

manding officer to be correct, that he is not accountable or responsible for property to any other officer. An officer who has not been responsible for public property must make an affidavit of that fact, certified by his commanding officer. Compliance with this section warrants the final payment of the officer concerned.

Subtitle C—Navy and Marine Corps

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CHAPTER 501.—DEFINITIONS

Sec.
5001. Definitions.

§ 5001. Definitions

(a) In this subtitle:

(1) "Navy" means the United States Navy. It includes the Regular Navy, the Fleet Reserve, and the Naval Reserve.

(2) "Marine Corps" means the United States Marine Corps. It includes the Regular Marine Corps, the Fleet Marine Corps Reserve, and the Marine Corps Reserve.

(3) "Member of the naval service" means a person, male or female, appointed or enlisted in, or inducted or conscripted into, the Navy or the Marine Corps.

(4) "Enlisted member" means a member of the naval service serving in an enlisted grade or rating. It excludes, unless otherwise specified, a member who holds a permanent enlisted grade and a temporary appointment in a commissioned or warrant officer grade.

(5) "Officer" means a member of the naval service serving in a commissioned or warrant officer grade. It includes, unless otherwise specified, a member who holds a permanent enlisted grade and a temporary appointment in a commissioned or warrant officer grade.

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(6) "Commissioned officer" means a member of the naval service serving in a grade above warrant officer, W-1. It includes, unless otherwise specified, a member who holds a permanent enlisted grade or the permanent grade of warrant officer, W-1, and a temporary appointment in a grade above warrant officer, W-1.

(7) "Warrant officer" means a member of the naval service serving in a warrant officer grade. It includes, unless otherwise specified, a member who holds a permanent enlisted grade and a temporary appointment in a warrant officer grade.

(8) "Officer restricted in the performance of duty" means an officer of the Navy designated for engineering duty, aeronautical engineering duty, special duty, or limited duty, or an officer of the Marine Corps designated for supply duty or limited duty.

(9) "Active list of the Navy" means the list of officers of the Regular Navy, other than retired officers, holding permanent appointments in grades above chief warrant officer, W-4.

(10) "Active list of the Marine Corps" means the list of officers of the Regular Marine Corps, other than retired officers, holding permanent appointments in grades above chief warrant officer, W-4.

(b) For the purposes of this subtitle, a member of the naval service who holds a temporary appointment in a grade higher than his permanent grade is considered, unless otherwise specified, to be serving in the higher grade.

CHAPTER 503.—DEPARTMENT OF THE NAVY

Sec.

5011. Composition.

5012. United States Navy; composition; functions.

5013. United States Marine Corps: composition; functions.

§ 5011. Composition

The Department of the Navy is composed of the executive part of the Department of the Navy; the Headquarters, United States Marine Corps; the entire operating forces, including naval aviation, of the United States Navy and of the United States Marine Corps, and the reserve components of those operating forces; and all field activities, headquarters, forces, bases, installations, activities, and functions under the control or supervision of the Secretary of the Navy. It includes the United States Coast Guard when it is operating as a service in the Navy.

§ 5012. United States Navy: composition; functions

(a) The Navy, within the Department of the Navy, includes, in general, naval combat and service forces and such aviation as may be organic therein. The Navy shall be organized, trained, and equipped primarily for prompt and sustained combat incident to operations at sea. It is responsible for the preparation of naval forces necessary for the effective prosecution of war except as otherwise assigned and is generally responsible for naval reconnaissance, antisubmarine warfare, and protection of shipping.

(b) All naval aviation shall be integrated with the naval service as part thereof within the Department of the Navy. Naval aviation consists of combat and service and training forces, and includes

land-based naval aviation, air transport essential for naval operations, all air weapons and air techniques involved in the operations and activities of the Navy, and the entire remainder of the aeronautical organization of the Navy, together with the personnel necessary therefor.

(c) The Navy shall develop aircraft, weapons, tactics, technique, organization, and equipment of naval combat and service elements. Matters of joint concern as to these functions shall be coordinated between the Army, the Air Force, and the Navy.

(d) The Navy is responsible, in accordance with integrated joint mobilization plans, for the expansion of the peacetime components of the Navy to meet the needs of war.

§ 5013. United States Marine Corps: composition; functions

(a) The Marine Corps, within the Department of the Navy, shall be so organized as to include not less than three combat divisions and three air wings, and such other land combat, aviation, and other services as may be organic therein. The Marine Corps shall be organized, trained, and equipped to provide fleet marine forces of combined arms, together with supporting air components, for service with the fleet in the seizure or defense of advanced naval bases and for the conduct of such land operations as may be essential to the prosecution of a naval campaign. In addition, the Marine Corps shall provide detachments and organizations for service on armed vessels of the Navy, shall provide security detachments for the protection of naval property at naval stations and bases, and shall perform such other duties as the President may direct. However, these additional duties may not detract from or interfere with the operations for which the Marine Corps is primarily organized.

(b) The Marine Corps shall develop, in coordination with the Army and the Air Force, those phases of amphibious operations that pertain to the tactics, technique, and equipment used by landing forces.

(c) The Marine Corps is responsible, in accordance with integrated joint mobilization plans, for the expansion of peacetime components of the Marine Corps to meet the needs of war.

CHAPTER 505.—SECRETARY, UNDER SECRETARY, AND ASSISTANT SECRETARIES OF THE NAVY

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5031. Secretary of the Navy: responsibilities; compensation.

5032. Secretary of the Navy: powers with respect to Coast Guard.

5033. Under Secretary of the Navy: appointment; duties; compensation.

5034. Assistant Secretaries of the Navy: appointment; duties; compensation.

5035. Assistant Secretary of the Navy for Air: appointment; duties; compensation.

5036. Secretary of the Navy: succession to duties.

§ 5031. Secretary of the Navy: responsibilities; compensation

(a) There is a Secretary of the Navy, who is the head of the Department of the Navy. He shall administer the Department of the Navy under the direction, authority, and control of the Secretary of Defense.

(b) The Secretary of the Navy shall execute such orders as he receives from the President relative to—

- (1) the procurement of naval stores and material;

(2) the construction, armament, equipment, and employment of naval vessels; and

(3) all matters connected with the Department of the Navy.

(c) The Secretary of the Navy has custody and charge of all books, records, and other property of the Department.

(d) The compensation of the Secretary of the Navy is \$18,000 a year.

§ 5032. Secretary of the Navy: powers with respect to Coast Guard

(a) Whenever the Coast Guard operates as a service in the Navy under section 3 of title 14, the Secretary of the Navy has the same powers and duties with respect to the Coast Guard as the Secretary of the Treasury has when the Coast Guard is not so operating.

(b) While operating as a service in the Navy, the Coast Guard is subject to the orders of the Secretary of the Navy, who may order changes in Coast Guard operations to make them uniform, to the extent he considers advisable, with Navy operations.

§ 5033. Under Secretary of the Navy: appointment; duties; compensation

(a) There is an Under Secretary of the Navy, appointed from civil life by the President, by and with the advice and consent of the Senate.

(b) The Under Secretary shall perform such duties as the Secretary of the Navy prescribes.

(c) The compensation of the Under Secretary is that prescribed by law for assistant secretaries of executive departments.

§ 5034. Assistant Secretaries of the Navy: appointment; duties; compensation

(a) There is an Assistant Secretary of the Navy appointed from civil life by the President, by and with the advice and consent of the Senate.

(b) In addition to the Assistant Secretaries appointed under subsection (a) of this section and under section 5035 of this title, there may be two other Assistant Secretaries of the Navy appointed from civil life by the President, by and with the advice and consent of the Senate. The Secretary of the Navy shall designate one Assistant Secretary appointed under this subsection as Assistant Secretary of the Navy for Financial Management, and may also designate him as Comptroller of the Navy.

