Sec. 12, Act of July 31, 1894,—28 Stat., 209,—modified by Act of March 2, 1901,—31 Stats., 910; Cir. 4, C. of E., 1894, modified to date.)

(a) *Citation*: Disbursing officers to render their accounts monthly. (A. R. 631.)

312. Accounts current.—Two copies of the account current will be made out so as to show the transactions under allotments as well as under appropriation titles, while the third copy (for use of the Auditor) will show the transactions consolidated under appropriation titles. (G. O. 2, C. of E., 1906.)

313. Minus balances in accounts current.—Disbursements on account of any appropriation in excess of the amount in the hands of the disbursing officer under such appropriation are prohibited. Minus balances under allotments from an appropriation, so long as the account shows a balance on hand in the total column of the appropriation are authorized when there are sufficient funds in the Treasury on account thereof to cover the overdrafts. (Par. 4, Cir. 3, C. of E., 1904.)

314. Citation and cross reference:

(a) For general provisions regarding the rendition of accounts current, see A. R. 630-633.

(b) As to the extent to which allotments from appropriations for fortification work may be consolidated in duplicate accounts current, see Par. 3, Cir. 18, C. of E., 1903,—§ 40.

315. Abstracts of disbursements.—The abstracts of disbursements will conform to the Auditor's copy of the account current. (G. O. 2, C. of E., 1906.)

VOUCHERS.

316. Evidence of proper payment of vouchers.—Vouchers must be stated in the name of the person, firm, company, or corporation rendering the service or furnishing the articles for which payment is made.

If the payee be a partnership, the receipt to the voucher should be signed in the usual firm signature; if an incorporated or unincorporated company, the receipt should be in the company name, followed by the autograph signature of the officer (with his title) authorized to receive the money and receipt therefor.

Evidence of the authority of the officer receipting for an incorporated or unincorporated company must accompany the voucher,

or be on file, unless the payment is made by a check drawn on a United States depository *to the order of the company*, and that fact, with the date and number of the check and name of the depository, is stated on the voucher.

When a disbursing officer is satisfied that an attorney, agent, or officer is authorized to receipt for his principal, whether an individual, firm, company, or corporation, the receipt of the principal by the attorney, agent, or officer will be sufficient, without proof of authority accompanying the voucher, provided that payment is made by a check drawn on a United States depository and *payable to the order of the principal*, and the memorandum required in the preceding paragraph is made upon the voucher.

All vouchers for services or supplies must contain a certificate of the proper officer that the services have been rendered, and in case of supplies, that they have been delivered and show by whom received.

These regulations will not affect any additional regulations of the several Departments, but are intended as a statement of the requirements of the accounting officers as proof that payments are made to the proper persons.

(Treasury Department Cir. 52, 1903, containing regulations of the Comptroller of the Treasury, published in Cir. 6, C. of E., 1903.)

317. Receipt of employee for supplies purchased.—The employee who receives supplies on behalf of the United States will be required to acknowledge their receipt by his signature on the bills attached to the vouchers, the signature to be followed by the employee's pay-roll designation. In addition, the officer's or agent's certificate on the voucher must show that the articles have been delivered. (Cir. 9, C. of E., 1903.)

318. Duplicate affidavits.—It is not necessary in making affidavits in support of vouchers filed with the accounts and returns of disbursing officers of the Army that they be taken *in duplicate* when an extra expense to the United States is incurred thereby, a certified copy being sufficient for file with the officer's retained papers. (Par. 1, Cir. 27, A. G. O., 1897.)

319. Relevancy of certificates.—Papers pertaining to money accounts must be prepared in such a way as to show clearly for what the United States is indebted, and all but appropriate certificates should be stricken out from the printed forms. (Cir. 6, C. of E., 1898.)

320. Certificates on copies attached to vouchers.—Copies of papers filed in support of vouchers must be certified to be true copies by a disinterested officer or employee. Where such papers refer to the transfer of title to lands purchased by the United States, the copies must be certified by some officer of the Army other than the disbursing officer claiming credit on the voucher. (Cir. 22, C. of E., 1903.)

321. Statement of method of purchase, etc.—Every voucher for supplies or nonpersonal services must have expressed on its face, immediately below the statement of the account, the mode of procurement, using therefor one of the following notations:

1. Under formal contract, dated19....
2. Under emergency contract, dated19....
3. Under written notice, dated19....
4. Under oral agreement without advertising.

(Par. I (*m*), G. O. 4, C. of E., 1901.)

322. Certificate on vouchers for contract payments.—Where contracts for material, supplies, or services of any nature, provide that the articles or services contracted for shall be subject to inspection by an inspector for and on behalf of the United States, such inspector's certificate should be filed in support of each voucher for payment on such contract, and in addition thereto the voucher for final payment should bear the certificate of the paying officer (or whomsoever the contract provides shall be authorized to certify satisfaction and acceptance) that the contract has been complied with in accordance with its terms or specifications, and that the articles or services contracted for have been accepted as satisfactory by him on behalf of the United States. (Cir. 22, C. of E., 1897.)

(*a*) *Cross reference:* Penalties on account of extensions of contracts to be deducted from payments to the contractors. (G. O. 2, C. of E., 1892,—§ 284.)

323. Under written notice; certificates.—In all cases of the purchase of supplies or procurement of nonpersonal services, “under written notice,” the voucher should contain a certificate that the award was made to the lowest responsible bidder for the best and most suitable article or service. Where the appropriation involved is for rivers and harbors or for fortifications, the following additional certificate should appear: “The mode adopted was that deemed most economical and advantageous to the United States.” (Cir. 6, C. of E., 1906.)

324. Under oral agreement; certificates.—When the mode of procurement is under “Oral agreement without advertising” one of the following certificates must be used:

1. Under an exigency requiring immediate delivery (or performance) existing at the time of purchase (or engagement) which would not admit of delay incident to advertising.

2. Competition impracticable because of —.

3. No proposals received in response to advertisement.

4. Proposals received in response to advertisement rejected as excessive or otherwise unreasonable.

5. That the method of purchase or procurement adopted was that deemed most economical and advantageous to the United States.

The fifth certificate is applicable only in the case of expenditures from appropriations for rivers and harbors or fortifications.

(Par. I, Cir. 21, W. D., 1905, and G. O. 5, C. of E., 1905.)

325. Citation or authorities.—A certified copy of a letter of authority or approval must be attached to the first voucher in which the expenditure appears, and in case of a subsequent expenditure under the same authority or approval, reference will be made to the first voucher, and the Engineer Department file marks of the papers granting the authority or giving the approval will also be noted. (Par. 2, G. O. 2, C. of E., 1892.)

326. Payments from different appropriations or allotments.—When a voucher pertains to more than one appropriation or more than one allotment the amount chargeable to each should appear on its face. The voucher brief should show the amount

chargeable to each appropriation, but the distribution among allotments may be omitted from the brief. (G. O. 2, C. of E., 1906.)

327. Numbering of vouchers.—The vouchers for each month must be numbered in one series instead of separate series for each appropriation. (Cir. 1, C. of E., 1894.)

328. Cost of subsistence of employees to be shown on pay rolls.—Officers will show, on all pay rolls and other vouchers covering payments to employees for whom board was paid or subsistence furnished, the cost of same, or the cost that was not exceeded, and the Engineer-Department authority therefor. The names of employees furnished with board or subsistence should be indicated by a letter or other character, referring to a note on the face of the voucher which should state that board or subsistence had been furnished by the United States with cost per day (or month). A copy of the authority for furnishing board or subsistence should be attached to the first voucher, rendered in accordance with the requirements of this paragraph, and reference made thereto on subsequent vouchers. (Cir. 17, C. of E., 1903.)

329. Citations and cross references:

(a) For general provisions regarding the preparation of vouchers, see A. R. 635-656,—Par. 637 amended by G. O. 194, 1905, and by G. O. 11, 1906, W. D.

(b) As to the acceptance of certified copies in lieu of original vouchers which can not be furnished, see E. R. 41.

(c) The absence of vouchers from the account to which they belong to be explained. (E. R. 42.)

(d) The bill of lading should be furnished with accounts for transportation transmitted to the Treasury Department, or its absence satisfactorily accounted for. (Par. 9, Cir. 8, C. of E., 1899,—§ 220.)

(e) For directions of the Comptroller of the Treasury as to accounts for transportation by freight or express, see Cir. 8, C. of E., 1899,—§§ 214-224, 226, 227.

(f) As to certificate required on vouchers for mileage on account of journeys performed without previous orders, see E. R. 5.

(g) The authority of the Chief of Engineers is required for travel by civilian employees beyond the limits of the district in which they are employed, and a certified copy of the authority or approval of the Chief of Engineers should be attached to the travel-expense voucher. (Cir. 14, C. of E. 1904,—§ 200.)

(h) As to the method of computing the number of days in a month worked by per-diem employees, and as to the method of determining their rate of compensation, see Cir. 18, C. of E., 1888,—§§ 349, 479.

(i) The provision in the act of April 28, 1904 (33 Stats., 513), for computing payments of annual or monthly compensation of officers, agents, and employees of the United States has no application to contracts for the payment of monthly rental for leased premises. The word "month," when used in a contract, in the absence of an expressed intention to the contrary, means a "calendar" month, and a "calendar month" is a month as expressed in the calendar, regardless of the number of days it may contain. (11 Comp. Dec., 494.)

(j) As to method of settling accounts for advertising in newspapers, see A. R. 505-508.

(k) Before disbursing officers can be allowed credit for payment of bills for publishing advertisements, there must be presented with each voucher a properly certified copy of the written authority for the publication. (Cir. 6, W. D., 1905.)

(l) Accounts for advertising to be submitted for audit as soon as practicable after their receipt from the publisher. (Cir. 2, C. of E., 1902,—§ 269.)

(m) Vouchers for printing and advertising to be sent to the Chief Clerk of the War Department for approval. (Cir. 10, C. of E., 1897,—§ 506.)

(n) Although an officer or employee may be unable to receipt for his salary, there is no authority of law for its payment to his wife upon her receipting in his name. (1 Comp. Dec., 268.)

(o) Under the act of March 3, 1875, an officer or employee is entitled to reimbursement for such traveling expenses only as have been actually incurred by him in traveling upon

public business, and to enable the accounting officers to determine what expenses have been so incurred the expenses must be itemized and supported by subvouchers where practicable. (5 Comp. Dec., 369.)

REPORTS OF OPEN-MARKET PURCHASES.

330. How to be rendered.—Reports of open-market purchases will be rendered as prescribed in A. R. 552. (Par. I(n), G. O. 4, C. of E., 1901, modified to date.)

331. What items to be included.—In the preparation of open-market emergency reports, as required by A. R. 552, only purchases made on same date which aggregate more than \$200 will be included.

Should a voucher aggregating more than \$200 be made up of items purchased *on different dates*, the total purchase on any date not exceeding the prescribed amount, such purchases should not be included in the report.

(Cir. 17, C. of E., 1901.)

332. To contain explanations of delays in payment.—Officers are enjoined to make prompt payment of all liabilities; when bills for emergency purchases are not paid within the month following that in which the debt was contracted, an explanation will be entered on the list of open-market purchases, giving the reasons why payment was not made at an earlier date. (Cir. 7, C. of E., 1895.)

333. To show why competition is impracticable.—A brief explanation should be made of the circumstances which render competition impracticable when that is the reason given for using this method of purchase. (Cir. 29, C. of E., 1904.)

Subchapter 2.—MISCELLANEOUS SUBJECTS.

334. Authority to hold funds in personal possession.—Officers desiring authority to hold outside the designated depositories, and at their own risk, a portion of the funds intrusted to their charge, will make application through the Chief of Engi-

neers, stating the maximum amount to be so held, in order that special authority from the Secretary of the Treasury may be obtained in each case. Sums so kept shall be shown on the accounts current, with the date of authority therefor. (Cir. 3, C. of E., 1892, modified to date.)

Citations:

(a) The object or purpose to which the proceeds are to be applied in case of any check drawn by a disbursing officer of the Army for an amount to be retained in his possession by authority of the Secretary of War under A. R. 586, or by any disbursing officer given such special authority by the Secretary of the Treasury under the provisions of R. S., 3620, must be clearly indicated by a statement on the check that it is to obtain cash to hold in personal possession, and date of authority to so hold funds given. (Par. II, G. O. 81, A. G. O., 1899.)

(b) For authority to disbursing officers of the War Department stationed in Alaska to hold funds in their personal possession, see G. O. 120, W. D., 1905.

335. Statements of balances in the Treasury.—Each officer having river and harbor accounts is directed to forward annually a statement showing the balance in the Treasury, according to the books in his office, on December 31, of each river and harbor appropriation, and of each allotment accounted for thereunder, including allotments for operating and care of canals and removing sunken vessels. Each appropriation carried in accounts should be included in the list, whether there is a balance in the Treasury or not, and the paper should be mailed not later than January 20.

In determining the balance all estimates should be charged on which requisitions have been issued by this office on or before December 31, and all deposits made by the same date should be credited.

(Cir. 25, C. of E., 1903.)

336. Lists of depositories.—Lists of depositories of public moneys are issued from time to time in circulars from The Military Secretary's office. (See A. R. 582.)

ESTIMATES OF FUNDS.

337. Excessive balances in hand to be avoided.—A. R. 581 requires that funds placed in the hands of disbursing officers be limited to their needs for a brief period, which is construed to mean one month or less. Officers should not submit excessive estimates, as such action will only delay the remittance of funds urgently needed. (Cir. 3, C. of E., 1904.)

338. Balance of funds in hand to be shown.—Officers will state, on the briefing fold of the estimate of funds, the balance of funds remaining to their credit in each depository, on the date of submitting the estimate. (Cir. 21, C. of E., 1899.)

339. Estimates for fortification funds.—In submitting estimates of funds from fortification appropriations to be placed to the official credit of officers, each allotment from which funds are desired should be designated by a statement of the date on which, the act from which, and the purpose for which, the allotment was made, in addition to the title of appropriation. (Par. 5, Cir. 18, C. of E., 1903.)

DEPOSITS.

340. Fortification funds.—When unexpended balances pertaining to a fortification appropriation are deposited to the credit of the Treasurer of the United States, the Chief of Engineers should be immediately informed of the fact by letter; the letter should give the date of each allotment to which the funds deposited pertain, the act from which the funds were allotted, and the purpose for which allotted. As soon as the work under any allotment is completed, the balance of the allotment should be *at once* deposited to the *credit of the appropriation*. (Par. 6, Cir. 18, C. of E., 1903.)

(a) *Citation:* As to information to be furnished to chief of bureau when any deposit of funds is made, see A. R., 613.

341. Citations:

(a) Unexpended balances of annual appropriations to be returned to the Treasury within three months after the close of the fiscal year; accounts outstanding for a longer period to

be adjusted by the accounting officers of the Treasury. (G. O. 73, W. D., 1903.)

(b) Vouchers for services or supplies furnished by one Department, bureau, or office to another Department, bureau, or office must be sent directly to the Treasury Department for settlement, or the amount deposited to the credit of the proper appropriation, taking triplicate certificates of deposit for the same, one of which must accompany the voucher. (Treasury Circular 120, 1887; Cir. 14, A. G. O., 1902; Cir. 9, W. D., 1906.)

(c) As to turning in an old typewriting machine to the manufacturers, the Government to be allowed a certain sum therefor in connection with the purchase of a new machine, and as to the deposit to be made on account of the amount allowed to the United States for the old machine, see Cir. 1, W. D., 1906.

(d) While the transfer of public moneys by one disbursing officer to another is not specifically prohibited by law, a disbursing officer desiring to close his accounts can best accomplish that purpose by depositing the moneys in his possession in a United States depository. (7 Comp. Dec., 373.)

(e) As to direct transfers of funds between officers, see A. R., 598.

(f) Congress is vested by the Constitution with the exclusive power of disposition of the personal as well as the real property of the United States; and by R. S. 3618 Congress has provided generally that the proceeds of sales of personal property of the United States shall be paid into the Treasury as "miscellaneous receipts." The various funds received at military posts, on military reservations, or otherwise, as compensation for public property occupied, sold, or allowed to be used or appropriated, or for labor furnished, or privileges or facilities conceded, etc., are public money of the United States, to be accounted for to the Treasury, and could not be legally retained as a so-called "slush fund" or disbursed for the use or benefit of the post or command. The proceeds of all *public property* of any material value, including all moneys exacted or received from civilians, are to be turned into the Treasury;

otherwise to dispose of them is embezzlement. (Dig. Op. J. A. G., 2083.)

STATEMENTS OF DIFFERENCES.

342. Copies of statement and reply for Chief of Engineers.—When a “statement of differences” is received from the Auditor, by an officer or agent disbursing public money under the Chief of Engineers, he will, with as little delay as practicable, transmit to the Chief of Engineers a certified copy of that “statement,” together with a copy of his reply. (Cir. 24, C. of E., 1885.)

CLAIMS FOR REIMBURSEMENT.

343. To be allowed only in certain cases.—If the exigencies of the service demand that a civilian employee make small expenditures, he should take a receipt showing that he actually paid the money and for what purpose, and this receipt should be filed with the voucher for reimbursement.