(c) The Assistant Secretaries shall perform such duties as the Secretary prescribes.

(d) The compensation of the Assistant Secretaries is that prescribed by law for assistant secretaries of executive departments.

§ 5035. Assistant Secretary of the Navy for Air: appointment; duties; compensation

(a) There is an Assistant Secretary of the Navy for Air, appointed by the President, by and with the advice and consent of the Senate.

(b) The Assistant Secretary of the Navy for Air, under the direction of the Secretary of the Navy, shall—

(1) supervise naval aviation and coordinate its activities with other agencies of the United States; and

(2) perform such other duties as the Secretary prescribes.

(c) The compensation of the Assistant Secretary of the Navy for Air is that prescribed by law for assistant secretaries of executive departments.

§ 5036. Secretary of the Navy: succession to duties

(a) When there is a vacancy in the Office of Secretary of the Navy, or during the absence or disability of the Secretary, the Under Secretary of the Navy, and, in the order prescribed by the Secretary of the Navy, the Assistant Secretaries of the Navy and the Assistant Secretary of the Navy for Air succeed to the duties of the Secretary. If the Secretary does not prescribe an order for succession to his duties by the Assistant Secretaries and the Assistant Secretary for Air, they succeed to those duties in the order in which they took office as Assistant Secretaries.

(b) During the temporary absence of the officials named in subsection (a), the Chief of Naval Operations or, in his absence, the Vice Chief of Naval Operations succeeds to the duties of the Secretary.

CHAPTER 507.—OFFICE OF THE COMPTROLLER OF THE NAVY

Sec.

5061. Comptroller of the Navy: appointment; functions.

5062. Deputy Comptroller: pay and allowances.

5063. Office of Budget and Reports: duties.

5064. Office of Budget and Reports: Director; Assistant.

§ 5061. Comptroller of the Navy: appointment; functions

(a) Subject to the authority, direction, and control of the Secretary of Defense, the Secretary of the Navy shall have the following matters in the Department of the Navy organized and conducted consistently with the operations of the Office of the Comptroller of the Department of Defense:

(1) Budgeting.

(2) Accounting.

(3) Progress and statistical reporting.

(4) Internal audit.

(5) Administrative organization structure, and managerial procedures, relating to the matters covered by clauses (1)–(4).

(b) There are a Comptroller of the Navy and a Deputy Comptroller of the Navy in the Department of the Navy. They shall be appointed by the Secretary of the Navy. The Secretary may appoint either civilian or military personnel to these offices. If either the Comptroller or the Deputy Comptroller is not a civilian, the other must be a civilian.

(c) Subject to the authority of the Secretary of the Navy, the Comptroller is responsible for the matters in the Department of the Navy named in subsection (a) (1)–(5).

(d) The Comptroller is under the direction and supervision of, and is directly responsible to, either the Secretary of the Navy, the Under Secretary, or an Assistant Secretary. However, this subsection does not prevent the Comptroller from having concurrent responsibility to the Chief of Naval Operations, the Vice Chief of Naval Operations, or a Deputy Chief of Naval Operations, if the Secretary so prescribes.

§ 5062. Deputy Comptroller: pay and allowances

If an officer on the active list of the Navy serving in the grade of rear admiral serves as Deputy Comptroller of the Navy, he is entitled, while so serving, to the basic pay and allowances of a rear admiral in the upper half of that grade.

§ 5063. Office of Budget and Reports: duties

(a) There is in the Office of the Secretary of the Navy an Office of Budget and Reports, which is charged with such duties pertaining to naval budgetary matters and statistical and work reporting as the Secretary prescribes.

(b) Duties of the Office of Budget and Reports shall be performed under the authority of the Secretary, and its orders are considered as coming from him.

§ 5064. Office of Budget and Reports: Director; Assistant Director

(a) The Director of Budget and Reports is the head of the Office of Budget and Reports. He shall be appointed by the President, by and with the advice and consent of the Senate, for a term of three years, from officers on the active list in the line of the Navy not below the grade of lieutenant commander.

(b) The Director is entitled to the same rank, pay, allowances, and privileges of retirement as provided for chiefs of bureaus in section 5133 of this title.

(c) An officer in the line of the Navy may be detailed as Assistant Director of Budget and Reports. While so serving, he is entitled to the highest pay of his grade.

(d) When there is a vacancy in the office of Director, or during the absence or disability of the Director, the Assistant Director, unless otherwise directed by the President, shall perform the duties of the Director until a successor is appointed or the absence or disability ceases.

CHAPTER 509.—OFFICE OF THE CHIEF OF NAVAL OPERATIONS

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5081. Chief of Naval Operations: appointment; term of office; powers; duties.

5082. Chief of Naval Operations and Chief of Naval Material: coordinating duties.

5083. Chief of Naval Operations: retirement.

5084. Chief of Naval Operations: quarters.

5085. Vice Chief of Naval Operations: appointment; powers; duties.

5086. Deputy Chiefs of Naval Operations: detail; duties.

5087. Assistant Chiefs of Naval Operations: detail; duties.

5088. Naval Inspector General: detail; duties.

§ 5081. Chief of Naval Operations: appointment; term of office; powers; duties

(a) There is a Chief of Naval Operations, appointed by the President, by and with the advice and consent of the Senate, for a term of not more than four years, from officers on the active list in the line of the Navy eligible to command at sea and not below the grade of rear admiral.

(b) The Chief of Naval Operations, while so serving, has the rank of admiral. He takes precedence above all other officers of the naval

service, except an officer of the naval service who is serving as Chairman of the Joint Chiefs of Staff.

(c) The Chief of Naval Operations commands the operating forces and is responsible to the Secretary of the Navy for their use, including their training, readiness, and preparation for war, and plans therefor. Orders issued by the Chief of Naval Operations in performing the duties assigned him shall be performed under the authority of the Secretary and are considered as coming from the Secretary.

(d) The Chief of Naval Operations is the principal naval adviser to the President and to the Secretary of the Navy on the conduct of war, and the principal naval adviser and naval executive to the Secretary on the conduct of the activities of the Department of the Navy.

(e) The term "operating forces" as used in this section and section 5082 of this title means the several fleets, sea-going forces, sea-frontier forces, district forces, and such of the shore establishment of the Navy and other forces and activities as may be assigned thereto by the President or the Secretary of the Navy.

§ 5082. Chief of Naval Operations and Chief of Naval Material: coordinating duties

In order that military operations and their support may be effectively coordinated—

(1) the Chief of Naval Operations, under the direction of the Secretary of the Navy, shall—

(A) determine the personnel and the material requirements of the operating forces as defined in section 5081 of this title, including the order in which ships, aircraft, surface craft, weapons, and facilities are to be constructed, maintained, altered, repaired, and overhauled; and

(B) coordinate and direct the efforts of the bureaus and offices of the executive part of the Department of the Navy as may be necessary to make available and distribute, when and where needed, the personnel and material required; and

(2) the Chief of Naval Material, under the direction of the Secretary, shall—

(A) determine the procurement and production policies and methods to be followed by the Department in meeting the material requirements of the operating forces as defined in section 5081 of this title; and

(B) coordinate and direct the efforts of the bureaus and offices of the executive part of the Department in this respect.

§ 5083. Chief of Naval Operations: retirement

An officer who is retired while serving as Chief of Naval Operations, or who, after serving at least two and one-half years as Chief of Naval Operations, is retired after completion of that service while serving in a lower rank or grade, may, in the discretion of the President, be retired with the grade of admiral and with retired pay based on that grade.

§ 5084. Chief of Naval Operations: quarters

The Secretary of the Navy may assign to the Chief of Naval Operations the public quarters constructed under the authority of

the Act of March 2, 1891, ch. 494 (26 Stat. 806), located at the United States Naval Observatory in the District of Columbia.