Reimbursement vouchers of this character will be admitted only when the employee expended money at isolated places, or at points far remote from the station of a disbursing officer, and when supported by special vouchers in the form of receipts, showing that the party claiming reimbursement has actually paid the amount claimed.

The foregoing does not in any way relate to authorized expenses of a civilian employee when traveling under competent authority. (Cir. 6, C. of E., 1900.)

(a) *Citation:* An officer or employee who makes an expenditure from his own funds for a necessary expense of the Government is entitled to reimbursement therefor. (8 Comp. Dec., 43.)

FEEES FOR OATH IN VERIFICATION OF ACCOUNT.

344. Notaries and justices of the peace.—When an account, or voucher in an account, is required by law or regulations to be verified by the oath of an officer or employee of the Government, for the cost of which oath said officer or employee is entitled to be

reimbursed, the following list of fees may be allowed, and none other, except in cases where the persons claiming reimbursement shall show that a different fee is prescribed, making specific reference to the statute authorizing the same, to wit:

| | |
|----------------------------|--------|
| Alabama: | |
| Notary | \$0.50 |
| Justice of the peace | .25 |
| Arizona: | |
| Notary | .75 |
| Justice of the peace | .75 |
| Arkansas: | |
| Notary | .50 |
| Justice of the peace | .50 |
| California: | |
| Notary | .50 |
| Justice of the peace | .25 |
| Colorado: | |
| Notary | .25 |
| Justice of the peace | .25 |
| Connecticut: | |
| Notary | .35 |
| Justice of the peace | .10 |
| Delaware: | |
| Notary | .50 |
| Justice of the peace | .25 |
| District of Columbia: | |
| Notary | .50 |
| Justice of the peace | .50 |
| Florida: | |
| Notary | .60 |
| Justice of the peace | .16 |
| Georgia: | |
| Notary | .50 |
| Justice of the peace | .30 |
| Idaho: | |
| Notary | .25 |
| Justice of the peace | .15 |

| | |
|----------------------------|---------|
| Illinois: | |
| Notary | \$0. 25 |
| Justice of the peace | . 35 |
| Indiana: | |
| Notary | . 50 |
| Justice of the peace | . 25 |
| Indian Territory: | |
| Notary | . 25 |
| Justice of the peace | . 25 |
| Iowa: | |
| Notary | . 30 |
| Justice of the peace | . 30 |
| Kansas: | |
| Notary | . 25 |
| Justice of the peace | . 20 |
| Kentucky: | |
| Notary | . 20 |
| Justice of the peace | . 20 |
| Louisiana: | |
| Notary | . 75 |
| Justice of the peace | . 25 |
| Maine: | |
| Notary | . 25 |
| Justice of the peace | . 25 |
| Maryland: | |
| Notary | . 62½ |
| Justice of the peace | . 10 |
| Massachusetts: | |
| Notary | . 25 |
| Justice of the peace | . 25 |
| Minnesota: | |
| Notary | . 25 |
| Justice of the peace | . 30 |
| Michigan: | |
| Notary | . 25 |
| Justice of the peace | . 25 |

| | |
|----------------------------|---------|
| Mississippi: | |
| Notary | \$0. 50 |
| Justice of the peace | . 25 |
| Missouri: | |
| Notary | . 50 |
| Justice of the peace | . 20 |
| Montana: | |
| Notary | . 50 |
| Justice of the peace | . 50 |
| Nebraska: | |
| Notary | . 25 |
| Justice of the peace | . 25 |
| Nevada: | |
| Notary | . 75 |
| Justice of the peace | . 50 |
| New Hampshire: | |
| Notary | . 25 |
| Justice of the peace | . 25 |
| New Jersey: | |
| Notary | . 32 |
| Justice of the peace | . 32 |
| New Mexico: | |
| Notary | . 50 |
| Justice of the peace | . 25 |
| New York: | |
| Notary | . 12 |
| Justice of the peace | . 10 |
| North Carolina: | |
| Notary | . 50 |
| Justice of the peace | . 25 |
| North Dakota: | |
| Notary | . 25 |
| Justice of the peace | . 25 |
| Ohio: | |
| Notary | . 40 |
| Justice of the peace | . 40 |
| | |
| | |

| | |
|----------------------------|--|
| Oklahoma: | |
| Notary | \$0. 25 |
| Justice of the peace | . 35 |
| Oregon: | |
| Notary | 1. 00 |
| Justice of the peace | . 25 |
| Pennsylvania: | |
| Notary | . 25 |
| | (In Allegheny County the fee is \$1; in Bedford, Berks, Blair, Cameron, Center, Clinton, Columbia, Dauphin, Delaware, Fulton, Lancaster, Lebanon, Luzerne, Lycoming, Montour, Northampton, Snyder, Somerset, Westmoreland, and Wyoming counties, and in Philadelphia City and County, \$0.37½; in Erie, Schuylkill, and York counties, \$0.31½.) |
| Justice of the peace | . 25 |
| Rhode Island: | |
| Notary | . 25 |
| Justice of the peace | — |
| South Carolina: | |
| Notary | . 25 |
| Justice of the peace | . 30 |
| South Dakota: | |
| Notary | . 25 |
| Justice of the peace | . 25 |
| Tennessee: | |
| Notary | . 50 |
| Justice of the peace | . 30 |
| Texas: | |
| Notary | . 25 |
| Justice of the peace | . 25 |
| Utah: | |
| Notary | . 50 |
| Justice of the peace | . 25 |
| Vermont: | |
| Notary | . 25 |
| Justice of the peace | — |
| Virginia: | |
| Notary | . 25 |
| Justice of the peace | . 25 |

| | |
|--|---------|
| Washington: | |
| Notary | \$0. 50 |
| Justice of the peace | . 25 |
| West Virginia: | |
| Notary | . 25 |
| Justice of the peace | . 20 |
| Wisconsin: | |
| Notary | . 25 |
| Justice of the peace | . 25 |
| Wyoming: | |
| Notary | . 50 |
| Justice of the peace | . 10 |
| (Cir. 36, 1905, modified by Cir. 18, 1906, C. of E.) | |

345. Fees of United States commissioners.—A United States commissioner is entitled to such fees *only* as are prescribed by law. The act approved May 28, 1896, fixes the fee of a commissioner for administering an oath at 10 cents, making no provision for a jurat or seal. (Cir. 18, C. of E., 1899.)

346. Citation:

United States commissioners are not required by law to have official seals, and oaths administered by them to officers of the Government in verification of their accounts for expenses are valid without attestation by seal. (8 Comp. Dec., 575.)

347. To be included in account to which oath is made.—In all cases where an officer or employee is required to swear to his account he should pay the cost thereof and include the same in his account and thus avoid the danger of duplicate charges and a multiplication of accounts. (Cir. 18, C. of E., 1899.)

COMPENSATION TO EMPLOYEES.

348. Payment of salaries.—Section 4 of the act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1905, and for other purposes, provides—

That the annual compensation of officers, agents, and employees of the United States for services rendered subsequent to June

thirtieth, nineteen hundred and four, shall be divided into twelve equal installments, one of which shall be the pay for each calendar month; and in making payments for a fractional part of a month, one-thirtieth of one of such installments, or of a monthly compensation, shall be the rate to be paid for each day. For the purpose of computing such compensation each and every month shall be held to consist of thirty days, without regard to the actual number of days in any month, thus excluding the thirty-first day of any month from the computation and treating February as if it actually had thirty days.

This act becomes operative relative to payments for all services rendered after July 1, 1904, and applies only to annual and monthly compensations; per-diem compensations will be paid as heretofore.

In case of annual compensations one-twelfth of each said compensation will be paid for each full calendar month's service rendered by the same person, without regard to the actual number of days in said month.

For the purposes of payment of annual or monthly compensations, where there is no break of service, the 31st day of any month will be treated as *dies non*. The last day of February will be counted as three days and in leap year as two days.

In making payments for a fractional part of a month, where service has been performed therein by two or more persons holding the same office or place, one-thirtieth of one month's installment of annual compensation, or of any monthly compensation, shall be the rate to be paid for each day of service, except for the 31st day of any month, for which nothing can be paid, provided the full salary is taken up in making payments for service accruing before the 31st.

To illustrate: A person serving during the whole of a thirty-one-day month will receive the full monthly salary and no more or the one-twelfth of an annual salary and no more.

A person serving during the whole of February, a twenty-eight-day month, shall likewise receive the full monthly salary, or the one-twelfth of the annual salary.

A person appointed on the 31st day of a month will receive no salary or compensation for said day's service if the full salary has been earned by his predecessors.

A person serving from the 1st to and including the 15th day of February will receive the fifteen-thirtieths of a month's salary.

A person succeeding him on the 16th day of February and holding until and including the 28th day of February will receive thirteen-thirtieths of a month's salary, and in leap year fourteen-thirtieths, if he serves on the 29th.

(Treas. Dept. Cir. 46, 1904, published in Cir. 23, W. D., 1904; A. R. 655.)

(a) *Citation:* The payment of monthly or annual compensation under appropriations contained in army appropriation acts is governed by the same principles, as to fractional parts of a month, as prescribed in the sundry civil appropriation act approved April 28, 1904.—33 Stats., 513. (Cir. 33, W. D., 1904.)

349. Method of computing wages earned.—“Employees who are paid days' wages for days' work” shall be hired by the day or hour, but in every case the day shall consist of eight hours only, and in the preparation of the pay rolls the number of days in a month worked by any employee, as above, shall be determined (in the case where he is hired by the hour) by dividing the total number of hours worked in the month by eight. (Cir. 18, C. of E., 1888.)

Citations:

(a) For additional provisions regarding the computation of wages due to per-diem employees, see A. R. 655.

(b) The payment of per-diem employees for days on which the Departments are closed and public work suspended by Executive order is not authorized unless they actually render service on those days. (8 Comp. Dec., 219.)

(c) As to payment of burial expenses of deceased employee and application thereto of amount due him as salary or wages, see Cir. 29, C. of E., 1900; 2 Comp. Dec., 347; 10 do., 845; 11 do., 789.

TELEGRAPH ACCOUNTS.

350. By whom to be settled.—Bills for all official telegraph service will be settled by officers in the same manner as other accounts. (Par. III, Cir. 10, C. of E., 1899, modified to date.)

351. Copies to accompany accounts.—Accounts for telegrams sent must be accompanied by the identical messages filed with the telegraph company for transmission; and those for telegrams received by the impression copies thereof submitted by the telegraph company with its bills. (Par. IV, Cir. 10, C. of E., 1899.)

352. Rates.—Rates of pay for communications on official business by telegraph and cable are published annually in General Orders from The Military Secretary's Office.

353. Cross reference.—As to sending telegrams "Collect" and "Prepaid," see Pars. I and II, Cir. 10, C. of E., 1899,—§§ 13, 14.

PAYMENTS TO OTHERS THAN CREDITORS.

354. Assignments of claims.—When claims or vouchers which have been assigned are presented for payment the holders will be informed that disbursing officers have no authority to make payments to them as assignees, and that payments can only be made the original persons to whom the money is due. (Par. 1, Cir. 13, A. G. O., 1895.)

Citations and cross reference:

(a) As to the attachment or garnishment of funds due creditors of the United States, see § 358.

(b) As to the settlement of accounts of heirs and personal representatives of deceased creditors, see A. R. 656.

(c) Small claims against the United States—usually not exceeding \$100—due to the estates of decedents, will be paid without administration *directly* to such persons as would be the beneficiaries in case of administration (after approval of the accounts by the Comptroller). (4 Lawrence, 1st Comptroller, 255.)

(d) Under a long-established practice of the accounting officers a sum less than \$100 due a deceased officer or employee may (after approval of the account by the Comptroller) be paid to his widow, without letters of administration, upon the production of the evidence required in such cases. (18 Manuscript Decisions of the Comptroller, 722; 3 do., 862.)

MISCELLANEOUS CITATIONS AND CROSS REFERENCES.

355. In general:

(a) For general provisions regarding the money accountability of disbursing officers, see A. R. 580-660.

(b) An officer charged with any work involving the expenditure of money to disburse the money for the same. (E. R. 20.)

(c) For provisions regarding inspections of accounts of disbursing officers, see A. R. 901-903, 909, 910.

(d) Disbursing officers, when they have the money, shall pay cash, and not open an account. (E. R. 32.)

(e) When an officer is relieved from duty on any work, he will certify the outstanding debts, and turn over the funds (unless otherwise ordered) pertaining to the work, to his successor, transmitting an account of the outstanding debts to the Chief of Engineers. (E. R. 31.)

(f) As to action to be taken upon the death of an officer in charge of public property or funds, see A. R. 86.

(g) No obligation to be incurred in any fiscal year in excess of the appropriation for that fiscal year; voluntary service for the Government not to be accepted; expenditures from certain appropriations to be so apportioned at the beginning of each fiscal year by monthly or other allotments as to prevent undue expenditures in one portion of the year that may require deficiency or additional appropriations to complete the service of the fiscal year. (R. S., 3679, amended by deficiency act of March 3, 1905,—33 Stats., 1257—published in Cir. 8, C. of E., 1905,—§ 239.)

(h) No public money to be expended for the erection of permanent buildings of any description until the written opinion of the Attorney-General shall have been obtained announcing the validity of the title to the land in the Government, nor prior to cession of jurisdiction by the State in which the land is situated. (R. S., 355; A. R. 708.)

(i) The employment of counsel at the expense of the United States is under the Department of Justice. Officers employing an attorney or counselor without being specially

authorized to do so will be required to pay the expenses attendant upon such employment. (A. R. 1004, 1005.)

(j) For certain provisions of law regarding the checks of disbursing officers, see R. S., 306, 310, 3620, 3646, 3647, 5488.

(k) The Comptroller of the Treasury is not authorized to render decisions to disbursing officers upon questions of law pertaining to payments which have been made by them. (5 Comp. Dec., 727.)

(l) An officer charged with the duty of safely keeping and paying over public money is not relieved from liability although it is destroyed by fire while in his possession and without negligence on his part. (1 Comp. Dec., 191.)

356. Travel and transportation:

(a) Accounts for transportation over bond-aided and 50-per-cent roads to be adjusted by the accounting officers before payment. (Cir. 16, C. of E., 1889; par. 12, Cir. 8, C. of E., 1899,—§ 223.)

(b) Mileage for travel on fortification or other military business to be paid by the Pay Department. (Cir. 23, C. of E., 1905,—§ 197.)

(c) The traveling expenses of civilian electricians under the direction of the Chief of Artillery not to be paid by the Engineer Department. (Cir. 13, C. of E., 1903,—§ 201.)

357. Damages and repairs to private property by the United States:

(a) The head of an Executive Department is not authorized to pay the actual expenses of repairing a vessel injured in a collision with a Government vessel, the claim arising from the collision being one for unliquidated damages caused by the tort of the Government's officers. (1 Comp. Dec., 261.)

(b) Where an officer hires a boat in making preliminary examinations in connection with river and harbor work, and the same is lost in such work, without fault or negligence on the part of the officer, by an inevitable accident, it is a case of *locatio rei*, and under the law of bailments the United States is not liable for the value of the property lost in the absence

of a contract assuming such responsibility. (2 Comp. Dec., 332.)

(c) A claim for the value of a boat which was stolen while in the possession of an officer of the Army upon hire is a claim for unliquidated damages, which no executive officer is authorized to settle. (4 Comp. Dec., 560.)

(d) The United States is not liable for the loss of a boat hired by one of its officers under an oral contract not providing for such loss. (5 Comp. Dec., 15.)

(e) While repairs to private property are not ordinarily a proper charge against the Government, yet when a public officer deems it expedient and necessary, as a part of the agreement for the hire of a private conveyance, as a horse and wagon, that the Government assume the expense of keeping it in good condition while in use, such an item of expenditure is, under such circumstances, properly payable from the appropriation from which the cost of hiring is payable. (3 Comp. Dec., 196.)

(f) The United States is not liable for the unauthorized acts or laches or negligence of its officers. (6 Comp. Dec., 751.)

358. Attachments:

(a) An attachment can not be enforced against public money in the hands of a disbursing officer of the Government, and he is authorized to pay the Government's creditor without regard to such attempted levy. (1 Comp. Dec., 171.)

(b) It is well settled, upon considerations of public policy, that funds in the possession of a paymaster of the Army or other disbursing agent of the United States, due as pay, salary, or wages, to an officer or soldier of the Army, or other Government employee, can not be attached in a suit instituted against such officer, etc., by a private creditor. Where indeed the pay due has been paid over to a third person as the authorized agent or attorney of the party entitled to receive it, it may be attached by the garnishee process in the hands of such person. (Dig. Op., J. A. G., 1431.)

(c) The principle is well established that money in the hands of a disbursing agent of the United States is not subject to attachment in a suit by a creditor of a party to whom such

money is due and payable. A military disbursing officer is therefore not empowered to pay moneys in his hands, due a Government contractor, to any creditor of such contractor, or to any person other than the contractor himself, or his agent or attorney or personal representative; nor can he be made liable to pay over any part of such moneys as garnishee in a suit brought against such contractor. (Dig. Op., J. A. G., 1432.)

(*d*) In a settlement with a contractor the officer representing the United States would not be authorized to pay over, to a civil official holding process of attachment or execution from a State court against the contractor, the amount of any debt or debts due by the contractor to a creditor or creditors. Payment must be made to the contractor personally, or to his agent or attorney. (Dig. Op., J. A. G., 941.)

359. Applicability, etc., of appropriations:

(*a*) As to the applicability of annual appropriations, see 6 Comp. Dec., 815; 9 do., 243; 10 do., 284, 324.

(*b*) For a review of the laws and decisions relating to permanent specific, permanent, and annual appropriations, and to the covering into the Treasury to the credit of the surplus fund of balances of appropriations not used, see 3 Comp. Dec., 623.

(*c*) An appropriation made for the improvement of a river by dredging the channel can not be used to build a training wall as a part of the improvement. (3 Comp. Dec., 32.)

(*d*) Appropriations for continuing the improvement of rivers and harbors, not being limited to a particular fiscal year and being made (by section 5 of the act of June 20, 1874) available until otherwise ordered by Congress, may be used for the payment of expenses properly incurred at any time after the work for which they are made was authorized. (2 Comp. Dec., 496.)

(*e*) Credit will not be given a disbursing officer for expenditures under an appropriation in excess of the funds he had in hand under that appropriation, except (1) for his own compensation and expenses duly authorized by law; (2) in

cases of unintentional misapplication of appropriations, when a transfer to adjust appropriations can be and is immediately made. (4 Comp. Dec., 314.)

(*f*) As to the appropriation chargeable with the cost of moving armament from the wharf to the battery preparatory to mounting, see 4 Comp. Dec., 65.

CHAPTER X.

PUBLIC PROPERTY AND PROPERTY ACCOUNTABILITY.

USE FOR PRIVATE PURPOSES.

360. Such use forbidden.—It is to be understood as a rule without exception (beyond that provided in § 361) that in no manner, nor under any pretense, is public property of any sort, or of value ever so little; or the use of public vessels, boats, or vehicles of any kind; or the work of public laborers, mechanics, or teams; or the use of public shops, tools, or machinery, to be applied to any but the actual wants of the work in progress; a contrary application for the advantage, comfort, convenience, or pleasure of the superintendent or any other person is strictly prohibited. (Cir. 7, C. of E., 1891.)

361. Use of boats, etc., in emergency, to save life or property.—With reference to A. R. 681, by authority of the Secretary of War, permission is given to officers of the Corps of Engineers having charge of Government property, to use or loan Government boats, barges, and other appliances, in cases of sudden emergency not permitting request for previous authority, when life is endangered. The use of such plant is also permitted to save property, provided that no suitable private boats or appliances are available, that the plant can be spared without detriment to Government works, and that no extra expense to the United States is incurred. Prompt report, with full statement of facts, will be made to the Chief of Engineers of all such use of Government property. (Cir. 18, C. of E., 1896.)

362. Cross reference:

A strict accountability for public property to be required by officers of their subordinates. (Par. 3, Cir. 8, C. of E., 1900,—§ 511.)

STATEMENTS OF FLOATING PLANT.

363. Officers will submit immediately after July 1 of each year, and in time to reach the office of the Chief of Engineers not later than July 15, full statements of all the floating plant, the property of the United States, pertaining to the works in their charge. These statements will embrace all steam and sail vessels, dredges, snag boats, pile drivers, quarter and survey boats, barges, flats, and other plant not specially enumerated. In reporting "flats" and plant of like character, officers will exercise a reasonable discretion as to the items included, the object of these statements being to maintain in this office a complete record of floating plant with regard to which inquiries are made from time to time. The statements required herein will include information on the following points for each item, so far as practicable, viz, name or number, class and description, tonnage, when and where purchased or built, material, dimensions (length, width, and depth), first cost, estimated value, condition, where employed, and work to which belonging. Under the head of class or description will be stated whether towboat, tug, naphtha launch, hydraulic dredge, dipper dredge, model barge, or such other description as will fully identify the general character of the plant. When the plant is self-propelling it will be so stated in the case of dredges or other plant of which the ordinary description is such as not to indicate this fact.

The necessary blank forms will be furnished upon application. (Cir. 2, 1899, modified by Cir. 20, 1900, C. of E.)

INSTRUMENTS, ETC.

364. Disposition of instruments, etc., not actually needed.—Officers in charge of fortification and river and harbor works in the United States will keep in their possession at any one time only so many surveying instruments as are in actual use, as may be needed for *probable* emergencies, or as will certainly be required for use within the next succeeding four months.

All other transits, theodolites, sextants, plane tables, engineer levels, precise levels, and level rods will be shipped to the officer in charge of the Engineer Depot at Washington Barracks, District of Columbia. All such shipments will be made by express, and

will be accompanied by letters of advice fully describing the instruments shipped.

Hereafter when such instruments are needed requisition will be made upon the officer in charge of the depot through the Chief of Engineers, specifying the character and quality of instruments desired; such requisitions will be promptly filled, and after use the instruments will be promptly returned to the depot.

(Cir. 15, 1904, and Cir., Dec. 6, 1871, C. of E.)

365. Cross references:

(a) For instructions for packing and shipping surveying and other delicate instruments^f belonging to the Engineer Department, see G. O. 14, W. D., 1905,—§§ 229-235.

(b) For provisions regarding the issue of reconnaissance instruments, etc., by the Engineer Department to the Army, see G. O. 24, W. D., 1905, and Par. I, G. O. 86, A. G. O., 1903,—§§ 393-401.

TRANSFERS OR SALES OF PROPERTY.

366. Information circulars as to property, etc., needed or available for transfer.—Information circulars will be issued on the 10th day of each month, and oftener if necessary. These circulars are intended to give notice of instruments, boats, plant, etc., on hand and not needed for present use in the district immediately concerned, and which are available for transfer to other districts where they may be advantageously used. It is expected that the officers interested in any transfer of property, etc., will by correspondence arrange the necessary details and then secure the requisite authority from the Chief of Engineers. Officers desiring items inserted in the memorandum will prepare concise statements, showing the character of the articles on hand or desired. (Cir. 38, C. of E., 1905.)

367. Sales.—No sales of property will be made without authority from or through the Chief of Engineers. Private sales are prohibited. (Par. I, G. O. 3, C. of E., 1868.)

368. Transfers between appropriations.—Property pertaining to one appropriation, when transferred for expenditure in connection with another, will be paid for by the latter, as in the case

of other property purchased from the usual sources of supply. Special authority for such transfer of property is necessary when the purchase of such property from the usual sources would, under the regulations, require that authority. (Pars. II and III, G. O. 3, C. of E., 1868.)

369. Transfers of fortifications to the artillery.—Before turning over to the artillery any work of fortification the engineer officer in charge will see that invoices are prepared containing a complete list of all machinery, appliances, and material pertaining to the work, with a sufficiently full description of each item to establish its identity. The receipt from the artillery officer should state that all the articles have been turned over to him in good order and condition. (Par. 3, Cir. 2, C. of E., 1900.)

370. Citations and cross reference:

(a) As to transfers of property between accountable officers, see A. R. 663, 669–674.

(b) As to the transfer of public property from one bureau or Department to another, see A. R. 620, 675.

(c) Vouchers for services or supplies furnished by one Department, bureau, or office to another Department, bureau, or office must be sent directly to the Treasury Department for settlement, or the amount deposited to the credit of the proper appropriation, taking triplicate certificates of deposit for the same, one of which must accompany the voucher. (Treasury Circular 120, 1887; Cir. 14, A. G. O., 1902; Cir. 9, W. D., 1906.)

(d) Submarine-mine property not to be used for other purposes without prior authority of the Chief of Artillery. (Par. II, G. O. 86, W. D., 1905.)

(e) When defensive structures at seacoast fortifications are turned over to the Artillery, all keys belonging thereto to be transferred at the same time. (Par. I, G. O. 172, W. D., 1905,—§ 120.)

(f) When an officer is relieved from duty on any work, he will, unless otherwise ordered, turn over the property pertaining thereto to his successor. (E. R. 31.)

(g) As to action to be taken upon the death of an officer in charge of public property or funds, see A. R. 86.

(h) As to turning in an old typewriting machine to the manufacturers, the Government to be allowed a certain sum therefor in connection with the purchase of a new machine, and as to the deposit to be made on account of the amount allowed to the United States for the old machine, see Cir. 1, W. D., 1906.

(i) When old material, condemned stores, supplies, or other public property of any kind is sold, the expenses of the sale, as approved by the accounting officers of the Treasury, may be paid from the proceeds of the sale, the net proceeds after such payment to be deposited into the Treasury. (Act of June 8, 1896; 29 Stats., 268, or 2 Sup. R. S., 508.)

(j) The act of June 8, 1896, authorizing the payment of expenses, "as approved by the accounting officers of the Treasury," incurred in the sale of old material, etc., from the gross proceeds thereof and the payment into the Treasury of the net proceeds only, does not require that such expenses shall be so approved before payment, but simply that an itemized account thereof shall be rendered to the accounting officers for settlement as any other item of expenditure of Government funds. (3 Comp. Dec., 149.)

(k) The course authorized by the act of June 8, 1896, in the payment of expenses of sales of old materials from the proceeds thereof and the deposit into the Treasury of the net proceeds only, should be adopted in all cases, although there may be an appropriation available for the payment of expenses incurred in such sales. (3 Comp. Dec., 190.)

(l) Under the provision in the act of June 13, 1902 (32 Stats., 373), authorizing the sale of land or other property purchased for the improvement of rivers and harbors, which is not serviceable, and the placing the proceeds thereof to the credit of the appropriation for such improvement, an exchange of old material for services or articles is authorized. (9 Comp. Dec., 311.)

PROPERTY LOST, EXPENDED, OR UNSERVICEABLE.

371. Prior authority required before dropping from returns.—All affidavits or officers' certificates covering damage

to or loss or destruction of engineer property, as contemplated in A. R. 687, should be sent to the Chief of Engineers, and the property should not be dropped from the returns in advance of action by the Department. (Cir. 4, C. of E., 1896.)

372. Circumstances to be set forth in detail.—For a clear understanding in each case the affidavits or certificates should set forth in detail all circumstances attending the loss, damage, or destruction. (Cir. 4, C. of E., 1896.)

373. Affidavits, etc., need not be in duplicate.—Affidavits or certificates need not be executed in duplicate, a copy of the original being sufficient for file with the retained copy of the property return. (Cir. 26, C. of E., 1905.)

374. Method of forwarding affidavits, etc.—When two or more affidavits and certificates are forwarded at the same time, they should be accompanied by a letter of transmittal; a single affidavit or certificate should be forwarded by indorsement. (Cir. 26, C. of E., 1905.)

375. Information for inspectors.—Officers will inform the inspectors-general, who regularly inspect their disbursements and accounts, when they have property requiring the action of an inspector, where it is located, and the best way to reach the respective places. This notice should be sent a reasonable time prior to the probable date of the inspector's regular visit, which can be readily approximated. (Cir. 3, C. of E., 1898.)

376. * * *

377. Lost property.—When property has been lost applications for relief shall be submitted at least as often as half-yearly, and when practicable quarterly, accompanied by the usual affidavits or certificates.

In all cases where affidavits are required it is preferred that they should not be sworn to before a notary public who is employed under the Engineer Department.

(Cir. 6, C. of E., 1899.)

378. Expended property.—No articles of public property should be dropped under the head of "expended" except those

that become fixtures or lose their identity in use; all others should be preserved and submitted for the action of an inspector. (Cir. 7, C. of E., 1894.)

(a) *Citation:* When articles have been expended and applied to the purpose for which purchased the voucher for their purchase may contain a certificate to that effect, and the articles need not be taken up on property returns. (E. R. 43.)

379. Fortifications: Articles not expendable.—Officers will not expend or drop as expended from their property returns machinery or appliances installed as part of any emplacement, battery, or power plant. This applies to all machinery and appliances, whether in permanent positions, such as boilers, engines, dynamos, switchboards complete, pumps, motors, controllers, switches, lamp fixtures, storage batteries, electric fans, transformers, telephones, etc., or whether they are movable like trolleys, differential pulleys, tools, portable ammeters and voltmeters, testing sets, thermometers, indicators, tachometers, hose, etc.

These articles, as well as expendable articles, will be taken up and accounted for on the property returns, and when transferred will be transferred on regular invoices and receipts.

(Cir. 45, A. G. O., 1901.)

380. Fortifications: Expendable articles.—No items of property are considered expendable except those that have become fixtures, being permanently built into the work, or those that have actually lost their identity by use.

The first class comprises electric wire circuits, junction boxes, underground and interior conduits, pipe lines, speaking tubes, tracks, trolley rails, etc.

The second class comprises acids, cotton waste, emery paper, glue, oil, mercury, paint, paraffin, insulating tape, resin, solder, tallow, varnish, lamps, fuses, etc.

Items of the first class may be disposed of on the returns by stating clearly in the proper columns the exact manner of their disposition or expenditure.

Items of the second class actually expended may be disposed of on the returns in the same manner, as "expended in construction, operation, or repair of plant."

In case a doubt exists as to whether certain articles are expendable under the above classification, a certificate covering the expenditure of the property will be submitted as required by A. R. 687, the items being accounted for on the returns until action has been taken by the Secretary of War.

Care should be exercised to report all transactions in the proper columns.

(Cir. 45, A. G. O., 1901.)

381. China and glassware.—Upon their certificates that the articles were actually broken in service, without carelessness or neglect, officers are authorized to drop from their property returns articles of china and glassware belonging to mess outfits: *Provided*, That the number of articles of one kind so dropped in any quarter of a fiscal year shall not exceed five (5) per cent of the number of that kind carried on the returns, and in any fiscal year twenty (20) per cent of such number. The certificates will accompany the returns on which the articles are dropped. (Cir. 14, C. of E., 1899.)

382. Brooms, brushes, etc.—Upon their certificates that the articles were worn out in the public service, are worthless, and have no salable value, officers are authorized to drop from their property returns, without the action of a board of survey or of an inspecting officer, brooms, brushes, chamois skins, dish cloths, dish towels, dusters, mops, and sponges. (Cir. 13, C. of E., 1900.)

383. Boats.—Skiffs or barges of slight cost and not worth the expense of caring for them or of transporting them to some other locality where they may be of service, may be disposed of in the following manner:

The property should be inspected by an officer or civilian employee of the United States, and a certificate or an affidavit prepared, stating the condition of the property, its possible valuation, whether it would pay the cost of sale at the particular locality, or whether it could be sold at all. This certificate or affidavit should be forwarded to the Secretary of War, through the Chief of Engineers, by the responsible officer, who will indorse his views on it,

together with the approximate cost of sending an officer from the nearest military post to inspect the property.

In cases where the property has no salable value at the place where located and will not warrant transportation to any other point for sale, it should be destroyed in the presence of the inspecting officer, and the fact of such destruction covered by his affidavit or certificate.

(Cir. 4, C. of E., 1901.)

384. Collecting unserviceable property.—The utmost economy should be exercised in gathering unserviceable property together, using Government transportation whenever practicable. (Cir. 7, C. of E., 1894.)

385. Citations:

(a) For general provisions regarding property lost, expended, unserviceable, etc., see A. R. 682-696, 713-728,—Par. 720 amended by G. O. 71, 1905, and Par. 722 by G. O. 170, 1905, and G. O. 53, 1906, W. D.

(b) For regulations regarding the condemnation of property by inspectors, see A. R. 911-921.

RENDITION OF RETURNS AND OTHER PROPERTY PAPERS.

386. Returns to be rendered semiannually.—Property returns will be rendered semiannually, on March 31 and September 30 of each year. (Par. 1, Cir. 7, C. of E., 1904.)

387. Consolidated returns.—Except as hereinafter set forth, a separate property return for each work is not required, and officers are authorized to render, for their respective districts, such consolidated property returns as in their opinion will best promote efficiency and economy.

In effecting the consolidation above outlined, officers will not carry it further than to include:

(a) A single return for each engineer district concerned, showing all property pertaining to river and harbor works.

(b) A single return for each engineer district concerned, showing all property pertaining to fortifications.

When two or more returns are combined, the first consolidated return submitted will show the individual returns of which it was formed.

(Cir. 8, C. of E., 1900, modified to date.)

388. Abstracts of property paid for.—Abstracts of property paid for will be sent to the Chief of Engineers with the money accounts for each month. (Cir. 5, C. of E., 1892.)

389. Inventory and inspection reports.—Inventory and inspection reports, prepared under A. R. 912, will show the class of works to which the property pertains, whether to rivers and harbors, to fortifications, etc.

The items on any inventory and inspection report should not pertain to more than one property return.

(Cir. 5, C. of E., 1906.)

390. General citations and cross references:

(a) For general provisions regarding public-property accountability and responsibility, see A. R. 661-707, 713-728, 911-921,—Par. 720 amended by G. O. 71, 1905, and Par. 722 by G. O. 170, 1905, and G. O., 53, 1906, W. D.

(b) As to the proceeds of sales of public property, see A. R. 618, 619. ♦

(c) Bills attached to vouchers for the purchase of supplies to contain the receipts of the employees receiving them; also the certificates on the vouchers to show that the articles have been delivered. (Cir. 9, C. of E., 1903,—§ 317.)