§ 5085. Vice Chief of Naval Operations: appointment; powers; duties

(a) There is a Vice Chief of Naval Operations, appointed by the President, by and with the advice and consent of the Senate, from officers on the active list in the line of the Navy serving in grades above captain and eligible to command at sea.

(b) The Vice Chief of Naval Operations shall exercise such executive authority with respect to the Department of the Navy as the Chief of Naval Operations, with the approval of the Secretary of the Navy, delegates to him. Orders issued by the Vice Chief of Naval Operations in performing the duties assigned him are considered as coming from the Chief of Naval Operations.

(c) When there is a vacancy in the office of Chief of Naval Operations, or during the absence or disability of the Chief of Naval Operations, the Vice Chief of Naval Operations, unless otherwise directed by the President, shall perform the duties of the Chief until a successor is appointed or the absence or disability ceases.

(d) The President may designate the Vice Chief of Naval Operations as an officer who performs special or unusual duty or duty of great importance and responsibility under section 5231 of this title.

§ 5086. Deputy Chiefs of Naval Operations: detail; duties

(a) There are in the Office of the Chief of Naval Operations not more than six Deputy Chiefs of Naval Operations, detailed by the Secretary of the Navy from officers on the active list in the line of the Navy serving in grades above captain.

(b) The Deputy Chiefs of Naval Operations are charged, under the direction of the Chief of Naval Operations, with the execution of the functions of their respective divisions. Orders issued by the Deputy Chiefs of Naval Operations in performing the duties assigned them are considered as coming from the Chief of Naval Operations.

(c) The President may designate any Deputy Chief of Naval Operations as an officer who performs special or unusual duty or duty of great importance and responsibility under section 5231 of this title.

§ 5087. Assistant Chiefs of Naval Operations: detail; duties

(a) Officers on the active list in the line of the Navy and officers on the active list of the Marine Corps, in numbers considered by the Chief of Naval Operations to be necessary, shall, with the approval of the Secretary of the Navy, be detailed as Assistant Chiefs of Naval Operations.

(b) The Assistant Chiefs of Naval Operations shall perform such duties as the Chief of Naval Operations prescribes.

§ 5088. Naval Inspector General: detail; duties

(a) There is in the Office of the Chief of Naval Operations the Office of the Naval Inspector General. The Naval Inspector General shall be detailed from officers on the active list in the line of the Navy serving in grades above captain.

(b) The Naval Inspector General, when directed, shall inquire into and report upon any matter that affects the discipline or military

efficiency of the Department of the Navy. He shall make such inspections, investigations, and reports as the Secretary of the Navy or the Chief of Naval Operations directs.

(c) The Naval Inspector General shall periodically propose programs of inspections to the Chief of Naval Operations and shall recommend additional inspections and investigations as may appear appropriate.

(d) The President may designate the Naval Inspector General as an officer who performs special or unusual duty or duty of great importance and responsibility under section 5231 of this title.

CHAPTER 511.—OFFICE OF THE CHIEF OF NAVAL MATERIAL

Sec.

5111. Chief of Naval Material: detail; duties; pay and allowances.

5112. Vice Chief of Naval Material: detail; succession to duties of Chief.

§ 5111. Chief of Naval Material: detail; duties; pay and allowances

(a) There is in the executive part of the Department of the Navy at the seat of government an Office of Naval Material, headed by the Chief of Naval Material. He shall be detailed by the Secretary of the Navy from officers on the active list of the Navy not below the grade of rear admiral.

(b) The Chief of Naval Material is entitled to the same pay, allowances, and privileges of retirement as provided for chiefs of bureaus in section 5133 of this title.

(c) The President may designate the Chief of Naval Material as an officer who performs special or unusual duty or duty of great importance and responsibility under section 5231 of this title.

(d) The Chief of Naval Material, under the direction of the Secretary, shall effectuate policies of procurement, contracting, and production of material throughout the Department, and plans therefor, and his orders are considered as coming from the Secretary.

§ 5112. Vice Chief of Naval Material: detail; succession to duties of Chief

(a) An officer on the active list of the Navy may be detailed as Vice Chief of Naval Material.

(b) When there is a vacancy in the office of Chief of Naval Material, or during the absence or disability of the Chief, the Vice Chief of Naval Material, unless otherwise directed by the President, shall perform the duties of the Chief until a successor is appointed or the absence or disability ceases.

CHAPTER 513.—BUREAUS; OFFICE OF THE JUDGE ADVOCATE GENERAL; OFFICE OF NAVAL RESEARCH

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5131. Bureaus: names; location.

5132. Bureaus: distribution of business; orders; records; expenses.

5133. Bureau Chiefs: rank; pay and allowances; retirement.

5134. Deputy Bureau Chiefs: pay.

5135. Bureau Chiefs: succession to duties.

5136. Bureau of Aeronautics: Chief; Deputy Chief.

5137. Bureau of Medicine and Surgery: Chief; Deputy Chief.

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5138. Bureau of Medicine and Surgery: Dental Division; Chief; functions.
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 5140. Bureau of Medicine and Surgery: Nurse Corps, Director.
 5141. Bureau of Naval Personnel: Chief of Naval Personnel; Deputy Chief of Naval Personnel.
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 5146. Bureau of Supplies and Accounts: Chief; Deputy Chief.
 5147. Bureau of Yards and Docks: Chief; Deputy Chief.
 5148. Office of the Judge Advocate General: Judge Advocate General; appointment, term, emoluments, duties.
 5149. Office of the Judge Advocate General: Assistant Judge Advocate General; pay, succession to duties.
 5150. Office of Naval Research: Chief, appointment, term, emoluments; Assistant Chief; succession to duties.
 5151. Office of Naval Research: duties.
 5152. Office of Naval Research: appropriations; time limit.
 5153. Naval Research Advisory Committee.

§ 5131. Bureaus: names; location

There are in the executive part of the Department of the Navy the following bureaus:

- (1) Bureau of Aeronautics.
- (2) Bureau of Medicine and Surgery.
- (3) Bureau of Naval Personnel.
- (4) Bureau of Ordnance.
- (5) Bureau of Ships.
- (6) Bureau of Supplies and Accounts.
- (7) Bureau of Yards and Docks.

§ 5132. Bureaus: distribution of business; orders; records; expenses

(a) Except as otherwise provided by law, the business of the executive part of the Department of the Navy shall be distributed among the bureaus as the Secretary of the Navy considers expedient and proper.

(b) Each bureau shall perform its duties under the authority of the Secretary, and its orders are considered as coming from the Secretary.

(c) Under the Secretary, each bureau has custody and charge of its records and accounts.

(d) Each bureau shall furnish to the Secretary estimates for its specific, general, and contingent expenses.

§ 5133. Bureau Chiefs: rank; pay and allowances; retirement

(a) Unless appointed to a higher grade under another provision of law, an officer of the Navy, while serving as a chief of bureau, has the rank of rear admiral and is entitled to the basic pay and allowances of a rear admiral in the upper half of that grade. Unless appointed to a higher grade under another provision of law, an officer of the Marine Corps, while serving as Chief of the Bureau of Aeronautics, has the rank of major general and is entitled to the basic pay and allowances of a major general.

(b) An officer who is retired while serving as a chief of bureau, or who, after serving at least two and one-half years as a chief of bureau, is retired after completion of that service while serving in

a lower rank or grade, may, in the discretion of the President, be retired with the grade of rear admiral or major general, as appropriate, and with retired pay based on that grade. If he is retired with the grade of rear admiral, he is entitled to the retired pay of a rear admiral in the upper half of that grade.

(c) Except in time of war, any officer of a staff corps who has served as a chief of bureau for a full term is exempt from sea duty.

§ 5134. Deputy Bureau Chiefs: pay

An officer of the naval service detailed to duty as a deputy chief of bureau is entitled, while so serving, to the highest pay of his rank.