(d) Searchlights and their accessories for use in connection with submarine defense are to be accounted for on Engineer returns. (Par. II, G. O. 47, W. D., 1905.)

(e) Thermometers and hygrometers for use in connection with the ventilation of magazines to be carried only on ordnance property returns. (G. O. 34, W. D., 1905.)

(f) All portable ammeters and portable voltmeters used at seacoast fortifications to be accounted for on Signal-Corps property returns, and requisitions therefor to be made only through the prescribed channels on the Chief Signal Officer of the Army. (Par. II, G. O. 151, W. D., 1905.)

(g) The district artillery engineer to be accountable for all Engineer-Department property in the charge of the artillery in his district. (G. O. 109, W. D., 1904.)

(h) As to the purchase of typewriting machines, see Cir. 28, A. G. O., 1901.

(i) As to the preparation of the Biennial Register, and the information which it is to contain concerning ships and vessels of the United States, see sec. 73, act of January 12, 1895,—28 Stats., 618.

(j) An officer is not authorized to insure public money or property. (A. R. 597.)

CHAPTER XI.
FURNISHING SUPPLIES, ETC.

GENERAL PROVISIONS.

391. Citations:

(a) A number, not to exceed five hundred, of each map or atlas published by the Geological Survey, shall be distributed gratuitously among foreign governments and the Departments of the Government of the United States, etc. (29 Stats., 701; 2 Sup. R. S., 616.)

(b) No free distribution permitted of charts of the Coast and Geodetic Survey except to the Departments and officers of the United States requiring them for public use, * * *. (28. Stats., 620; 2 Sup. R. S., 361.)

(c) All charts furnished to mariners or others not in the Government service to be paid for at the cost price of paper and printing paid by the Government. (Naval appropriation act of May 4, 1878,—20 Stats., 51, or 1 Sup. R. S., 160.)

(d) Vouchers for services or supplies furnished by one Department, bureau, or office, to another Department, bureau, or office must be sent directly to the Treasury Department for settlement, or the amount deposited to the credit of the proper appropriation, taking triplicate certificates of deposit for the same, one of which must accompany the voucher. (Treasury Circular 120, 1887; Cir. 14, A. G. O., 1902; Cir. 9, W. D., 1906.)

(e) As to turning in an old typewriting machine to the manufacturers, the Government to be allowed a certain sum therefor in connection with the purchase of a new machine, and as to the deposit to be made on account of the amount allowed to the United States for the old machine see Cir. 1, W. D., 1906.

FOR THE ARMY IN GENERAL.

392. Citations:

(a) The duties of the Corps of Engineers include reconnoitering and surveying for military purposes, including the laying out of camps; selection of sites and formation of plans and estimates for military defenses; construction and repair of fortifications and their accessories; the supervision of the location of all buildings in or within one mile of any fortification; the installation of electric power plants and electric power cables connected with seacoast batteries, except cables used only for the transmission of information, and furnishing the necessary electrical supplies connected therewith; planning and superintending of defensive or offensive works of troops in the field; examination of routes of communications for supplies and for military movements; construction and repair of military roads, railroads, and bridges; military demolitions; execution of river and harbor improvements assigned to it, and such other duties as the President or Congress may order. (A. R. 1522.)

(b) As to intrenching tools to be furnished to the infantry for field service, see G. O. 23, W. D., 1906.

(c) As to books and instruments to be procured by officers at their own expense for use at officers' schools at posts, see Par. I, Cir. 8, A. G. O., 1902, and Par. II, G. O. 89, A. G. O., 1903.

(d) As to the purchase of typewriting machines, and as to the requirement that all purchasing officers report monthly to the chiefs of bureaus, for the information of the Secretary of War, the numbers and kinds of typewriting machines purchased and the prices paid therefor, see Cir. 28, A. G. O., 1901.

RECONNAISSANCE INSTRUMENTS, ETC.

393. For use in the field and for instruction purposes.—The following allowances of reconnaissance instruments to be issued by the Engineer Department are intended to provide for

the needs of the different organizations when in the field and for instruction purposes in post and garrison schools:

Each company of infantry, troop of cavalry, battery of field artillery, and company of coast artillery—

- 1 sketching case.
- 1 prismatic compass.
- 1 box compass.
- 2 rectangular protractors.
- 1 hand level, or clinometer.
- 1 pace tally.
- 1 notebook (field).
- 1 reconnaissance pad,

and, in addition to the above, to each company of infantry one pedometer, and to each battery of field artillery two odometers. The foregoing articles will be issued to the commanding officer of the organization, who shall receipt for them and be accountable to the Chief of Engineers, United States Army, for the property.

(Par. 2, G. O. 24, W. D., 1905.)

394. For infantry, cavalry, or field-artillery posts.—In addition to the articles accounted for by the various organizations, there is authorized for each post garrisoned by infantry, cavalry, or field artillery the following articles, to be accounted for by the post engineer officer:

- 1 set drawing instruments.
- 1 drawing board.
- 1 semicircular protractor.
- 1 T square.
- 1 straightedge.
- 2 triangles.
- 1 triangular scale.
- 1 metallic tape, 50 feet.
- 1 chain, 100 feet, with pins.
- 2 sketching cases.
- 2 hand levels, or clinometers.
- 1 prismatic compass.
- 1 box compass.
- 2 rectangular protractors.

2 pace tallies.

2 notebooks (field).

2 reconnaissance pads.

(Par. 3, G. O. 24, W. D., 1905.)

395. Stationery and drawing materials.—Notebooks and reconnaissance pads for use in connection with prismatic and box compasses will be issued by the Engineer Department; but all paper, including drawing paper and that required for the sketching cases, tracing cloth, inks, pencils, erasers, etc., will be furnished by the Quartermaster's Department. (Par. 4, G. O. 24, W. D., 1905.)

396. Transits and wye levels.—Transits and wye levels will not hereafter be issued to posts garrisoned by infantry, cavalry, or field artillery, except as noted below. A reasonable supply of these instruments will be maintained by the engineer officer of each military division, from whom they can be obtained by the post engineer officer on memorandum receipt when actual survey work renders their use necessary. The use of such instruments for instruction purposes in post and garrison schools is not contemplated.

The restrictions above with reference to the issue of transits and Wye levels will not be held to apply to posts in the Philippine Islands, where the articles authorized for each post may be increased or diminished as the commanding general of the Philippines Division may direct.

(Pars. 5 and 9, G. O. 24, W. D., 1905.)

397. Blank forms.—Blank forms of requisition (Form 39) and blank forms of property return (Form 13) will be supplied by the Chief of Engineers as needed. (Par. 6, G. O. 24, W. D., 1905.)

398. Rendition of returns.—Returns will be rendered regularly every six months (March 31 and September 30) within twenty days after the expiration of each period. In the Philippine Islands engineer property returns will be transmitted through the engineer officer of the division; in all other cases returns should be mailed direct to the Chief of Engineers. (Par. 7, G. O. 24, W. D., 1905.)

399. Requisitions.—Requisitions for reconnaissance instruments after approval by the post commander will be sent to the post engineer officer and by him to the engineer officer of the division. The post and division engineer officers will issue such of the articles called for as they may have on hand available for issue, provided the number of serviceable articles stated as on hand, plus the number called for, does not exceed the authorized allowance. The number of articles so issued will be noted on the requisition and the latter forwarded to the Chief of Engineers. At seacoast artillery posts the requisitions will be forwarded to the engineer officer of the division through the district artillery engineer, who is authorized to make issues in the manner prescribed above for post engineer officers. (Par. 8, G. O. 24, W. D., 1905.)

400. Articles to be turned in.—Articles of engineer property now at posts garrisoned by cavalry, infantry, or field artillery, and not included in the above allowances, should, if not actually needed, be reported to the Chief of Engineers with a view to their shipment to the nearest engineer depot. (Par. 10, G. O. 24, W. D., 1905.)

401. Memorandum receipts.—Except as authorized in General Orders, No. 109, War Department, June 20, 1904 (regarding the duties of artillery, district, and post staff officers,—§ 390*g*), and in paragraph 5 herein, the issue of engineer property on memorandum receipt is forbidden, and the filing of such a receipt with the property return will not relieve the accountable officer. (Par. 11, G. O. 24, W. D., 1905.)

402. Engineer transits.—Engineer transits will be issued by the Engineer Department, and requisitions for these instruments should be made on that department. (Par. I, G. O. 86, A. G. O., 1903.)

FOR THE ORGANIZED MILITIA.

403. Citation :

As to the issue of engineer supplies to the organized militia of the States, Territories, and District of Columbia, see A. R. 1539, and Par. I, Cir. 43, W. D., 1904.

FOR FORTIFICATIONS IN GENERAL.

404. By the Engineer Department.—For the fortifications and their accessories, the Engineer Department will supply and install all necessary electrical appliances and apparatus for furnishing light and power, including rubber matting for dynamo rooms, switch boards and instruments attached thereto, and searchlight equipments, with the exception of the motors permanently attached to the gun and mortar carriages, and except where central electric plants have been installed which provide current for the post as well as the fortifications, in which case the necessary supplies, etc., will be furnished in accordance with the provisions of A. R. 1066. The Engineer Department will also make repairs to the fortifications, including the ramps, gutters, etc., connected therewith. It will also, as funds permit, supply reserve lanterns for emplacement illumination when the electric current is interrupted. (Par. 5, G. O. 72, W. D., 1906.)

405. By the Ordnance Department.—The Ordnance Department will furnish all motors to be attached to gun and mortar carriages, and mechanical loading apparatus, including motor generators, switch boards, terminal boxes, resistances, flexible metallic conduits, dry-cell batteries, magneto generators, conductors, connections, etc., required for the power, illumination, and firing circuits attached to carriages; will supply all bench and hand tools and appliances for engineer power plants and ordnance repair shops, including supplies for the latter; will furnish and install, in buildings provided by the Quartermaster's Department, such machines, tools, etc., as may be prescribed for ordnance repair shops; will make all necessary repairs to guns, carriages, and instruments of the fire control and direction system furnished by it, including implements, accessories, tools, etc.; will furnish thermometers and hygrometers for use in connection with the ventilation of magazines, and stencils for all gun and mortar letters and figures for designating emplacements, etc. Clinometers and rests for each caliber and model of gun in service will be supplied by the nearest district armament officer of the Ordnance Department whenever needed by artillery officers in complying with the requirements of General Orders, No. 65, Headquarters of the Army, Adju-

tant General's Office, 1901,—§ 150*b*. (Par. 7, G. O. 72, W. D., 1906.)

406. By the Quartermaster's Department.—The Quartermaster's Department will furnish all fuel and engine supplies, such as waste, lubricating oils, oil lamps, brooms, brushes, coal-handling and fire tools, and appliances, etc., necessary for the maintenance, operation, and preservation of all electric plants; for central plants, which furnish current to the post as well as to the fortifications, it will, in addition, furnish all material and funds necessary for their repair and preservation. (A. R. 1066.) It will also furnish such materials as may be needed for the use of the battery mechanics, all grass-cutting tools, and all carpenter's tools. When, under the provisions of paragraph 1535, Army Regulations, any seacoast post, or any part of it, has been turned over to and garrisoned by the coast artillery, all repairs to the post buildings, and to all plumbing, water-supply and sewer systems, roads, walks, and grounds will be made by the Quartermaster's Department, governed in this work by the provisions of paragraph 1534, Army Regulations. (Par. 8, G. O. 72, W. D., 1906.)

407. By the Signal Corps.—The Signal Corps will supply all the necessary lines and means of electrical communication, including telephones, dial and other telegraphs, wiring, all necessary electrical instruments not permanently attached to the switch board, including portable ammeters and portable voltmeters, and such special instruments as may be directed to be supplied by the Secretary of War. (Par. 6, G. O. 72, W. D., 1906.)

408. Cross references:

(*a*) For provisions as to when armament at seacoast defenses is to be mounted by the Engineer Department and when by the artillery, see Par. 2, Cir. 5, A. G. O., 1896,—§§ 132-135.

(*b*) Stencils for figures and letters to designate emplacements to be furnished by the Ordnance Department. (Par. II, G. O. 51, W. D., 1906,—§ 118.)

(*c*) Seeds, nuts, acorns, etc., for planting for the concealment of batteries may be supplied by the Engineer Department. (Letter of The Military Secretary, dated August 12, 1904, E. D., 51394/3; Cir. 7, Atlantic Division, 1904,—§ 152*k*.)

FOR FIRE-CONTROL INSTALLATIONS.

409. By the Engineer Department.—The Engineer Department will erect all stations (including battle and battery commander stations; primary, secondary, and supplementary stations for fire commands, mine commands, and batteries; searchlight, tide-gauge, and meteorological stations, etc.), switch-board rooms, and telephone and telautograph niches and booths for emplacements and stations, all protected in the best manner practicable; it will furnish circular benches around observing instruments and plotting boards, and to reduce the noise will furnish corrugated rubber floor cloth for the floors of stations and telephone booths; it will also furnish searchlights and the electric power current required for all fire-control purposes (except that derived from Signal-Corps storage batteries installed to operate telautographs), together with electric lamps and other material for lighting all stations, etc.; it will also furnish and install all wiring, underground or overhead, for lighting and power. (Par. 1, G. O. 72, W. D., 1906.)

410. By the Signal Corps.—The Signal Corps will supply all instruments for communication. This will include all manner of telephones, telegraphs, telautographs, and megaphones which may from time to time be prescribed, with their primary and storage batteries, storage-battery switch boards, motor generators, boosters, and the necessary cables of all kinds required for operating and interconnecting them. It will also supply electrical clocks, time-interval bells, firing signals, zone signals, aeroscopes, field glasses, telescopes (other than battle, fire, and mine commanders' telescopes), and meteorological instruments. It will furnish and install all submarine cables for communication, including the construction of cable terminals, but excluding cover for the terminals or the cable approaches. It will also furnish all cable for communication by overhead or underground lines and the necessary terminal boxes. In case of underground lines, the cables will be placed in trenches or ducts by the Engineer Department. In case of overhead lines, they will be installed by the Signal Corps. Where practicable, any pole lines which have been installed by the Engineer Department for light and power wires may, with the consent

of that Department, be utilized by the Signal Corps for any of these wires. (Par. 2, G. O. 72, W. D., 1906.)

411. By the Ordnance Department.—The Ordnance Department will supply range finders, observation telescopes, plotting boards, deflection boards, range boards, azimuth prediction boards, wind component indicators, azimuth instruments, stop watches, scale arms, materials for the construction of battle and difference charts, range tables, prediction scales, set-forward rulers, drawing boards, drawing instruments, draftsman's supplies, etc., prescribed for use in connection with the fire control and direction system for coast fortifications and for the control of mine fields. (Par. 3, G. O. 72, W. D., 1906.)

412. By the Quartermaster's Department.—The Quartermaster's Department will supply stationery, heating apparatus, oil lamps, and furniture (not including rubber floor cloth nor circular benches for observers and plotters). (Par. 4, G. O. 72, W. D., 1906.)

413. Citation and cross reference:

(a) For directions regarding the coordination of the work of the Engineer Department with that of the Signal and Artillery Corps in connection with the installation of Signal-Corps apparatus for fire-control purposes, see circular letter, C. of E., October 6, 1905,—§ 146.

(b) As to the supplies to be furnished by the Engineer, Ordnance, and Quartermaster's Departments, and by the Signal Corps, in connection with temporary fire-control installations at seacoast fortifications, see G. O. 13, and Par. I, G. O. 54, W. D., 1906.

(c) As to the telephone systems to be installed at fortifications, see G. O. 58, W. D., 1906.

CHAPTER XII.

CIVILIAN EMPLOYEES.

AUTHORITIES FOR EMPLOYMENT.

414. For what required.—In the execution of any work carried on under the direction of the Chief of Engineers, his authority must be obtained for the—

1. Employment of all educational employees, and of all non-educational employees of class 1 or higher classes, except mechanics and other skilled laborers hired by the day, when such daily rate is regulated by local rates for similar services.

2. Board or subsistence of all employees.

(Pars. 1 and 2, Cir. 18, C. of E., 1904.)

415. Designations to be used.—The designations to be used in asking for authority will be those given in section 1, Circular No. 14, series of 1902, Office Chief of Engineers, (§§ 427-430), and the same designations will be conformed to on pay rolls. Special designations other than these will not be used without approval of the Chief of Engineers. Employments which are included under a general designation, such as junior engineer, engineman, and the like, should be explained by stating the kind of duty to be performed: *e. g.*, junior engineer (inspector); engineman (locomotive engineer), etc. (Pars. 1a and 1b, Cir. 18, C. of E., 1904.)

416. When authority applies to individual.—In making application for authority, the individual will be mentioned by name in the following cases and the authority will apply to the person occupying the position and not to the position itself: All employees holding educational positions; all noneducational employees of class 3 or higher classes.

Authority should not be requested unless the individual named is eligible for the position under civil service rules. In cases when the name of the individual is not known provisional authority may be granted, subject to confirmation when the name of the employee shall be reported. In the reemployment of named employees, on furlough or laid off, the rates paid when last employed in the Engineer Department should not be exceeded.

(Par. 1c, Cir. 18, C. of E., 1904.)

417. Limiting compensation.—The class of an employee is determined by his total compensation, that is, salary paid plus cost of board or subsistence, if furnished. The maximum compensation of all named employees will be fixed by the Chief of Engineers. In all other cases the limiting maximum compensation will be that of the class authorized. (Par. 1d, Cir. 18, C. of E., 1904.)

418. Changes in compensation by officer.—Appointments may be made at a less rate than that authorized. In such cases if an employee's services have been thoroughly satisfactory, the amount of compensation may be increased from time to time by the officer in charge without reference to the Chief of Engineers, provided the limiting maximum authorized rate is not exceeded and provided also such increase is made for proper causes, such as increased experience or increased duties. Officers are authorized to reduce the compensation of any employee when conditions warrant such action or make it advisable. (Par. 1e, Cir. 18, C. of E., 1904.)

419. Increases in compensation above that authorized.—Recommendation for increase in rates of pay above those authorized will be considered only when an increase of duties and responsibilities of the position or other good reasons, independent of mere length of service can be shown. Employees will not be advanced in pay beyond 10 per cent of existing authorized rates at any one time, except in special cases, for which sufficient reason must be shown. (Par. 1f, Cir. 18, C. of E., 1904.)

420. Limiting rate for clerical assistants.—No authority will be granted by the Chief of Engineers for any increase of pay

of clerical assistants over \$175 per month, and no authority granted will be interpreted as authorizing any increase over this sum. (Cir. 2, C. of E., 1903.)

421. What applications for authority should contain.—All applications for authority for expenditures will state concisely the necessity therefor, the probable cost, and the appropriation or appropriations from which the same will be paid. (Par. 8, Cir. 18, C. of E., 1904.)

422. Approval after the fact.—When from the emergency of the work antecedent authority can not be obtained, approval after the fact may be given by the Chief of Engineers in his discretion. In such cases the officer making the expenditure will report the same promptly, certifying that the emergency was such that antecedent authority could not be obtained. (Par. 9, Cir. 18, C. of E., 1904.)

423. Expiration of authorities.—All authorities for employment will expire on the 30th day of November following the date of their approval. (Par. 10, Cir. 18, C. of E., 1904.)

424. New authorities required annually.—Between the 1st and 10th days of November of each year officers will submit requests for authority for such positions as are needed for the works on the 1st of December following. Additional authorities will be requested as the necessities of the works demand. (Par. 11, Cir. 18, C. of E., 1904.)

425. Cross references:

(a) As to miscellaneous objects for which the authority of the Chief of Engineers is required, see Pars. 3-7, Cir. 18, C. of E., 1904,—§ 501.

(b) Requests for authorities to be submitted through the Division Engineer. (G. O. 9, 1901, and G. O. 10, 1903, C. of E.,— §§ 112, 115.)

(c) As to evidence of authority for certain payments and subsequent citation of such authority, see Par. 2, G. O. 2, C. of E., 1892,—§ 325.

CIVIL-SERVICE CLASSIFICATION.

426. Classes provided for.—The classes now provided for are as follows:

Class A, all persons receiving an annual salary of less than \$720, or a compensation at the rate of less than \$720 per annum.

Class B, all persons receiving an annual salary of \$720 or more, or a compensation at the rate of \$720 or more, but less than \$840 per annum.

Class C, all persons receiving an annual salary of \$840 or more, or a compensation at the rate of \$840 or more, but less than \$900 per annum.

Class D, all persons receiving an annual salary of \$900 or more, or a compensation at the rate of \$900 or more, but less than \$1,000 per annum.

Class E, all persons receiving an annual salary of \$1,000 or more, or a compensation at the rate of \$1,000 or more, but less than \$1,200 per annum.

Class 1, all persons receiving an annual salary of \$1,200 or more, or a compensation at the rate of \$1,200 or more, but less than \$1,400 per annum.

Class 2, all persons receiving an annual salary of \$1,400 or more, or a compensation at the rate of \$1,400 or more, but less than \$1,600 per annum.

Class 3, all persons receiving an annual salary of \$1,600 or more, or a compensation at the rate of \$1,600 or more, but less than \$1,800 per annum.

Class 4, all persons receiving an annual salary of \$1,800 or more, or a compensation at the rate of \$1,800 or more, but less than \$2,000 per annum.

Class 5, all persons receiving an annual salary of \$2,000 or more, or a compensation at the rate of \$2,000 or more, but less than \$2,500 per annum.

Class 6, all persons receiving an annual salary of \$2,500 or more, or a compensation at the rate of \$2,500 or more per annum.

(Par. 2, Cir. 8, C. of E., 1902.)

CLASSIFICATION OF POSITIONS UNDER THE ENGINEER DEPARTMENT AT LARGE.

427. All positions under the Engineer Department at Large, except as provided below (§ 430), are under one of two headings—those requiring an educational test, known as “educational positions,” and those requiring no educational test, known as “registered positions.” (Par. 1, Sec. I, Cir. 14, C. of E., 1902.)

428. Educational positions.—The positions requiring an educational test are—

(a) Assistant engineers (civil or mechanical), and superintendents of class 5.

(b) Junior engineers (civil or electrical); these employees may perform the duties of inspectors, overseers, surveyors, hydrographers, computers, draftsmen, levelmen, recorders, sextant observers, topographers, transitmen, etc., and may also be employed in any clerical position.

(c) Surveyors, including those performing the duties of transitmen, levelmen, and the like, when of class 2 or higher class.

(d) Draftsmen.

(e) Engravers, lithographers, and similar positions, when of class 3 or higher class.

(f) Clerks, including copyists, stenographers, and typewriters.

(g) Scientists, specialists, and employees in positions not specifically referred to herein as of noneducational class, or excepted from classification, will be considered of educational class unless authority to class as noneducational is given by the Chief of Engineers.

(Par. 2, Sec. I, Cir. 14, C. of E., 1902.)

429. Registered positions.—The “registered positions” requiring no educational tests are—

(h) Superintendents of class 4; these positions are to be restricted to the few cases in which conditions of work necessitate the appointment of those especially qualified by training and experience for the particular duty to be performed, but who have not the technical nor the theoretical education required for superintendents of the educational class (class 5).

(i) Inspectors and overseers of class 3; these positions are intended, primarily, to provide for inspectors and overseers who have heretofore been considered as of the educational class by reason of the rate of pay required to secure their services, but who have not the theoretical training to permit of their being properly classified in the "junior engineer" grade.

(j) Inspectors and overseers of class 2 or lower class; these positions relate to duties requiring experience and special skill, but not necessarily technical educational training.

(k) Foremen, including those performing duties of master laborers, master workmen, master carpenters, and the like.

(l) Masters, mates, pilots, steersmen, steam engineers, and similar positions, which in private employ require a license from the Office of Steamboat Inspection, and applicants for these positions are required to have such a license.

(m) Recorders, surveyors (who may perform duties of transitmen, level men, rodmen, chain men, and the like), timekeepers, and receivers of material, when of class D or lower classes.

(n) Engravers, lithographers, transferers, shaders, and similar positions, when of class 2 or lower classes.

(o) All the mechanical trades.

(p) All employees performing the duties of blasters, boarding masters, brakemen, bridge tenders, cement testers, concrete finishers, cranesmen, dam and valve tenders, deputy inspectors, divers, dredge engineers, electricians, elevator conductors, engineers (including all steam engineers not licensed), fort keepers, gardeners, gage readers, helpers, janitors, leadsmen, light keepers, lock masters, lockmen, messengers, powder men, riggers, skilled laborers, stewards, strikers, telegraph and telephone linemen, trackmen, truckmen, watchmen, and similar positions.

(Par. 3, Sec. I, Cir. 14, C. of E., 1902.)

430. Unclassified positions.—All unskilled laborers and those employed in positions such as the following are considered to be in the unclassified service, their status being fixed by the fact that they are merely employed as laborers or workmen: Apprentices to the mechanical trades, axmen, bakers, boatmen, charwomen, cooks, cooks' helpers, deck hands, derrick hands, dredge hands, drill men, drivers, floor men, hostlers, lamplighters,

laundresses, oilers, sailors, scow men, stevedores, stokers, teamsters, waiters, and weavers.

All unclassified employees will be of class A. If any necessity arises for a higher rate of pay for any of the positions named in the preceding paragraph than is allowed in class A, and such employment is authorized by the Chief of Engineers, the position becomes a registered one, and the appointment must be made as for other employees in registered positions.

(Par. 4, Sec. I, Cir. 14, C. of E., 1902.)

(a) *Citation:* Cooks of a class higher than class A need not be registered when in the opinion of the Commission it is not expedient to make appointment upon competitive examination. (Par. 13, Sec. I, Schedule A, Civil Service Rules.)

SELECTION AND APPOINTMENT FOR REGULAR EMPLOYMENT IN CLASSIFIED POSITIONS.

431. Educational positions.—Positions requiring an educational test, if not filled by reemployment from “furlough without pay” or from “laid off,” reinstatement, transfer, or promotion (which are considered below,—§§ 437–444), will be filled by certification from the eligible registers of the Civil Service Commission and appointment by the Chief of Engineers. All applications for certification will be sent to the Chief of Engineers.

(a) Assistant engineers, mechanical engineers, and superintendents of class 5 will be appointed by promotion, as provided under heading “Promotions.”

(b) Junior and electrical engineers; in requesting certifications for “junior engineers,” officers should designate the particular qualifications desired.

(c) Draftsmen are certified to the Chief of Engineers by the Civil Service Commission either from the junior engineer or draftsmen registers. If selected from the junior engineer list the appointee is eligible to promotion by the Chief of Engineers, to position of junior engineer when a vacancy in such position may occur.

(Par. 1, Sec. II, Cir. 14, C. of E., 1902.)

432. Educational employees to be selected in the office of the Chief of Engineers.—Officers needing the services of educational employees to fill positions which can not be filled, under

existing regulations, by promotion or reemployment, will make request to the Chief of Engineers stating, first, the designation of the position to be filled; second, the particular qualifications desired; third, the salary to be paid; fourth, the locality in which the service is to be rendered; fifth, the probable length of service, and sixth, any other special circumstances which should be known in offering employment to the eligibles certified or which might assist in making selection. (Cir. 5, C. of E., 1904.)

433. Registered positions.—In positions requiring no educational tests, vacancies which can not be filled by reemployment from “furlough without pay,” or from “laid off,” reinstatement, transfer, or promotion, with exceptions noted below, will be filled by officers in local charge of engineering districts from lists prepared by local civil-service boards.

(a) Superintendents of class 4 will be appointed by promotion, as provided for under heading “Promotions.”

(b) Special inspectors or overseers of class 3 will be appointed by promotion from inspectors or overseers of class 2, or by reclassification of those now in the service, as provided under heading “Promotions.”

(c) Inspectors and overseers of class 2, or lower class, may be selected by the officer in local charge of work from lists of local civil-service boards; but as a rule “junior engineer” eligibles should be selected when it is practicable to do so.

(Par. 2, Sec. II, Cir. 14, C. of E., 1902.)

434. Local civil-service boards.—Local civil-service boards have been established, under special instructions of the Civil Service Commission, in the various engineering districts, to prepare local lists for the various noneducational “registered” positions and furnish copies of same to officers in local charge of districts. Such local boards are under the supervision and control of the central board in the office of the Chief of Engineers. In making selections from the lists of eligibles prepared by the local civil-service boards, the engineer officers in charge of districts will give due regard to the particular qualifications required to properly fill the vacant position, and one of the highest three possessing such qualifications must be selected. (Par. 3, Sec. II, Cir. 14, C. of E., 1902.)

435. Medical examination.—A medical examination to determine physical condition, in addition to examination by local civil-service boards, may be required in any case by the officer making appointment if he considers the same necessary. (Par. 3, Sec. II, Cir. 14, C. of E., 1902.)

436. When one of highest three eligibles need not be selected.—If the position to be filled by a registered employee is comparatively temporary, or if the conditions do not justify the selection of an eligible at a distance, selection may be made from the highest three found in the vicinity of the work upon which the eligible is to be employed. The reason for the selection of any eligible who is not one of the highest three on the list should be briefly stated in the column of remarks in the monthly report of changes, using such terms as “special qualifications,” “temporary employment,” or “local employment.” (Par. 3, Sec. II, Cir. 14, C. of E., 1902.)

PROMOTIONS AND OTHER CHANGES IN STATUS.

437. Assistant engineer or superintendent.—A junior engineer (civil or electrical), who has passed the examination conducted by the Civil Service Commission for entrance to the grade and whose service has been of such character as to merit promotion, may be promoted to fill a vacancy in the position of assistant engineer, or superintendent of class 5 (educational). This promotion may be made by the Chief of Engineers upon any test of fitness prescribed by him and not disapproved by the Civil Service Commission. When an officer believes that any such junior engineer in his employ deserves promotion, and is duly qualified therefor, he will report the case to the Chief of Engineers, stating at length the services performed by the employee, his qualifications, his experience, and any other facts which may be pertinent and material, in order that his name may be considered when a vacancy occurs. (Par. a, Sec. III, Cir. 14, C. of E., 1902.)

438. Superintendent, class 4.—In special cases an inspector or overseer of class 3 may in like manner be promoted to the position of superintendent, class 4. (Par. b, Sec. III, Cir. 14, C. of E., 1902.)

439. Inspector or overseer, class 3.—An inspector or overseer of a lower class may in like manner be promoted to the position of inspector or overseer of class 3. (Par. *c*, Sec. III, Cir. 14, C. of E., 1902.)

440. Promotion upon examination, in general.—Any classified employee after one year's satisfactory service may become eligible for any position for which an educational examination is necessary, provided he secures the requisite percentage in the appropriate examination held under the direction of the Civil Service Commission. (Par. *d*, Sec. III, Cir. 14, C. of E., 1902.)

441. Graduates of technical schools.—Any employee selected from the registered list prepared by a local civil-service board who holds a diploma showing graduation in an engineering course from an approved technical school may, after one year's service, be promoted by the Chief of Engineers to the grade of junior engineer, provided his services have been thoroughly satisfactory and he has shown the requisite ability. When such an employee has rendered a year's satisfactory service (not necessarily continuous service) the officer in charge will submit the case to the Chief of Engineers, together with his recommendations and a full statement of all material facts. Correspondence by officers with approved technical schools may result in securing the names of worthy candidates for subordinate positions who, with experience, will develop into capable assistants worthy of promotion. (Par. *e*, Sec. III, Cir. 14, C. of E., 1902.)

442. Temporary reductions.—When the condition of the work makes it expedient, the officer in charge may temporarily reduce any classified employee to a lower grade or class and may subsequently restore him to his former position, or to any intermediate position, without reference to the Chief of Engineers. (Par. *f*, Sec. III, Cir. 14, C. of E., 1902.)

443. Temporary assignment to other duties of noneducational employee.—A noneducational employee serving in any capacity may be temporarily assigned to duty in any other non-educational position the duties of which are similar, and for which no additional special qualifications are required. Continuation for

a longer period than thirty days in such new position must be contingent upon registration by the local civil-service board in the new position. (Par. *g*, Sec. III, Cir. 14, C. of E., 1902.)

444. Assignment to duty in a different mechanical trade.—A classified employee in any recognized mechanical trade shall not be assigned to duty in a different mechanical trade without examination; such examination shall be similar to that required for original registration in the grade to which the assignment is to be made. (Par. *h*, Sec. III, Cir. 14, C. of E., 1902.)

TEMPORARY EMPLOYMENT.

445. Permissible in urgent cases.—In urgent cases, when time does not permit the appointment as hereinbefore provided, a vacancy in any classified position may be filled by the officer in charge by temporary appointment of any one possessing the necessary qualifications; but such temporary appointment shall not continue for a greater length of time than may be necessary to secure the certification and selection of a suitable person from the eligible list, and the officer in charge shall take the steps to obtain such certification without unnecessary delay. Under civil-service rules, when an eligible list exists, such a temporary appointment (called an emergency appointment) can not continue for longer than thirty days unless extended by the Civil Service Commission; when no eligible list exists and one must be established, such temporary appointment can not continue for longer than ninety days unless likewise extended. (Par. *a*, Sec. IV, Cir. 14, C. of E., 1902.)

446. In educational position.—If such temporary appointment is made to fill a vacancy in an educational position, a report of the appointment and a request for certification will be immediately made to the Chief of Engineers; the report and request, if approved, will be forwarded to the Civil Service Commission.

Officers are authorized, however, after having reported a temporary appointment and requested certification, to continue the temporary employment, if necessary, until action is taken on their request, or until special instructions are received.

Such temporary appointment may be made to fill a vacancy in a registered position when there is no register of eligibles and may

be continued until a register of eligibles is established, but such temporary appointment shall not continue longer than ninety days without the approval of the Civil Service Commission. The receipt of the report of such temporary employment without remark or exception by the Civil Service Commission will be equivalent to approval for the first ninety days or so much of the time as may be necessary. Persons temporarily employed in such registered positions may become eligible for regular appointment in the manner hereinbefore described. Such temporary appointments should be avoided as much as possible and should continue for as short a time as conditions permit. If practicable, and if any extended employment is anticipated, the temporary employee should be required to present himself as soon as possible before the local civil service board with a view to examination, registration, and becoming eligible for regular appointment.