§ 5135. Bureau Chiefs: succession to duties

(a) When there is a vacancy in the office of chief of a bureau, or during the absence or disability of the chief of a bureau, the deputy chief of that bureau, unless otherwise directed by the President, shall perform the duties of the chief until a successor is appointed or the absence or disability ceases.

(b) When subsection (a) cannot be complied with because of the absence or disability of the deputy chief of the bureau, the heads of the major divisions of the bureau, in the order directed by the Secretary of the Navy, shall perform the duties of the chief, unless otherwise directed by the President.

§ 5136. Bureau of Aeronautics: Chief; Deputy Chief

(a) The Chief of the Bureau of Aeronautics shall be appointed by the President, by and with the advice and consent of the Senate, for a term of four years, from officers on the active list of the Navy or the Marine Corps. The Chief of the Bureau of Aeronautics must be qualified as a naval aviator or naval aviation observer within one year after his appointment.

(b) An officer on the active list of the Navy or the Marine Corps may be detailed as Deputy Chief of the Bureau of Aeronautics.

§ 5137. Bureau of Medicine and Surgery: Chief; Deputy Chief

(a) The Chief of the Bureau of Medicine and Surgery shall be appointed by the President, by and with the advice and consent of the Senate, for a term of four years, from officers on the active list of the Navy in the Medical Corps. He has the title of Surgeon General.

(b) An officer on the active list of the Navy in the Medical Corps may be detailed as Deputy Chief of the Bureau of Medicine and Surgery.

§ 5138. Bureau of Medicine and Surgery: Dental Division; Chief; functions

(a) There is a Dental Division in the Bureau of Medicine and Surgery. An officer of the Dental Corps in the grade of rear admiral shall be detailed as Chief of the Dental Division.

(b) The Chief of the Dental Division is entitled to the same pay, allowances, and privileges of retirement as provided for chiefs of bureaus in section 5133 of this title.

(c) The dental functions of the Bureau of Medicine and Surgery shall be so defined and prescribed by Bureau directives, and if necessary by regulations of the Secretary of the Navy, that all such

functions will be under the direction of the Dental Division. All matters relating to dentistry shall be referred to that Division.

(d) The Dental Division shall—

(1) establish professional standards and policies for dental practice;

(2) conduct inspections and surveys for maintenance of such standards;

(3) initiate and recommend action pertaining to complements, appointments, advancement, training assignment, and transfer of dental personnel; and

(4) serve as the advisory agency for the Bureau on all matters relating directly to dentistry.

§ 5139. Bureau of Medicine and Surgery: Medical Service Corps, Chief

(a) There is a chief of the Medical Service Corps appointed by the Secretary of the Navy, upon the recommendation of the Surgeon General, from officers on the active list of the Navy in the Medical Service Corps holding permanent appointments in grades not below lieutenant commander. The Chief shall be appointed for a term of not more than four years, to serve at the pleasure of the Secretary. While so serving, he has the rank of captain in the Navy and is entitled to the pay and allowances of an officer serving in that rank. His permanent status as a commissioned officer in the Medical Service Corps is not disturbed by his appointment as Chief.

(b) An officer who is retired for any reason while serving as Chief of the Medical Service Corps or who, after serving at least two and one-half years as chief of that corps, is retired after completion of that service while serving in a lower rank or grade may, in the discretion of the President, be retired with the grade of captain and with retired pay based on that grade.

§ 5140. Bureau of Medicine and Surgery: Nurse Corps, Director

(a) There is a Director of the Nurse Corps appointed by the Secretary of the Navy, upon the recommendation of the Surgeon General, from officers on the active list of the Navy in the Nurse Corps holding permanent appointments in the grade of commander or lieutenant commander. The Director shall be appointed for a term of not more than four years, to serve at the pleasure of the Secretary. While so serving, she has the rank of captain in the Navy and is entitled to the pay and allowances of an officer serving in that rank. Her permanent status as a commissioned officer in the Nurse Corps is not disturbed by her appointment as Director.

(b) An officer who, after serving at least two and one-half years as Director of the Nurse Corps, is retired for any reason while serving as Director or while serving in a lower rank or grade after completion of that service may, in the discretion of the President, be retired with the grade of captain and with retired pay based on that grade.

§ 5141. Bureau of Naval Personnel: Chief of Naval Personnel; Deputy Chief of Naval Personnel

(a) The Chief of the Bureau of Naval Personnel shall be known as the Chief of Naval Personnel. The Chief of Naval Personnel shall be appointed by the President, by and with the advice and consent

of the Senate, for a term of four years, from officers on the active list in the line of the Navy not below the grade of commander.

(b) The Deputy Chief of the Bureau of Naval Personnel shall be known as the Deputy Chief of Naval Personnel. An officer on the active list in the line of the Navy not below the grade of commander may be detailed as Deputy Chief of Naval Personnel.

§ 5142. Bureau of Naval Personnel: Chief of Chaplains

There is a Chief of Chaplains in the Bureau of Naval Personnel, detailed by the Chief of Naval Personnel from officers on the active list of the Navy in the Chaplains Corps not below the grade of rear admiral. The Chief of Chaplains, while so serving, is entitled to the basic pay and allowances of a rear admiral in the upper half of that grade.

§ 5143. Bureau of Naval Personnel: Assistant Chief for Women

(a) A woman officer on the active list of the Navy, appointed under section 5590 of this title, serving in a grade not below lieutenant commander may be detailed as an assistant to the Chief of Naval Personnel. While so serving, she has the rank of captain in the Navy and is entitled to the pay and allowances of an officer serving in that rank. Her permanent status as a commissioned officer is not disturbed by her detail under this section.

(b) An officer detailed as an assistant to the Chief of Naval Personnel under subsection (a), who becomes 50 years of age while serving as such assistant, may be retired by the President on the first day of the month following that in which she stops serving as such assistant.

(c) Each officer detailed as an assistant to the Chief of Naval Personnel under subsection (a) who, while serving as such assistant, becomes 55 years of age or completes 30 years of active commissioned service in the Navy shall be retired by the President on the first day of the month following that in which she attains that age or completes that service, whichever is earlier.

(d) An officer detailed as an assistant to the Chief of Naval Personnel under subsection (a) who has served at least two and one-half years as such assistant, and who is retired for any reason, either while so serving or after completion of that service while serving in a lower grade or rank, may, in the discretion of the President, be retired with the grade of captain and with retired pay based on that grade.

(e) Unless given a higher grade under subsection (d) or another provision of law, an officer retired under this section shall be retired in the permanent grade held by her at the time of retirement.

(f) Each officer who is retired under this section is entitled to retired pay at the rate of $21\frac{1}{2}$ percent of the basic pay to which she would be entitled if serving on active duty in the grade in which retired multiplied by the number of years of service creditable for basic pay, but the retired pay may not be more than 75 percent or less than 50 percent of the basic pay upon which the computation of retired pay is based. In determining the number of years to be used as a multiplier under this subsection, a part of a year that is six months or more is counted as a whole year and a part of a year that is less than six months is disregarded.

§ 5144. Bureau of Ordnance: Chief; Deputy Chief

(a) The Chief of the Bureau of Ordnance shall be appointed by the President, by and with the advice and consent of the Senate, for a term of four years, from officers on the active list in the line of the Navy not below the grade of commander.

(b) An officer on the active list in the line of the Navy may be detailed as Deputy Chief of the Bureau of Ordnance.

§ 5145. Bureau of Ships: Chief; Deputy Chief; Division Heads

(a) The Chief of the Bureau of Ships shall be appointed by the President, by and with the advice and consent of the Senate, for a term of four years, from officers on the active list of the Navy who are specially qualified and experienced in naval engineering or naval architecture.

(b) The Deputy Chief of the Bureau of Ships shall be detailed from officers on the active list of the Navy. If the Chief of the Bureau of Ships is specially qualified and experienced in naval engineering, the Deputy Chief must be specially qualified and experienced in naval architecture. If the Chief of the Bureau of Ships is specially qualified and experienced in naval architecture, the Deputy Chief must be specially qualified and experienced in naval engineering.

(c) The Deputy Chief of the Bureau of Ships, while so serving, has the rank of rear admiral and is entitled to the highest pay and allowances of that rank.

(d) The heads of the major divisions of the Bureau of Ships shall be detailed from officers on the active list of the Navy who are specially qualified and experienced in naval engineering or naval architecture.

§ 5146. Bureau of Supplies and Accounts: Chief; Deputy Chief

(a) The Chief of the Bureau of Supplies and Accounts shall be appointed by the President, by and with the advice and consent of the Senate, for a term of four years, from officers on the active list of the Navy in the Supply Corps who have had at least ten years of service in that corps. He has the title of Paymaster General.

(b) An officer on the active list of the Navy in the Supply Corps may be detailed as Deputy Chief of the Bureau of Supplies and Accounts.

§ 5147. Bureau of Yards and Docks: Chief; Deputy Chief

(a) The Chief of the Bureau of Yards and Docks shall be appointed by the President, by and with the advice and consent of the Senate, for a term of four years from officers on the active list of the Navy in the Civil Engineer Corps who have had at least seven years of active service.

(b) An officer on the active list of the Navy in the Civil Engineer Corps may be detailed as Deputy Chief of the Bureau of Yards and Docks.

§ 5148. Office of the Judge Advocate General: Judge Advocate General; appointment, term, emoluments, duties

(a) There is in the executive part of the Department of the Navy the Office of the Judge Advocate General of the Navy. The Judge

Advocate General shall be appointed by the President, by and with the advice and consent of the Senate, for a term of four years. He shall be appointed from officers of the Navy or the Marine Corps who are members of the bar of a Federal court or the highest court of a State or Territory and who have had at least eight years of experience in legal duties as commissioned officers.

(b) The Judge Advocate General of the Navy is entitled to the same rank, pay, allowances, and privileges of retirement as provided for chiefs of bureaus in section 5133 of this title.

(c) The Judge Advocate General of the Navy, under the direction of the Secretary of the Navy, shall—

(1) perform duties relating to legal matters arising in the Department of the Navy as may be assigned to him;

(2) perform the functions and duties and exercise the powers prescribed for the Judge Advocate General in chapter 47 of this title;

(3) receive, revise, and have recorded the proceedings of boards for the examination of officers of the naval service for promotion and retirement; and

(4) perform such other duties as may be assigned to him.

§ 5149. Office of the Judge Advocate General: Assistant Judge Advocate General; pay, succession to duties

(a) An officer in the line of the Navy or an officer of the Marine Corps may be detailed as Assistant Judge Advocate General of the Navy. While so serving, he is entitled to the highest pay of his rank.

(b) When there is a vacancy in the Office of Judge Advocate General, or during the absence or disability of the Judge Advocate General, the Assistant Judge Advocate General, unless otherwise directed by the President, shall perform the duties of the Judge Advocate General until a successor is appointed or the absence or disability ceases.

(c) When subsection (b) cannot be complied with because of the absence or disability of the Assistant Judge Advocate General, the heads of the major divisions of the Office of the Judge Advocate General, in the order directed by the Secretary of the Navy, shall perform the duties of the Judge Advocate General, unless otherwise directed by the President.

§ 5150. Office of Naval Research: Chief; appointment, term, emoluments; Assistant Chief; succession to duties

(a) There is in the Office of the Secretary of the Navy an Office of Naval Research, headed by the Chief of Naval Research.

(b) The Chief of Naval Research shall be appointed by the President, by and with the advice and consent of the Senate, for a term of not more than three years, from officers on the active list of the Navy not below the grade of commander.

(c) The Chief of Naval Research is entitled to the same rank, pay, allowances, and privileges of retirement as provided for chiefs of bureaus in section 5133 of this title.

(d) An officer on the active list of the Navy may be detailed as Assistant Chief of Naval Research. While so serving, he is entitled to the highest pay of his rank.

(e) When there is a vacancy in the office of Chief of Naval Research, or during the absence or disability of the Chief, the Assistant Chief, unless otherwise directed by the President, shall perform the duties of the Chief until a successor is appointed or the absence or disability ceases.

§ 5151. Office of Naval Research: duties

(a) The Office of Naval Research shall perform such duties as the Secretary of the Navy prescribes relating to—

(1) the encouragement, promotion, planning, initiation, and coordination of naval research;

(2) the conduct of naval research in augmentation of and in conjunction with the research and development conducted by the bureaus and other agencies and offices of the Department of the Navy; and

(3) the supervision, administration, and control of activities within or for the Department relating to patents, inventions, trademarks, copyrights, and royalty payments, and matters connected therewith.

(b) Sufficient information relative to estimates of appropriations for research by the several bureaus and offices shall be furnished to the Office of Naval Research to assist it in coordinating naval research and carrying out its other duties.

(c) The Office of Naval Research shall perform its duties under the authority of the Secretary, and its orders are considered as coming from the Secretary.

§ 5152. Office of Naval Research: appropriations; time limit

(a) Sums appropriated for the Office of Naval Research may be used to pay the cost of performing its duties under section 5151 of this title including the cost of—

(1) administration;

(2) conduct of research and development work in Government facilities; and

(3) conduct of research and development work under contracts with individuals, corporations, and educational or scientific institutions.

(b) Sums appropriated for the purposes of this section, if obligated during the fiscal year for which appropriated, remain available for expenditure for four years after the end of that fiscal year. Any balance not spent after that four-year period shall be carried to the surplus fund and covered into the Treasury.

§ 5153. Naval Research Advisory Committee

(a) The Secretary of the Navy may appoint a Naval Research Advisory Committee consisting of not more than 15 civilians pre-eminent in the fields of science, research, and development work. One member of the Committee must be from the field of medicine. Each member serves for such term as the Secretary specifies.

(b) The Committee shall meet at such times as the Secretary specifies to consult with and advise the Chief of Naval Operations and the Chief of Naval Research.

(c) Each member of the Committee is entitled to compensation of \$50 for each day or part of a day he attends any regularly called

meeting of the Committee and to reimbursement for all travel expenses incident to his attendance.

(d) No law imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, the payment or receipt of compensation in connection with any claim proceeding or matter involving the United States applies to members of the Committee solely by reason of their membership on the Committee.

CHAPTER 515.—COMMANDANT OF THE MARINE CORPS; HEADQUARTERS, MARINE CORPS

Sec.

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 5202. Assistant Commandant: detail; pay; succession to duties.
 5203. Director of Personnel: detail.
 5204. Quartermaster General: appointment; term; pay and allowances.
 5205. Heads of Staff Departments: retirement.
 5206. Director of Women Marines: detail; retirement.

§ 5201. Commandant: appointment; term; emoluments

(a) There is a Commandant of the Marine Corps, appointed by the President, by and with the advice and consent of the Senate, for a term of four years, from officers on the active list of the Marine Corps not below the grade of colonel.

(b) The Commandant of the Marine Corps, while so serving, has the rank of general.

(c) An officer who is retired while serving as Commandant of the Marine Corps, or who, after serving at least two and one-half years as Commandant, is retired after completion of that service while serving in a lower rank or grade, may, in the discretion of the President, be retired with the grade of general and with retired pay based on that grade.

§ 5202. Assistant Commandant: detail; pay; succession to duties

(a) An officer on the active list of the Marine Corps not restricted in the performance of duty may be detailed as Assistant Commandant of the Marine Corps. While so serving, he is entitled to the highest pay of his grade.