(Pars. *b* and *c*, Sec. IV, Cir. 14, C. of E., 1902.)

447. When there are eligibles.—Paragraph 3 of Rule VIII, Civil Service Commission, authorizes the continuance of a temporary employment for more than thirty days, even when there are eligibles having the proper qualifications, under the following conditions:

Where the work is temporary in character, after the completion of which the services of the employee will not be further needed, a temporary appointment may be made, with the prior consent of the Commission, for a period not to exceed three months, which period may, with the like consent, be extended for a further period of three months, but no longer. Such appointments, however, shall be made, so far as practicable, by certification from registers containing the names of eligibles who are immediately available; and the Commission may restrict such certifications for temporary appointments to eligibles living near the place where service is to be rendered.

The words "temporary in character" refer particularly to what may be considered as job employments, not to exceed six months in duration.

On account of the ease with which eligibles for registered positions can be obtained the paragraph of the Civil Service Rules

above quoted should not be applied to such appointments except in unusual cases.

(Par. *d*, Sec. IV, Cir. 14, C. of E., 1902.)

448. Temporary appointment from eligible list.—If a temporary appointment is made from an eligible list of the Civil Service Commission it may continue for a period of six months, at the end of which period it will expire, unless permanent appointment can, under Civil Service Law and Regulations, be provided for before such expiration.

(Par. *e*, Sec. IV, Cir. 14, C. of E., 1902.)

SEPARATIONS AND REEMPLOYMENTS.

449. Methods of separation.—Classified employees may be separated from the service in any one of the following ways:

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|--|---|
| <ol style="list-style-type: none"> 1. By "furlough without pay." 2. By being "laid off." 3. By "discharge." 4. By "resignation." 5. By "discharge for cause." | } When their services are no longer needed. |
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(Par. *a*, Sec. V, Cir. 14, C. of E., 1902.)

450. Separations on account of reduction of force.—When a work is completed, or for any cause a reduction is made in the number of employees, the officer in charge will exercise his discretion as to those employees who are to be retained and those who are to be temporarily or permanently separated from the service; accordingly those classified employees whose services are no longer needed may be discharged, or, if there be any intention of reemployment, they may be "furloughed without pay," or "laid off." (Par. *b*, Sec. V, Cir. 14, C. of E., 1902.)

451. Furlough without pay.—The granting of a "furlough without pay" will be considered as equivalent to an *unqualified recommendation* of the employee for work in the same grade in any Department to which the civil-service classification applies, and employees thus furloughed will be eligible for three years for reemployment in any engineering district without further examination. The above three years' limitation shall not apply to officers or employees who have been employed in the service of

the United States in any of the insular possessions thereof or other territory under control of the United States. (Par. *c*, Sec. V, Cir. 14, C. of E., 1902.)

452. Transfers of employees to other districts.—It is suggested that officers should make such effort as may be practicable to secure in some other district employment for specially worthy employees who may be furloughed without pay, and this office will also aid in so doing if a proper request be made. This may frequently be effected by addressing circular letters to other officers.

Employees in one engineering district may, when the interests of the service require, be transferred to any other district by the Chief of Engineers; but such transfer may likewise, and preferably, be effected by furlough in one district and reemployment in another. Whenever an appointment is made or a person is reemployed, the officer in charge must satisfy himself as to the civil-service status of the applicant. It is suggested that officers in need of assistants correspond with other officers by circular letter, stating duties to be performed, rate of pay to be allowed, and furnishing other items of information, with a view to transfer of one whose services can be spared, or to the consideration of the promotion of some one eligible for a higher position, but whose promotion can not be otherwise properly provided for. In justice to those holding subordinate positions and worthy of advancement, such promotion by transfer should be encouraged. When such circular letters are received they will be duly considered and promptly answered; they will also be posted in conspicuous places if a request to this effect is made. Increase of pay with a view to holding an employee in a district when a vacancy exists in another district to which some worthy and experienced subordinate employee can be legally promoted is not authorized.

(Pars. *d* and *e*, Sec. V, Cir. 14, C. of E., 1902.)

453. Employees laid off.—Employees "laid off" will be eligible for one year for reemployment within the same district, but by reason of being "laid off" will not become eligible for employment in any other engineering district. (Par. *f*, Sec. V, Cir. 14, C. of E., 1902.)

454. Resignations and discharges without prejudice.—When a classified employee separates himself from the service by resignation, he will be required to tender his resignation in writing, and this will be kept on file in the district office for future reference. When a classified employee is discharged without prejudice, he will be given notice thereof in writing, and a copy of the letter will be kept on file in the district office.

Classified employees separated from the service by resignation or by discharge, without prejudice, can within one year be made again eligible for reemployment to fill an existing vacancy by a reinstatement certificate issued by the Civil Service Commission, under Civil Service Rule IX, and can at any time be restored to the eligible list by satisfactorily passing the scheduled examination.

(Pars. *g* and *h*, Sec. V, Cir. 14, C. of E., 1902.)

455. Discharges for cause.—Discharge for cause of any regularly appointed classified employee will be subject to the provisions of paragraph 2, Rule XII, Civil Service Rules, and can not be made without the approval of the Chief of Engineers. An employee may be suspended without pay by the officer in charge, pending an investigation of charges. (Par. *i*, Sec. V, Cir. 14, C. of E., 1902, amended by Cir. 25, C. of E., 1904.)

456. Probationers.—All employees appointed on certification of the Civil Service Commission or selected from the registers of local boards are considered probationers for a period of six months from date of appointment. At the end of six months, if the conduct and capacity of a probationer are satisfactory to the appointing officer, his retention in the service shall be equivalent to his appointment for such further time as he may be needed. (Par. *j*, Sec. V, Cir. 14, C. of E., 1902, amended by Cir. 25, C. of E., 1904.)

457. Removal of probationers.—The same procedure is required in the case of removal before as after absolute appointment. In other words, an employee may not be removed until he has been furnished with a written copy of the charges and he has been allowed a reasonable time for answering the same in writing. The one exception to this requirement is in the case of

an employee removed *at the end of probation*. (Cir. 25, C. of E., 1904.)

PREFERENCES TO VETERANS.

458. In appointment and retention.—Wherever the needs of the service will justify it, and the law will permit, preference shall be given alike in appointment and retention to honorably discharged veterans of the civil war who are fit and well qualified to perform the duties of the places which they seek or are filling. (Letter of the President of January 17, 1902, published in Par. I, G. O. 14, A. G. O., 1902.)

INSTRUCTIONS OF UNITED STATES CIVIL SERVICE COMMISSION.

459. Boards of examiners—A board of examiners at the headquarters of each district of the Engineer Department at Large shall be composed of a secretary, vice-secretary, and one or more additional members, either at the headquarters or at various parts of a district, as may appear necessary, selected by the Civil Service Commission from names submitted by the local officer. (Cir. 14, C. of E., 1902.)

460. Duties of boards.—It shall be the duty of boards of examiners, through the secretaries, to furnish the Commission with information in reference to the needs of the service, to give out application blanks and circulars of information to applicants, to receive applications for positions in which no educational examination is required, to grade the papers, to establish registers of eligibles, and to do such other work as the Commission or central board herein or hereafter directs. Boards of examiners, in the performance of their duties as such, shall be subject to the provisions of Civil Service Rule IV, section 1. (Cir. 14, C. of E., 1902.)

461. Applicants for positions requiring an educational test.—Applications for all positions in the Engineer Department at Large, for which an educational examination is required, shall be filed by the applicants with the Civil Service Commission at Washington, D. C. Registers of eligibles shall be kept by the Commission, from which certifications shall be made for appointments to vacancies in such positions. When, in the opinion of the Civil Service Commission, it is necessary and desirable, certifi-

cation will be made from the eligibles of the district in which service is to be rendered. (Cir. 14, C. of E., 1902.)

462. Applicants for positions requiring no educational test.—Applications for positions requiring no educational test shall be filed with the board of examiners for the district in which the applicant desires employment. The board shall grade the applicant in age, intelligence and experience, and physical qualifications, in accordance with the following regulations for marking:

| Subjects. | Marks. | Weights. |
|----------------------------------|--------|----------|
| Age..... | | 2 |
| Intelligence and experience..... | | 6 |
| Physical condition..... | | 2 |
| Total..... | | 10 |

The element of age will be graded as follows: Over 25 and not exceeding 45 years, 100 per cent; for each of the five years less than 25 or more than 45, a deduction of 1 per cent; for each of the five years more than 50, a deduction of 2 per cent; for each of the five years more than 55, a deduction of 3 per cent; for each of the next five years, 4 per cent.

The element of experience will be graded as follows: A workman who has acquired the status of a journeyman shall be given a mark of 70 for experience; for the next two years of experience, a credit of 10 per cent for each; exceeding two and not exceeding seven years, a credit of 2 per cent for each year will be given. It will be seen that seven years of experience as a journeyman is entitled to the maximum mark of 100 per cent.

The element of physical condition will be marked as follows: Where nothing in the way of defect or disqualification for the practice of the trade or occupation for which he is examined is shown, a mark of 100 per cent shall be given, and proportionate deduction shall be made as defects or disqualifications are shown, according to the nature of such defects.

Where it is desirable, a general intelligence test, or practical questions, will be given in addition to the examination on Form 1086.

As the local boards are responsible for the lists they prepare, it is their duty to investigate fully all applications, that no inefficient or improper applicants be made eligible for appointment. Certificates and indorsements of unknown parties should not be accepted as complete evidence of capacity or worthiness. All applicants, before being declared eligible, must appear before some member of the local board for personal examination by inspection and questioning. Applications will be received, personal examination made, and rating prepared, by any member of such board, the applications being forwarded to the board at headquarters for further consideration and final action.

All examination papers are subject to review by the Civil Service Commission, when such review is requested. It is necessary, therefore, that all the facts upon which marking is based by a local civil service board should be made a matter of record. If low rating results from personal examination or verbal evidence, the facts should be explained; if the low rating is the result of documentary evidence, such documents should be attached to examination papers.

(Cir. 14, C. of E., 1902.)

463. List of eligibles.—Separate lists for the various positions for which there are eligibles, shall be established, the names of the eligibles being entered upon the registers according to the general average of each, respectively, except preference claimants under section 1754 of the Revised Statutes, whose names shall head the lists. Several copies of the lists of eligibles shall be prepared, one copy to be retained by the board, one to be furnished to each appointing officer in the district, one to be sent to the Chief of Engineers, and one to the Civil Service Commission. A list of all eligibles selected for employment during the month preceding that for which the lists are prepared shall be shown in connection with the lists of eligibles. (Cir. 14, C. of E., 1902.)

464. Registering new names.—On the first day of each month the board shall prepare new lists, the names of all eligibles being entered according to the relative position to which each respectively is entitled. New names shall not be entered upon any of the lists of eligibles on any other date unless a particular list of eligibles is entirely exhausted, in which case that list shall be re-

plenished and copies of additional names furnished. Each list of eligibles should be complete in itself, and should contain the name of each person eligible for appointment in the district to which it relates, on the date of issue. The term of eligibility is one year, and eligibles whose terms have expired and those who have been appointed should not appear as eligible. (Cir. 14, C. of E., 1902.)

465. Preference for appointment, section 1754, Revised Statutes.—The Civil Service Commission will decide all claims of preference, basing its decisions upon the records of the War and Navy Departments, and will inform the local board of its decision. When an applicant states that he was discharged from the military or naval service on account of disability incurred in the line of duty, the local board should report the name, regiment, and company or vessel, and the dates of his enlistment and discharge.

It is a mistaken idea that *all* honorably discharged soldiers or sailors are entitled to preference in certification or appointment. Section 1754 of the Revised Statutes provides that persons honorably discharged from the military or naval service *by reason of disability resulting from wounds or sickness incurred in the line of duty* shall be preferred for appointments to the civil offices, provided they are found to possess the business capacity necessary for the proper discharge of the duties of such offices. A person coming under this provision of law has the following advantages: (a) He is released from all age limitations; (b) he has to attain a general average of only 65 per cent to be eligible, while for all others the required mark is 70 per cent; (c) having attained an average of 65 per cent, his name is placed upon the register above all others who have not been allowed preference. If on the same register the names of more than one preference claimant appear, the name of the claimant having the highest average will, of course, head the list. Preference under this section does not apply to persons who enter promotion examinations.

(Cir. 14, C. of E., 1902.)

466. Eligibility for appointment in other districts.—An eligible in any engineer district may have his name entered upon the appropriate list for any other districts, for a period not exceed-

ing one year from the date of his report of eligibility, upon presenting said report to the secretaries of the local boards with a written request for such action. (Cir. 14, C. of E., 1902.)

467. Appointments to be made by engineer officer.—Upon the occurrence of vacancies in registered positions appointment from the eligible lists of the local boards will be made by the engineer officer in charge, in accordance with civil service laws and regulations. (Cir. 14, C. of E., 1902.)

468. Instructions intended for local boards and for applicants.—It is believed that the instructions contained herein, which are intended primarily for the guidance of the local boards, taken in connection with the information given on Form 1086, application for positions in the United States Engineer Department at Large, will give applicants, also, all required information. (Cir. 14, C. of E., 1902.)

THE CENTRAL CIVIL SERVICE BOARD.

469. Correspondence with.—The control and direction of the local civil-service boards, and such details connected with the application of civil-service law and regulations to the Engineer Department at large as do not require the action of the Chief of Engineers or the Secretary of War, are placed in the hands of the Central Civil Service Board in the Office of the Chief of Engineers, which board is a part of the civil-service organization, communicating directly with the Civil Service Commission. Requests for certification of eligibles of educational class, reports of changes in classified service, and similar matters should be addressed to the Chief of Engineers; but all communications from or relating to local boards, or selection and appointment of registered employees, or requests for general information regarding civil-service matters either from the officer in charge or local boards, should be addressed to the Central Civil Service Board. (Cir. 14, C. of E., 1902.)

REPORTS OF CHANGES.

470. To be submitted monthly.—Monthly reports of changes of status of employees and of emergency and temporary appoint-

ments will be forwarded to the Chief of Engineers, upon forms provided and now in use, in accordance with instructions thereon. (Par. *a*, Sec. VI, Cir. 14, C. of E., 1902.)

471. To be examined with money accounts.—It is incumbent upon the Chief of Engineers to examine money accounts in connection with the lists of employees in each district, and his approval of the accounts carries with it the information to the accounting officers of the Treasury that the employees on the rolls and vouchers have been appointed according to law; it is therefore essential that all changes in the status of employees should be accurately noted on the monthly lists of changes, and that these lists be forwarded promptly for examination in connection with an officer's money accounts. These reports are forwarded to the Civil Service Commission and are intended to furnish the complete record of each appointee in the classified service, which is kept in accordance with provisions of Civil Service Rule XIII. (Par. *b*, Sec. VI, Cir. 14, C. of E., 1902, corrected to date.)

472. To accompany money accounts.—The report of changes among employees should be made in connection with the money account and forwarded to the Chief of Engineers under the same cover. Accounts can not be considered complete for approval unless accompanied by this report. (Cir. 11, C. of E., 1898.)

473. Changes of employees on remote works.—In cases where persons are employed on remote works, and not reported to the main office in time to be included in the report, their names may be shown on the report for the succeeding month, but the report must give the names of all classified employees who have been appointed or whose status has changed within the month, if their names appear on pay rolls forming part of the account which the report of changes accompanies. (Cir. 11, C. of E., 1898.)

474. Approval of reports.—Acknowledgment of the receipt of reports of changes without remark or exception will be regarded as the approval of all items thereon requiring action by the Chief of Engineers. (Par. *b*, Sec. VI, Cir. 14, C. of E., 1902.)

RETURNS OF EMPLOYEES.

475. To be submitted quarterly.—There will be submitted quarterly, on the first day of December, March, June, and September, a single return showing the names of all employees then holding classified educational positions and of all employees then holding noneducational positions of class 2 or higher class. Opposite the names should be shown the designations, rates of pay, places of employment, and whether in office or field. (Par. 2, Cir. 19, C. of E., 1903.)

476. Suboffices to be shown separately.—If suboffices are maintained, the employees should be grouped under the different offices, in order that the organization may be clearly shown. (Par. 3, Cir. 19, C. of E., 1903.)

PER-DIEM EMPLOYEES.

477. Citation:

A per-diem employee is one who is employed by the day and paid a certain sum as a day's wages. One who is not employed by the day, but whose pay is measured by the day, is not a per-diem employee. (8 Comp. Dec., 235.)

478. Day's labor not to exceed eight hours, unless unavoidable:

AN ACT relating to the limitation of the hours of daily service of laborers and mechanics employed upon the public works of the United States and of the District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the service and employment of all laborers and mechanics who are now or may hereafter be employed by the Government of the United States, by the District of Columbia, or by any contractor or subcontractor upon any of the public works of the United States or of the said District of Columbia, is hereby limited and restricted to eight hours in any one calendar day, and it shall be unlawful for any officer of the United States Government or of the District of Columbia or any such contractor or subcontractor whose duty it

shall be to employ, direct, or control the services of such laborers or mechanics to require or permit any such laborer or mechanic to work more than eight hours in any calendar day except in case of extraordinary emergency.