(b) When there is a vacancy in the office of Commandant of the Marine Corps, or during the absence or disability of the Commandant, the Assistant Commandant and then the officers of the Marine Corps not restricted in the performance of duty on duty at Headquarters, Marine Corps, in order of seniority, shall perform the duties of the Commandant, unless otherwise directed by the President.

§ 5203. Director of Personnel: detail

The Director of Personnel, Marine Corps, shall be detailed by the Commandant from officers of the Marine Corps on active duty who are not restricted in the performance of duty.

§ 5204. Quartermaster General: appointment; term, pay and allowances

(a) The Quartermaster General of the Marine Corps is the head of the Supply Department of the Marine Corps. He shall be appointed by the President, by and with the advice and consent of the

Senate, for a term of four years, from officers on the active list of the Marine Corps in the grade of brigadier general who are designated for supply duty.

(b) The Quartermaster General, while so serving, has the rank of major general. However, he is counted as a brigadier general designated for supply duty for the purposes of sections 5443 and 5448 of this title.

§ 5205. Heads of Staff Departments: retirement

An officer who is retired while serving as head of a staff department of the Marine Corps, or who, after serving at least two and one-half years as head of a staff department, is retired after completion of that service while serving in a lower grade or rank, may, in the discretion of the President be retired with the grade equivalent to the highest grade or rank held by him as head of a staff department and with retired pay based on his retired grade.

§ 5206. Director of Women Marines: detail; retirement

(a) A woman officer on the active list of the Marine Corps serving in a grade not below major may be detailed to duty in the Office of the Commandant of the Marine Corps to assist the Commandant in the administration of women's affairs. While so serving, she has the rank of colonel and is entitled to the pay and allowances of an officer serving in that rank. Her permanent status as a commissioned officer is not disturbed by her detail under this section.

(b) An officer detailed as an assistant to the Commandant under subsection (a), who becomes 50 years of age while serving as such assistant, may be retired by the President on the first day of the month following that in which she stops serving as such assistant.

(c) Each officer detailed as an assistant to the Commandant under subsection (a) who, while serving as such assistant, becomes 55 years of age or completes 30 years of active commissioned service in the Marine Corps shall be retired by the President on the first day of the month following that in which she attains that age or completes that service, whichever is earlier.

(d) An officer detailed as an assistant to the Commandant under subsection (a), who has served at least two and one-half years as such assistant, and who is retired for any reason, either while so serving or after completion of that service while serving in a lower grade or rank, may, in the discretion of the President, be retired with the grade of colonel and with retired pay based on that grade.

(e) Unless given a higher grade under subsection (d) or another provision of law, an officer retired under this section shall be retired in the permanent grade held by her at the time of retirement.

(f) Each officer who is retired under this section is entitled to retired pay at the rate of 2½ percent of the basic pay to which she would be entitled if serving on active duty in the grade in which retired multiplied by the number of years of service creditable for basic pay, but the retired pay may not be more than 75 percent or less than 50 percent of the basic pay upon which the computation of retired pay is based. In determining the number of years to be used as a multiplier under this subsection, a part of a year that is six months or more is counted as a whole year and a part of a year that is less than six months is disregarded.

CHAPTER 517.—FLEET COMMANDS AND OTHER HIGH POSITIONS

Sec.

5231. Navy positions: admirals and vice admirals.

5232. Marine Corps positions: general and lieutenant generals.

5233. Retirement.

5234. Suspension provision.

§ 5231. Navy positions: admirals and vice admirals

(a) The President may designate officers on the active list of the Navy above the grade of captain and, in time of war or national emergency, above the grade of commander for—

(1) command of fleets or subdivisions of fleets;

(2) command of naval units afloat to perform special or unusual missions; or

(3) performance of duty of great importance and responsibility.

An officer so designated may be appointed by the President, by and with the advice and consent of the Senate, to the grade of admiral or vice admiral. Such an appointment is effective on the date the officer reports for the designated duty and terminates on the date he is detached. The Secretary of the Navy shall determine the rank of officers in the grade in which they are serving under this section.

(b) The number of officers serving in the grades of admiral and vice admiral under subsection (a) may not, at any time, exceed 15 percent of the number of officers prescribed for the grade of rear admiral in—

(1) section 5442 of this title, if that section is operative; or

(2) section 5447 of this title, if section 5442 is inoperative.

Of the number of officers that may serve in the grades of admiral and vice admiral, as determined under this subsection, not more than eight may have the grade of admiral.

(c) Except in time of war or national emergency, the number of officers serving in the grades of admiral and vice admiral may not exceed 26, including the Chief of Naval Operations, and of the number so serving only the Chief of Naval Operations and three others may have the grade of admiral.

(d) An officer while serving as Chairman of the Joint Chiefs of Staff, if serving in the grade of admiral, is in addition to the numbers authorized under subsections (b) and (c) of this section.

(e) An officer of the Navy assigned as Chief of Staff to the President shall be appointed by the President, by and with the advice and consent of the Senate, to the grade of admiral, unless he is otherwise entitled to the same or a higher grade. Such an appointment is effective while the officer is so serving, and while in that grade he is in addition to the numbers authorized under subsections (b) and (c) of this section.

(f) An appointment under this section does not create a vacancy in the grade held by the officer at the time he is appointed and does not increase the authorized strength of the Navy in officers on the active list.

§ 5232. Marine Corps positions: general and lieutenant generals

(a) The President may designate officers on the active list of the Marine Corps above the grade of colonel and, in time of war or national emergency, above the grade of lieutenant colonel for—

- (1) appropriate higher commands; or
- (2) performance of duty of great importance and responsibility.

An officer so designated may be appointed by the President, by and with the advice and consent of the Senate, to the grade of lieutenant general. Such an appointment is effective on the date the officer reports for the designated duty and terminates on the date he is detached. The Secretary of the Navy shall determine the rank of officers in the grade in which they are serving under this section.

(b) The number of officers serving in the grade of lieutenant general may not exceed two except in time of war or national emergency, and may not, at any time, exceed 10 percent of the number of officers not restricted in the performance of duty prescribed for grades above colonel in—

- (1) section 5443 of this title, if that section is operative; or
- (2) section 5448 of this title, if section 5443 is inoperative.

(c) An officer of the Marine Corps assigned as Chief of Staff to the President shall be appointed by the President, by and with the advice and consent of the Senate, to the grade of general. Such an appointment is effective while the officer is so serving.

(d) An appointment under this section does not create a vacancy in the grade held by the officer at the time he is appointed and does not increase the authorized strength of the Marine Corps in officers on the active list.

§ 5233. Retirement

An officer who is serving or has served in a grade to which appointed under section 5231 or 5232 of this title may, upon retirement, be appointed by the President, by and with the advice and consent of the Senate, to the highest grade held by him while on the active list. However, such an appointment on the retired list does not increase the retired pay of the officer.

§ 5234. Suspension provision

During a war or national emergency, the President may suspend any provision of section 5231 or 5232 of this title relating to distribution in grade. Such a suspension may not continue beyond June 30 of the fiscal year following that in which the war or national emergency ends.

CHAPTER 519.—NAVAL RESERVE AND MARINE CORPS RESERVE

Sec.

5251. Naval Reserve: administration; Policy Board.

5252. Marine Corps Reserve: administration; Policy Board.

§ 5251. Naval Reserve: administration; Policy Board

(a) The Naval Reserve is the reserve component of the Navy. It shall be organized, administered, trained, and supplied under the direction of the Chief of Naval Operations.

(b) The bureaus and offices of the executive part of the Department of the Navy have the same relation and responsibility to the Naval Reserve as they do to the Regular Navy.

(c) A Naval Reserve Policy Board shall be convened at least once annually at the seat of the government to consider, recommend, and report to the Secretary of the Navy on reserve policy matters. At least half of the members of the Board must be officers of the Naval Reserve.