SEC. 2. That any officer or agent of the Government of the United States or of the District of Columbia, or any contractor or subcontractor whose duty it shall be to employ, direct, or control any laborer or mechanic employed upon any of the public works of the United States or of the District of Columbia who shall intentionally violate any provision of this act, shall be deemed guilty of a misdemeanor, and for each and every such offense shall upon conviction be punished by a fine not to exceed one thousand dollars or by imprisonment for not more than six months, or by both such fine and imprisonment, in the discretion of the court having jurisdiction thereof.

SEC. 3. The provisions of this act shall not be so construed as to in any manner apply to or affect contractors or subcontractors, or to limit the hours of daily service of laborers or mechanics engaged upon the public works of the United States or of the District of Columbia for which contracts have been entered into prior to the passage of this act.

Approved, August 1, 1892.

(G. O. 7, C. of E., 1892; 27 Stats., 340.)

Citations and cross reference:

(a) For opinion of the Attorney-General upon the act of August 1, 1892, see G. O. 61, A. G. O., 1892, or 20 Op. A. G., 459.

(b) It is not essential that the requirements of the act of August 1, 1892, be embodied in a contract, as the responsibility rests on contractors to comply with the law, irrespective of the terms and conditions of their contracts. (Dig. Op. J. A. G., 1237,—§ 295j.)

(c) The term "extraordinary emergency," employed in the first section of the act of 1892, can not properly be construed in advance as referring or applicable to any particular class of cases. The question whether there is or was such emergency should be left to be determined by the facts of each special instance as it arises. A case in which it appeared that a compliance with the statute was not possible might well be held

to be one of "extraordinary emergency." (Dig. Op. J. A. G., 1239.)

(d) No provision is contained in the act of 1892 for the *suspension* of its operation, and the Secretary of War has no power to suspend it as to certain work or places of work on the theory that an "emergency" exists as to the same. Nor can he lay down in advance any general rule as to what would be such an emergency as would relieve an officer or contractor from liability or give him an immunity from prosecution. The question of the existence of an emergency is to be determined in the first instance by the person carrying on or in charge of the work; in the second by the court, if the case comes before one. It may be said generally that when the emergency can be foreseen it is not extraordinary; that increased expense and inconvenience can not constitute an emergency when they can be foreseen and guarded against. (Dig. Op. J. A. G., 1240.)

479. Method of determining rate of compensation.—The compensation to be paid to "employees who are paid days' wages for days' work" shall be such that the amount of money they receive for each eight hours' work shall not be less in amount than the sum that is paid for a full day's work, for labor of the same kind and quality, in the section of country in which the constructions are being carried on. (Cir. 18, C. of E., 1888.)

(a) *Cross reference:* As to the method to be adopted in computing wages earned, see Cir. 18, C. of E., 1888,—§ 349.

HOLIDAYS.

480. When holiday occurs on Sunday:

AN ACT to amend section nine hundred and ninety-three of the Revised Statutes of the United States for the District of Columbia, and an act entitled "An act to amend section nine hundred and ninety-three of the Revised Statutes of the United States for the District of Columbia," approved January thirty-first, eighteen hundred and seventy-nine.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever any day set apart as a legal holiday within the District of Columbia

shall fall on the first day of the week, commonly called Sunday, then and in such event the day next succeeding shall be a holiday within the District of Columbia.

* * * * *

Approved, December 20, 1881.

(Cir. 1, C. of E., 1891,—22 Stats., 1.)

481. Holidays for per-diem employees:

JOINT RESOLUTION providing for the payment of laborers in Government employ for certain holidays.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the employees of the Navy Yard, Government Printing Office, Bureau of Printing and Engraving, and all other per diem employees of the Government on duty at Washington, or elsewhere in the United States, shall be allowed the following holidays, to wit: The first day of January, the twenty-second day of February, the fourth day of July, the twenty-fifth day of December, and such days as may be designated by the President as days for national thanksgiving, and shall receive the same pay as on other days.

Approved, January 6, 1885.

JOINT RESOLUTION providing for the payment of per diem laborers in Government employ on "Memorial" or "Decoration Day" and the fourth day of July of each year as on other days.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That all per diem employees of the Government, on duty at Washington or elsewhere in the United States, shall be allowed the day of each year which is celebrated as "Memorial" or "Decoration Day" and the fourth of July of each year, as holiday, and shall receive the same pay as on other days.

Approved, February 23, 1887.

(Cir. 1, C. of E., 1891,—23 Stats., 516, and 24 Stats., 644.)

482. Labor Day:

AN ACT making Labor Day a legal holiday.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first Mon-

day of September in each year, being the day celebrated and known as Labor's Holiday, is hereby made a legal public holiday, to all intents and purposes, in the same manner as Christmas, the first day of January, the twenty-second day of February, the thirtieth day of May, and the fourth day of July are now made by law public holidays.

Approved, June 28, 1894.

(Cir. 4, C. of E., 1894,—28 Stats., 96.)

483. Citation:

As to what are holidays in the District of Columbia, see sec. 1389, Code of Laws, D. C. (31 Stats., 1404), amended by act approved June 30, 1902 (32 Stats., 543).

LEAVES OF ABSENCE.

484. Annual leave with pay.—Clerks and other employees of the several departments at large and military departments under the jurisdiction of the War Department, who are regularly and continuously employed, may be granted thirty days' annual leave with pay in any calendar year, when to grant such leave will not cause embarrassment or delay in the conduct of the public service. (W. D. Orders, published in Cir. 16, C. of E., 1899.)

485. Absence on account of illness, etc.—Pay may be allowed in case an employee is absent because his presence would jeopardize the health of fellow employees, or when an employee is unavoidably absent from duty by reason of personal illness, provided that the period of such absence added to all other previous periods of absence with pay during the calendar year shall not exceed sixty days in that year, and provided that the absence is accounted for to the satisfaction of the proper officer by the personal certificate of the employee and the certificate of the attending physician. (W. D. Orders, published in Cir. 16, C. of E., 1899.)

486. Sundays and holidays.—Sundays and days declared public holidays by law or Executive order will be charged in all cases of absence except when included in a period of annual leave. (W. D. Orders, published in Cir. 16, C. of E., 1899.)

MEDICAL ATTENDANCE.

487. Provided by Marine-Hospital Service.—Masters, officers, and crews of vessels in the service of the Mississippi River Commission shall be entitled to the benefit of the Marine-Hospital Service (except at stations of the fourth class), under the same regulations as govern the admission of seamen on documented vessels. No charge shall be made for their care and treatment.

Seamen employed on vessels under the charge of the Engineer Corps of the United States Army shall be admitted to the benefits of the Marine-Hospital Service without charge at stations of the first, second, and third class upon the written request of the commanding officers of said vessels.

The term seamen will be understood to include masters, officers, and crews of vessels in the service of the Engineer Department at Large.

Relief stations are divided into the following classes:

Class 1. United States marine hospitals.

Class 2. All other stations under command of a commissioned officer.

Class 3. All stations under charge of an acting assistant surgeon where there is a contract for the care of sick and disabled seamen.

Class 4. All other relief stations not included in the above classes.

(Secs. 479 and 480, Regulations, U. S. Marine-Hospital Service, 1897; Cir. 7, C. of E., 1898.)

488. Citations:

(a) For provisions regarding medical attendance for civilian employees, by the Medical Department of the Army, see A. R. 1485, 1486, 1488, 1500.

(b) Where the compensation of an officer or employee is fixed by contract, provision may be made therein as a part of compensation for medical attendance in case of injury received or sickness occurring in the line of duty; but in the absence of such provision in the contract, or of provision therefor by law, the Government is under no legal obligation to pay for such attendance upon sick or disabled officers or employees. (8 Comp. Dec., 296.)

TRANSFERS OF EMPLOYEES.

489. Employees of the War Department at large.—The Secretary of War considers that the interests of the service require that employees at large in the Department must be subject to orders in regard to transfer of station, and a refusal to obey such orders will be deemed a proper and sufficient reason for discharge from the service. (Cir. 26, A. G. O., 1901.)

490. Information circulars as to employees needed or available for transfer.—Information circulars will be issued on the 10th day of each month, and oftener if necessary. These circulars are intended to furnish the names of employees or eligibles available for employment elsewhere and lists of vacancies with the special qualifications desired in each case. These exchanges of information regarding personnel should extend to all employees of the educational class and to those noneducational employees of class 2 or higher. Officers desiring items inserted in the circulars will prepare concise statements showing the qualifications, experience, etc., of any employee about to be furloughed, and in the case of a vacancy, the qualifications required, together with the proposed rate of pay. (Cir. 38, C. of E., 1905.)

491. Traveling expenses.—Attention is called to the provisions of A. R. 742. The transfer of clerks or employees at the expense of the United States, except in cases of urgent necessity is prohibited, and the mere convenience of officers or clerks does not constitute a necessity which should create an expense to the Government.

This paragraph will be strictly construed, and application for such transfers will not be made unless within the plain language of the paragraph.

It is not intended to prohibit or prevent civilian employees from exchanging places at their own expense where such exchange is agreeable to all concerned, nor to prevent a clerk accompanying an officer upon a change of station when no expense to the Government or inconvenience to other officer or employee is involved. (W. D. letter dated March 30, 1896, modified to date published in Cir. 3, C. of E., 1896.)

492. Citation:

For provisions regarding the transfer to and from the Philippines of employees at large of the War Department, see G. O. 68, W. D., 1904.

NOTARIES PUBLIC.

493. Compensation to employees acting as notaries public.—No officer, clerk, or employee in the executive service of the Government, who is also a notary public, shall charge or receive any compensation whatever for performing any notarial act for an officer, clerk, or employee of the Government in his official capacity, or in any matter in which the Government is interested, or for any person when, in the case of such person, the act is performed during the hours of such notary's service to the Government. Disobedience of this order shall be ground for immediate dismissal from the service.

This order shall not apply to oaths of disinterestedness, or other oaths required to be made by law, provided that the work in connection therewith is not performed during office hours. (G. O. 61, W. D., 1905.)

(a) *Cross reference:* Where affidavits are required it is preferred that they should not be sworn to before a notary public who is employed under the Engineer Department. (Cir. 6, C. of E., 1899,—§ 377.)

ASSISTANCE IN PREPARATION FOR CIVIL-SERVICE EXAMINATIONS.

494. Assistance from officers or employees forbidden.—No officer or employee of the Government shall, directly or indirectly, instruct or be concerned in any manner in the instruction of any person or classes of persons with a view to their special preparation for the examinations of the United States Civil Service Commission.

The fact that any officer or employee is found so engaged shall be considered sufficient cause for his removal from the service.

(Executive Order of Oct. 13, 1905, published in Cir. 39, C. of E., 1905.)

495. Interest of officers or employees in schools of preparation forbidden.—The above provision (§ 494) also prohibits Government officers or employees from being concerned financially or otherwise in any school or institution claiming to give instruction along the lines of civil-service examinations. (Cir. 41, C. of E., 1905.)

GENERAL CITATIONS AND CROSS REFERENCES.

496. Payments to employees:

(a) For rules for the computation of time in payment of services, see A. R. 655.

(b) For instructions for computing amounts due to salaried employees, see Cir. 23, W. D., 1904, and A. R. 655,—§ 348.

(c) As to the method to be adopted in computing wages earned, see Cir. 18, C. of E., 1888,—§ 349.

(d) Where board is paid or subsistence furnished, the cost of same to be shown on pay roll or voucher. (Cir. 17, C. of E., 1903,—§ 328.)

(e) As to accounts for reimbursement of civilian employees for expenditures made by them, see Cir. 6, C. of E., 1900,—§ 343.

(f) The payment of per-diem employees for days on which the Departments are closed and public work suspended by Executive order is not authorized unless they actually render service on those days. (8 Comp. Dec., 219.)

(g) As to payment of burial expenses of deceased employee, and application thereto of amount due him as salary or wages, see Cir. 29, O. C. E., 1900; 2 Comp. Dec., 347; 10 do., 845; 11 do., 789.

497. Travel by civilian employees:

(a) Civilian employees are entitled to actual traveling expenses for travel on duty under orders. (E. R. 34.)

(b) For general provisions regarding travel by civilian employees, and payment of expenses therefor, see A. R. 735-742,—Par. 736 amended by G. O. 207, W. D., 1905.

(c) The authority of the Chief of Engineers is required for travel by civilian employees beyond the limits of the district in which they are employed. (Cir. 14, C. of E., 1904,—§ 200.)

(d) Transportation requests should be used by civilian employees traveling on duty connected with fortifications or other military work over land-grant or bond-aided roads. (Cir. 15, 1897, and Cir. 12, 1901, C. of E.,—§ 210.)

(e) Expenses of civilian electrician experts while traveling under the direction of the Chief of Artillery will not be paid from Engineer-Department appropriations. (Cir. 13, C. of E., 1903,—§ 201.)

(f) Discharged civilian employees who are entitled to return transportation to the United States must avail themselves of the privilege by the first available army transport. (Par. I, G. O. 166, W. D., 1905.)

498. Attendance upon courts:

(a) For provisions regarding the traveling expenses of civilian employees summoned as witnesses before military courts, see A. R. 998.

(b) Compensation to civilian employees for attendance upon civil courts is payable by the civil authorities. (A. R. 1003.)

499. Convict labor:

(a) It is forbidden to hire or contract out the labor of prisoners incarcerated for violating the laws of the Government of the United States. (Cir. 6, C. of E., 1887,—§ 240.)

(b) The employment of persons undergoing sentences of imprisonment at hard labor which have been imposed by the courts of the several States, Territories, or municipalities having criminal jurisdiction, not to be permitted under contracts on behalf of the United States to be performed within the territorial limits of the United States. (Par. II, G. O. 78, W. D., 1905,—§ 241.)

500. Miscellaneous:

(a) For general provisions regarding civilian employees, see A. R. 730-734.

(b) The work of public laborers or mechanics to be applied only to the actual wants of the work in progress, and not for the comfort, convenience, or pleasure of the superintendent or any other person. (Cir. 7, C. of E., 1891,—§ 360.)

(c) The number of civilian employees to be kept at the lowest figure practicable, consistent with efficiency. (G. O. 1, C. of E., 1869,—§ 510.)

(d) The division engineer to be allowed such office force as the Chief of Engineers may authorize, to be paid pro rata from the appropriations for works in his division. (G. O. 9, C. of E., 1901,—§ 113.)

(e) The division engineer to exercise supervision over the organization of the office force in each district in his division. (G. O. 9, C. of E., 1901,—§ 111.)

(f) As to reports of names, etc., of civilian engineers employed on river and harbor works, to be submitted annually, see E. R. 19.

(g) As to the preparation of the Biennial Register, and the information which it is to contain concerning officers, clerks, and other employees, see sec. 73, act of January 12, 1895,—28 Stats., 618.

(h) All employees of the United States are forbidden to solicit an increase of pay, or to influence or attempt to influence in their own interest any other legislation whatever, save through the heads of the Departments in or under which they serve, on penalty of dismissal from the Government service. (G. O. 18, A. G. O., 1902,—§ 524.)

(i) The offer or acceptance of gifts from employees or officials to their superiors prohibited. (Cir. 15, C. of E., 1903, Cir. 46, W. D., 1904,—§ 523.)

(j) For provisions of law forbidding officers and employees of the Government from being interested in claims against the Government, see R. S., 190.

(k) For certain provisions of law forbidding the giving or receiving of contributions for political purposes, see 22 Stats., 406, 407, or 1 Sup. R. S., 396.

(l) As to the holding of two employments under the Government by one person, see R. S. 1763-1765; 28 Stats., 205, or 2 Sup. R. S., 212; 6 Comp. Dec., 683; 5 do., 143, 935; 10 do., 837; and 11 do., 5, 236, 279, 702, 721.

(m) A clerk or other officer who is promoted from one position to another is required to take a new oath of office be-

fore becoming entitled to receive the compensation of the new position. (7 Comp. Dec., 43.)

(*n*) A provision in an appointment to take effect from date of oath is a qualification of the appointment, which renders the taking of the oath a condition precedent to its taking effect. (6 Comp. Dec., 41.)

(*o*) Persons holding Federal civil office are not to accept or hold any office under any State or Territorial government or under the charter or ordinances of any municipal corporation.

This order does not prohibit Federal officers or employees from holding office as justices of the peace, notaries public, and commissioners to take the acknowledgment of deeds, or bail, or to administer oaths; from holding positions on boards of education, school committees, public libraries, and religious or eleemosynary institutions; nor from accepting commissions as officers of the State militia. It does prohibit them from holding the office of alderman or common councilman in a city, or of a town councilman of a town or village, or of appointments under city, town, or village governments. It does not apply to mechanics and laborers in the armories, arsenals, navy yards, etc., employed by the day, but does apply to master workmen and others who hold appointments, whether for a fixed time or at the pleasure of the appointing power.

(Executive orders, Jan. 17 and 28, 1873—Messages and Papers of the Presidents, vol. 7, pp. 218-220.)

CHAPTER XIII.

AUTHORITIES IN GENERAL.

501. For what purposes authority is required.—In the execution of any work carried on under the direction of the Chief of Engineers, his authority must be obtained for the—

1. Construction of all permanent buildings and wharves, vessels, boats (except skiffs and rowboats), telegraph or telephone lines.

2. Hire or rent of all lands, buildings, wharves, vessels, boats (except skiffs and rowboats), office room or rooms for storage or other purposes, telephones or telephone service, and of all machinery or appliances when the expense to be incurred exceeds \$100.

3. Mounting or dismounting gun carriages or guns.

4. Purchase of surveying or drawing instruments, photographic apparatus, professional books, books of reference, telephones, typewriting machines, vessels, boats (except skiffs and rowboats), animals, vehicles, furniture and furnishings for offices, furniture for boats, and of all machinery or appliances which cost more than \$500 and which will not form a component part of the work when completed in accordance with the approved project.

5. Repairs or alterations to any building, wharf, vessel, boat, or large article of plant when the expense to be incurred will exceed \$500 or be more than 30 per cent of the original cost.

(Pars. 3-7, Cir. 18, C. of E., 1904.)

502. What applications for authority should contain.—All applications for authority for expenditures will state concisely the necessity therefor, the probable cost, and the appropriation or appropriations from which the same will be paid. (Par. 8, Cir. 18, C. of E., 1904.)

503. Approval after the fact.—When from the emergency of the work antecedent authority can not be obtained, approval after the fact may be given by the Chief of Engineers in his discretion. In such cases the officer making the expenditure will report the same promptly, certifying that the emergency was such that antecedent authority could not be obtained. (Par. 9, Cir. 18, C. of E., 1904.)

504. Expiration of authorities.—All continuing authorities, i. e., those that are paid monthly or quarterly, such as rents for offices, telephones, lands, etc., will expire on the 30th day of November following the date of their approval. (Par. 10, Cir. 18, C. of E., 1904.)

505. New authorities required annually.—Between the 1st and 10th days of November of each year officers will submit requests for authority for such rents, etc., as are needed for the works on the 1st of December following. Additional authorities will be requested as the necessities of the works demand. (Par. 11, Cir. 18, C. of E., 1904.)

506. Authority for printing.—Authority to do job printing, including specifications, may be granted by the Chief of Engineers.

Vouchers for printing and advertising and requests for authority to publish advertisements will be addressed to the chief clerk of the War Department.

(Cir. 10, C. of E., 1897.)

507. Cross references:

(a) Requests for authorities to be submitted through the division engineer. (G. O. 9, 1901, and G. O. 10, 1903, C. of E.,—§§ 112, 115.)

(b) As to authorities for employment, see Cir. 2, 1903, and 18, 1904, C. of E.,—§§ 414-424.

(c) As to the granting of authority to disbursing officers to hold funds in their own hands at their own risk, see Cir. 3, C. of E., 1892,—§ 334.

(d) As to evidence of authority for certain payments, and subsequent citation of such authority, see Par. 2, G. O. 2, C. of E., 1892,—§ 325.

(e) The prior authority of the Chief of Engineers is required for radical changes in the methods of keeping accounts and records of correspondence in the district engineer offices. (Cir. 2, C. of E., 1906,—§ 60.)

(f) Prior authority is required for the publication of advertisements in newspapers under R. S., 3828. Subsequent approval is not sufficient. (5 Comp. Dec., 166,—§ 273*g*.)

CHAPTER XIV.
MISCELLANEOUS.

ADMINISTRATION.

508. General provisions; citations and cross reference:

(a) As to the duties of the Corps of Engineers and of the Chief of Engineers, see A. R. 1522, 1523.

(b) The standard blank forms used in army administration, with the notes and directions thereon, have the force and effect of Army Regulations. (A. R. 1603.)

(c) As to allowances to be provided Engineer officers engaged in the construction of public works, see A. R. 1533.

(d) By "civil office," as the term is used in R. S. 1222, is undoubtedly meant *public* office. The presidency of the American Society of Civil Engineers does not involve the exercise of any public functions; the office could be accepted by an officer of Engineers of the Army without his military commission being affected. (Dig. Op. J. A. G., 1828.)

(e) As to furnishing information which can be made the basis of a claim against the Government, see A. R. 831.

(f) For provisions of law forbidding officers and employees of the Government from being interested in claims against the Government, see R. S. 190.

(g) For regulations regarding Engineer officers serving with an army or other body of troops, see A. R. 1526-1532, 1537, 1538.

(h) As to diverting officers and troops serving under the immediate orders of the Chief of Engineers from such service, see A. R. 1525.

(i) As to maps and reconnaissances by troops on the march, see A. R. 449-453.

(j) For regulations for the government of the Engineer School, see G. O. 136, W. D., 1905.

(k) As to the holding of State, Territorial, or municipal offices by Federal officers or employees, see "Messages and Papers of the Presidents," vol. 7, pp. 218-220,—§ 500o.

509. Public works; citations:

(a) An officer charged with any work involving the expenditure of money to submit a project for the manner in which it is proposed to apply the funds, with an estimate of the probable monthly expenditures. (E. R. 20.)

(b) The Chief of Engineers to personally inspect the public works under the charge of officers and agents of his department. (E. R. 4.)

(c) Public works in the charge of the Corps of Engineers to be inspected at least once a year, and when completed, by officers of the Corps duly designated. (E. R. 9.)

(d) Requests for the free admission of articles imported for the use of the Government to be accompanied by a list of the same. (E. R. 44.)

510. Economy.—All officers will exercise strict economy in the execution and administration of the works and duties intrusted to their charge.

The number of assistants, draftsmen, clerks, and other office forces, and of overseers, mechanics, laborers, and all other employees must be reduced to and kept at the lowest figure practicable, consistent with efficiency.

Rigid economy should likewise be exercised in office rents and expenses, and in the means of transportation belonging to the engineer works, surveys, posts, and depots, such as steamboats, sailing vessels, boats, barges, wagons, animals, etc.

(G. O. 1, C. of E., 1869.)

511. Strict accountability for property to be required.—Officers will require of their subordinates a strict accountability and responsibility for public property, using such methods as may

appear to be the most economical and advantageous in each instance.

(Par. 3, Cir. 8, C. of E., 1900.)

512. Expenditures when no work is in progress.—As a rule each appropriation should bear its proper quota of office expenses, but it is not desirable that such quota should be charged to an appropriation at a time when no active operations are in progress at that particular work, and such charges are especially objectionable when no work is carried out during the fiscal year in which expenditure for office expenses is reported.

Balances of appropriations which are being held for repairs, for care, for additional appropriation, or for similar purposes, should not be charged with any greater percentage of contingent expenses than the actual work during the year in connection with such balance justifies.

(Cir. 17, C. of E., 1898.)

INSIGNIA, ETC.

513. Citations and cross reference:

(a) For regulations for the uniform of the Army see G. O. 197, W. D., 1904, amended by Par. I, G. O. 43, Par. II, G. O. 62, Par. II, G. O. 80, Par. I, G. O. 81, Par. I, G. O. 137, Par. I, G. O. 158, G. O. 163, and Par. I, G. O. 206, W. D., 1905, and G. O. 30, W. D. 1906; see also Cir. 11, C. of E., 1905,—§ 515.

(b) As to the colors of the battalions of engineers and of engineer regiments, see A. R. 222, 223.

514. Engineer colors authorized on boats.—Officers are authorized to carry on boats belonging to the engineer works under their charge a square, scarlet flag, with a white castle in the center, these colors corresponding to those of the battalions of engineers. (G. O. 13, C. of E., 1887, modified to date.)

515. Saddle cloths.—Officers of engineers, except the Chief of Engineers, are required to have one dress saddle cloth only, with edges trimmed with enamel leather, 1 inch wide, of the same color as the facings of their uniform, the metal insignia to be those prescribed for dress coats, 2 inches high. (Indorsement of Military Secretary's Office, dated March 13, 1905, published in Cir. 11, C. of E., 1905.)

STATIONS OF OFFICERS AND ABSENCE THEREFROM.

516. Meaning of term "station."—The term station refers to the place at which an officer is assigned by orders. All absences from such station or its immediate vicinity are "on leave" or "on duty," and should be noted on personal reports under the heads of "date of leaving station," "date of return to station," and "on leave or on duty." (Cir. 6, C. of E., 1896.)

517. Visits by officers within their districts.—Officers are authorized to visit works in their charge and within their districts as often as, in their opinion, the good of the work requires; but it should be noted on personal reports whether such visits are made with or without orders. (Cir. 6, C. of E., 1896.)

518. Visits by officers outside their districts.—Officers are not authorized to visit other works or go beyond the limits of their districts, or absent themselves on any duty not immediately connected with the official work in their charge, without special and proper authority, except to take advantage of an authorized leave, or under the provisions of A. R. 64. (Cir. 6, C. of E., 1896.)

519. Citations and cross references:

(a) As to leaves of absence of officers, and as to visits to foreign countries, see A. R. 49-67.

(b) Delays in obeying orders, in reporting for duty, or in returning to duty from leave when authorized by the War Department, to be regarded as leaves of absence in certain cases. (A. R. 70.)

(c) All authorized absence from duty, except on account of sickness or wounds, counts as absence with leave unless shown to be for the convenience of the Government. (Cir. 35, W. D., 1905.)

(d) Absence with permission to hunt is construed as having been "shown to be for the convenience of the Government" when the officer on his return forwards the certificate and furnishes the report mentioned in A. R. 65. (Par. 4, Cir. 52, W. D., 1905.)

(e) As to report to be submitted to the Chief of Engineers by an officer on changing station, see Par. 2, G. O. 11, C. of E., 1905,—§ 34.

(*f*) The tour of duty for Philippine service will, so far as practicable, be on the basis of two years and six months' absence from the United States for all staff officers. (Par. III, G. O. 133, W. D., 1905.)

520. Countries not "beyond the sea."—It has been held by the Department that as Canada and Mexico are not "beyond the sea" it is not necessary for officers on leave of absence to obtain special permission from the War Department to visit those countries. It is also held that officers on leave of absence may visit Porto Rico and Hawaii without special permission from the War Department, as those islands are a part of the United States, but when an officer desires to visit any foreign country and the journey thereto involves travel by sea the officer should first obtain the permission of the War Department as contemplated by A. R. 61. (Cir. 9, C. of E., 1905.)

PERSONAL PROPERTY OF OFFICERS.

521. Transportation of property of retired or deceased officers.—A limit of one year from date of retirement or decease is fixed during which the change-of-station allowance of the personal effects, professional books and papers may be transported at public expense to the homes of retired officers or to such points within the limits of the United States as the relatives or friends of deceased officers may designate.

All property shipped after the time limit herein fixed will not be at public expense.

(Par. I, Cir. 63, W. D., 1905.)

522. Citations:

(*a*) As to compensation for private property lost or destroyed in the military service, see A. R. 729.

(*b*) As to the storage of personal property of officers during their service in the Philippines, etc., see Cir. 8, Hdqrs. Northern Division, 1904, published in Cir. 33, C. of E., 1904.

(*c*) Where in the course of the transportation by railroad, at Government expense of an officer's allowance of personal baggage the boxes containing the same were broken into and a portion of the property was stolen, the remedy of the officer was against the railroad company, not against the United

States. The United States does not make itself an insurer in such a case, nor can the officer require the United States to sue the company in damages, for this could be done only on the theory that the United States was responsible to the officer for the value of property lost by no fault or negligence of its own. (Dig. Op. J. A. G., 787.)

(d) Under the act of March 3, 1885, where the household effects of an officer of the Army were destroyed by fire while in a Government storehouse awaiting shipment to another station to which the officer had been notified he would soon be ordered, and such loss occurred without fault or negligence on the part of said officer, who was at the time engaged in saving property of the United States from destruction by the same fire, he is entitled to reimbursement for so much of said property as the Secretary of War shall, under the provisions of said act, deem necessary and proper for an officer of his rank, while in quarters, engaged in the public service, in the line of duty. (10 Comp. Dec., 433.)

GIFTS TO SUPERIORS.

523. Attention invited to provisions of law.—An exact compliance with Revised Statutes, 1784, is enjoined. (Cir. 15, C. of E., 1903.)

(a) *Citation:* For provisions regarding the observance of R. S. 1784, and the practice of receiving presents from persons not in the military establishment or in the employ of the Government in recognition of services rendered, see Cir. 46, W. D., 1904.

SOLICITING INCREASE OF PAY OR PREFERMENT.

524. Officers and employees.—All officers and employees of the United States of every description serving in or under any of the Executive Departments, and whether so serving in or out of Washington, are hereby forbidden, either directly or indirectly, individually or through associations, to solicit an increase of pay or to influence or attempt to influence in their own interest any other legislation whatever, either before Congress or its committees, or in any way save through the heads of the Departments in

or under which they serve, on penalty of dismissal from the Government service. (Executive order of Jan. 31, 1902, published in G. O. 18, A. G. O., 1902.)

(a) *Citation:* As to efforts to influence legislation affecting the Army, or to procure personal favor or consideration, see A. R. 5.

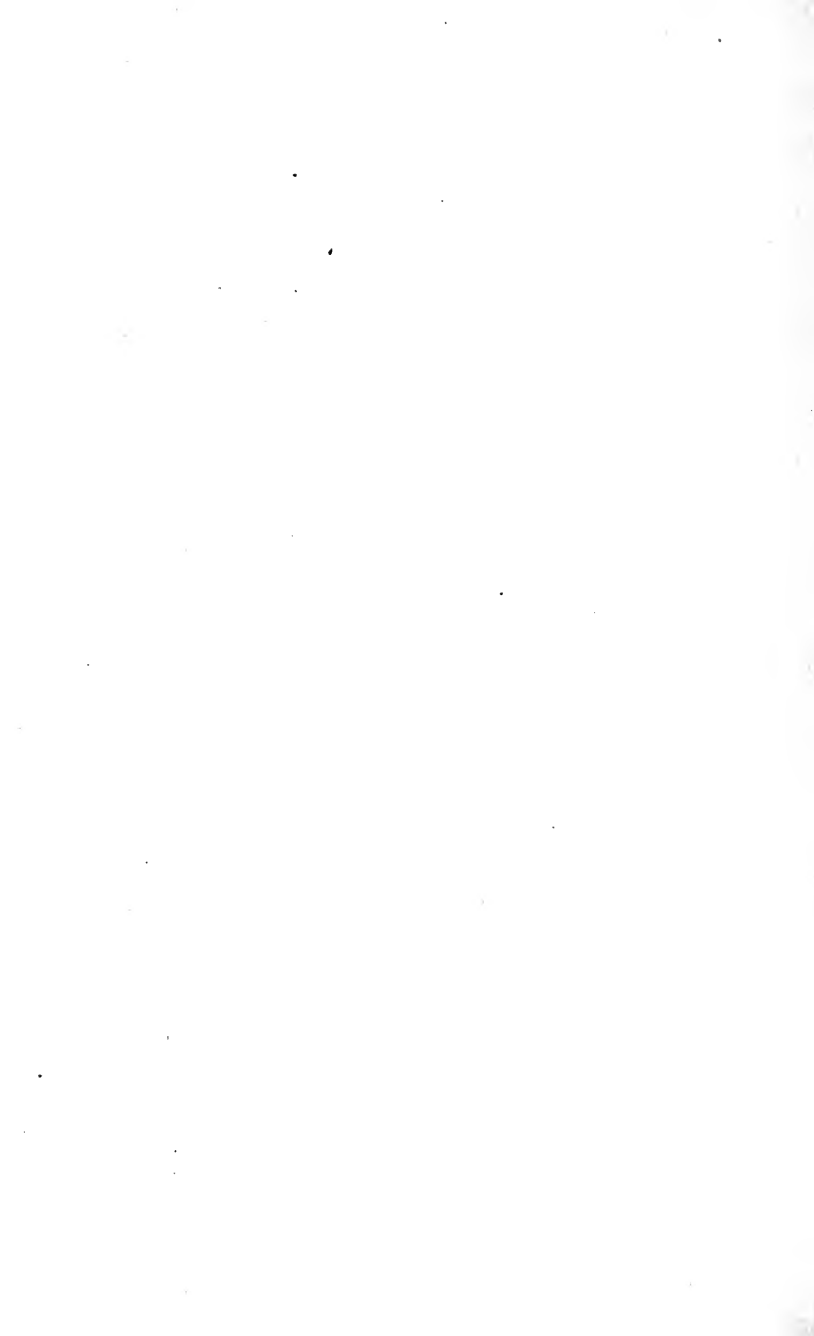
ADDENDUM.

By direction of the Secretary of War, and in compliance with a request received from the Post-Office Department, disbursing officers of the Engineer Department will submit on May 1 of each year a statement of the aggregate payments from funds under the control of the Engineer Department made in their offices during the preceding year for telegrams.

This statement must be in the hands of the Chief of Engineers not later than June 10 each year.

(G. O. 3, C. of E., 1906.)

(See §§ 16, 26.)



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