§ 5252. Marine Corps Reserve: administration; Policy Board

(a) The Marine Corps Reserve is the reserve component of the Marine Corps. It shall be organized, administered, trained, and supplied under the direction of the Commandant of the Marine Corps.

(b) The departments and offices of Headquarters, Marine Corps have the same relation and responsibilities to the Marine Corps Reserve as they do to the Regular Marine Corps.

(c) A Marine Corps Reserve Policy Board shall be convened at least once annually at the seat of the government to consider, recommend, and report to the Secretary of the Navy on reserve policy matters. At least half of the members of the Board must be officers of the Marine Corps Reserve.

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CHAPTER 531.—STRENGTH

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5410. Regular Navy and Regular Marine Corps: enlisted women.

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5412. Regular Navy: Hospital Corps.

5413. Naval Reserve and Marine Corps Reserve.

§ 5401. Regular Navy: enlisted members

The authorized strength of the Regular Navy in enlisted members, excluding retired members and members furloughed without pay, is 500,000. However, this strength may be temporarily exceeded at any time in a fiscal year if the daily average number in that year does not exceed it.

§ 5402. Regular Marine Corps: total; enlisted members

(a) Except in time of war or national emergency declared by Congress after June 28, 1952, the authorized strength of the Regular Marine Corps, excluding retired members, is 400,000. However, this strength may be temporarily exceeded at any time in a fiscal year if the daily average number in that year does not exceed it.

(b) Except in time of war or national emergency declared by Congress after June 28, 1952, the authorized strength of the Regular Marine Corps in enlisted members, excluding retired enlisted members, is 400,000 less the actual strength of the Marine Corps in permanent regular officers other than retired regular officers. However, this strength may be temporarily exceeded at any time in a fiscal year if the daily average number in that year does not exceed it.

§ 5403. Navy: line officers on the active list

The authorized strength of the active list of the Navy in line officers is equal to 7 percent of the authorized strength of the Regular Navy in enlisted members authorized by section 5401 of this title.

§ 5404. Navy: staff corps officers on the active list

(a) The authorized strength of the active list of the Navy in officers in the Supply Corps and the Civil Engineer Corps is equal to 12 percent and 3 percent, respectively, of the authorized strength of the active list of the Navy in line officers authorized by section 5403 of this title.

(b) The Secretary of the Navy, as of January 1 of each year, shall compute the authorized strength of the active list of the Navy in officers in the Medical Corps, the Dental Corps, the Chaplain Corps, the Medical Service Corps, and the Nurse Corps. The authorized strength in each of these corps is equal to the applicable percentage of the sum of—

(1) the authorized strengths of the active lists of the Navy and the Marine Corps authorized by sections 5403, 5405, and this section;

(2) the authorized strengths of the Regular Navy and the Regular Marine Corps in enlisted members authorized by sections 5401 and 5402 of this title;

(3) the authorized strength of the Navy in midshipmen at the Naval Academy;

(4) the actual number of officers holding permanent appointments in warrant officer grades in the Regular Navy and the Regular Marine Corps, excluding retired officers; and

(5) the actual number of midshipmen on active duty appointed under section 6906 of this title.

The percentages are:

(1) Medical Corps.....	65/100 of 1 percent.
(2) Dental Corps.....	2/10 of 1 percent.
(3) Chaplain Corps.....	125/1000 of 1 percent.
(4) Medical Service Corps.....	13/100 of 1 percent
(5) Nurse Corps.....	6/10 of 1 percent.

The authorized strength of the active list of the Navy in officers in these corps may not be varied between computations.

§ 5405. Marine Corps: officers on the active list

Subject to section 5402 (a) of this title, the authorized strength of the active list of the Marine Corps is equal to 7 percent of the authorized strength of the Regular Marine Corps in enlisted members authorized by section 5402 (b) of this title.

§ 5406. Navy: officers designated for engineering duty

Of the actual number of officers on the active list in the line of the Navy not more than $4\frac{5}{10}$ percent may be officers designated for engineering duty.

§ 5407. Navy: officers designated for aeronautical engineering duty

Of the actual number of officers on the active list in the line of the Navy not more than $2\frac{5}{10}$ percent may be officers designated for aeronautical engineering duty.

§ 5408. Navy: officers designated for special duty

Of the actual number of officers on the active list in the line of the Navy not more than $2\frac{5}{10}$ percent may be officers designated for special duty.

§ 5409. Navy and Marine Corps: officers designated for limited duty

(a) Of the actual number of officers on the active list in the line of the Navy, excluding officers designated for engineering duty, aeronautical engineering duty, and special duty, not more than $6\frac{2}{100}$ percent may be officers designated for limited duty.

(b) The number of officers on the active list of the Navy in the Supply Corps and the Civil Engineer Corps that may be designated for limited duty may not exceed 12 percent and 3 percent, respectively, of the number of officers authorized in subsection (a).

(c) Of the actual number of officers on the active list of the Marine Corps, excluding officers designated for supply duty, not more than $6\frac{2}{100}$ percent may be officers designated for limited duty.

§ 5410. Regular Navy and Regular Marine Corps: enlisted women

(a) The authorized strength of the Regular Navy in enlisted women, excluding retired members and members furloughed without pay, is 2 percent of the authorized strength of the Regular Navy in enlisted members authorized by section 5401 of this title.

(b) The authorized strength of the Regular Marine Corps in enlisted women, excluding retired members, is 2 percent of the authorized strength of the Regular Marine Corps in enlisted members authorized by section 5402 of this title.

§ 5411. Regular Navy and Regular Marine Corps: women officers

(a) The authorized strength of the Regular Navy in—

(1) women officers on the active list of the Navy appointed under section 5590 of this title; and

(2) women officers holding permanent appointments in warrant officer grades, excluding retired officers;

is equal to 10 percent of the authorized strength of the Regular Navy in enlisted women authorized by section 5410 of this title.

(b) The authorized strength of the Regular Marine Corps in—

(1) women officers on the active list of the Marine Corps; and

(2) women officers holding permanent appointments in warrant officer grades, excluding retired officers;

is equal to 10 percent of the authorized strength of the Regular Marine Corps in enlisted women authorized by section 5410 of this title.

§ 5412. Regular Navy: Hospital Corps

The authorized strength of the Regular Navy in enlisted members in the Hospital Corps, excluding retired members and members furloughed without pay, is equal to $3\frac{5}{10}$ percent of the sum of the authorized strengths of the Regular Navy and the Regular Marine Corps in enlisted members authorized by sections 5401 and 5402 of this title.

§ 5413. Naval Reserve and Marine Corps Reserve

Whenever the authorized strengths of the Naval Reserve and the Marine Corps Reserve are not prescribed by law, they shall be prescribed by the President.

CHAPTER 533.—DISTRIBUTION IN GRADE

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5456. Naval Reserve and Marine Corps Reserve.

§ 5441. Prescribed number; vacancies

In this chapter "prescribed number" or "number . . . prescribed", as applied to a grade or combination of grades, means the number of officers of a described corps, designation, or other category that shall

be maintained in the grade or combination of grades concerned. Except as otherwise specifically provided, the actual number of officers in a grade or combination of grades may not exceed the prescribed number. Vacancies occur whenever, and to the extent that, the actual number falls below the prescribed number.

§ 5442. Navy: line officers on active duty

(a) Of the total number of officers serving on active duty in the line of the Navy in the grade of ensign and above, excluding fleet admirals and officers carried as additional numbers in grade, the number of officers who may serve in each of the grades above lieutenant may not, except as provided in subsection (b), exceed a number appropriate to the total number as set forth in the following table. If the total number of officers serving on active duty in the line of the Navy in the grade of ensign and above, excluding fleet admirals and officers carried as additional numbers in grade, falls between two strengths shown in the first column of the table, the number for each grade is determined by proportionate interpolation between the respective numbers for the two strengths.

Total line officers serving on active duty in the grade of ensign and above, excluding fleet admirals and officers carried as additional numbers in grade	Rear Admiral	Captain	Commander	Lieutenant Commander
32,000	215	1,920	3,840	5,760
40,000	222	2,320	4,498	7,080
50,000	228	2,758	5,235	8,650
60,000	237	3,140	5,851	10,148
70,000	244	3,479	6,374	11,487
80,000	252	3,782	6,821	12,752
90,000	259	4,053	7,205	13,914
100,000	262	4,295	7,538	15,030
125,000	291	4,792	8,201	17,500
150,000	305	5,165	8,683	19,500
175,000	323	5,441	9,017	21,175
200,000	342	5,640	9,244	22,560
250,000	379	5,854	9,504	24,600

(b) The Secretary of the Navy, whenever the needs of the service require but at least once annually, shall compute the number of officers authorized under subsection (a) for each grade above lieutenant. The number so computed is the number of line officers on active duty, excluding officers carried as additional numbers in grade, prescribed for the grade concerned. However, if the Secretary determines at the time of making these computations that the number of officers required to meet the needs of the service in any grade above lieutenant is less than the prescribed number for that grade as computed, the lesser number becomes the prescribed number for the grade and the reduction may be applied as an increase in the prescribed number for any lower grade.

(c) Of the numbers of officers prescribed for the grades of commander and lieutenant commander, as computed or determined under subsection (b), not more than the following percentages may be officers designated for limited duty:

- (1) Commander—3 $\frac{4}{100}$ percent.
- (2) Lieutenant commander—8 $\frac{6}{100}$ percent.

(d) The Secretary, whenever the needs of the service require but at least once annually, shall compute the number of officers designated

for limited duty authorized under subsection (c) for the grades of commander and lieutenant commander. The Secretary shall also determine the number of such officers, not to exceed the computed number, that will be required to meet the needs of the service during the ensuing year in each of these grades. The number so determined for each grade is the number of officers designated for limited duty prescribed for the grade concerned.

(e) At the time of making the computations required by subsection (b), the Secretary shall also determine the numbers of line officers on active duty, excluding officers carried as additional numbers in grade, that will be required to meet the needs of the service during the ensuing year in the grades of lieutenant, lieutenant (junior grade), and ensign. The numbers so determined are the prescribed numbers for these grades.

(f) The number of officers designated for engineering duty, aeronautical engineering duty, and special duty serving on active duty in the grade of rear admiral may not exceed 13 percent of the number of officers prescribed for the grade of rear admiral as computed or determined under subsection (b). The Secretary, whenever the needs of the service require but at least once annually, shall compute the number of officers in the grade of rear admiral authorized under this subsection. The number so computed is the prescribed number of officers restricted in the performance of duty serving on active duty in the grade of rear admiral. However, if the Secretary determines at the time of making this computation that the number of officers designated for engineering duty, aeronautical engineering duty, and special duty required to meet the needs of the service in the grade of rear admiral is less than the prescribed number as computed, the lesser number becomes the prescribed number.

(g) The number of officers designated for engineering duty, aeronautical engineering duty, and special duty, respectively, serving on active duty in the combined grades of captain, commander, and lieutenant commander may not exceed the following percentages of the sum of the numbers of officers prescribed for those grades as computed or determined under subsection (b) :

- (1) Engineering duty—9 percent.
- (2) Aeronautical engineering duty—5 percent.
- (3) Special duty—5 percent.

The Secretary, whenever the needs of the service require but at least once annually, shall compute the number of officers designated for engineering duty, aeronautical engineering duty, and special duty, respectively, authorized under this section for these combined grades. The number so computed for each designation is the number of officers of that designation serving on active duty prescribed for these combined grades. However, if the Secretary determines at the time of making these computations that the number of officers of any designation required to meet the needs of the service in the combined grades is less than the prescribed number as computed, the lesser number becomes the prescribed number of officers of that designation.

(h) The prescribed numbers of officers computed or determined under this section may not be varied between computations. However, the prescribed number for a grade is temporarily increased during the period between one computation and the next succeeding computation by—

(1) the number of officers originally appointed in that grade during that period;

(2) the number of officers of the Naval Reserve ordered to active duty in that grade during that period; and

(3) the number of officers of that grade for whom vacancies exist in the next higher grade but whose promotion has been delayed for any reason.

(i) For the purpose of this section, each officer is counted in the grade in which he is serving, whether under a permanent or a temporary appointment. However, each officer serving under an appointment in the grade of admiral or vice admiral and each officer in a grade to which he was appointed under section 5597 or promoted under section 5787 of this title is counted in the grade he would hold had he not been so appointed or promoted.

§ 5443. Marine Corps: officers on active duty

(a) Of the total number of officers serving on active duty in the Marine Corps in the grade of second lieutenant and above, excluding officers carried as additional numbers in grade, the number of officers who may serve in each of the grades above captain may not, except as provided in subsections (b) and (c), exceed a number appropriate to the total number as set forth in the following table. If the total number of officers serving on active duty in the grade of second lieutenant and above, excluding officers carried as additional numbers in grade, falls between two strengths shown in the first column of the table, the number for each grade is determined by proportionate interpolation between the respective numbers for the two strengths.

Total officers serving on active duty in the grade of second lieutenant and above, excluding officers carried as additional numbers in grade	Brigadier general and major general	Colonel	Lieutenant colonel	Major
10,000	51	600	1,200	1,800
12,500	52	615	1,250	2,175
15,000	53	630	1,295	2,535
17,500	54	645	1,335	2,880
20,000	55	660	1,370	3,210
22,500	57	670	1,400	3,525
25,000	59	680	1,425	3,825
27,500	61	690	1,445	4,110
30,000	63	700	1,460	4,380
32,500	65	705	1,470	4,635
35,000	67	710	1,475	4,875

(b) The Secretary of the Navy, whenever the needs of the service require but at least once annually, shall compute the number of officers authorized under subsection (a) for the grades of major general and brigadier general. At the time of making this computation, the Secretary shall also determine the number of officers required to meet the needs of the service in each of those grades. The number so determined for each grade is the number of officers on active duty, excluding officers carried as additional numbers in grade, prescribed for that grade. However, the prescribed number for the grade of major general may not exceed 50 percent of the sum of the prescribed numbers for that grade and the grade of brigadier general, and the sum of the prescribed numbers may not exceed the number authorized for brigadier general and major general under subsection (a). If the sum of the prescribed numbers is less than that

authorized for brigadier general and major general under subsection (a) the difference may be applied as an increase in the prescribed number computed or determined under subsection (c) for any grade.

(c) The Secretary, whenever the needs of the service require but at least once annually, shall compute the number of officers authorized under subsection (a) for each of the grades of colonel, lieutenant colonel, and major. The number so computed is the number of officers on active duty, excluding officers carried as additional numbers in grade, prescribed for the grade concerned. However, if the Secretary determines at the time of making these computations that the number of officers required to meet the needs of the service in any such grade is less than the prescribed number for that grade as computed, the lesser number becomes the prescribed number for the grade and the reduction may be applied as an increase in the prescribed number for any lower grade.

(d) Of the numbers of officers prescribed for the grades of lieutenant colonel and major, as computed or determined under subsection (c), not more than the following percentages may be officers designated for limited duty:

(1) Lieutenant colonel— $36\frac{4}{100}$ percent.

(2) Major— $86\frac{2}{100}$ percent.

(e) The Secretary, whenever the needs of the service require but at least once annually, shall compute the number of officers designated for limited duty authorized under subsection (d) for the grades of lieutenant colonel and major. The Secretary shall also determine the number of such officers, not to exceed the computed number, that will be required to meet the needs of the service during the ensuing year in each of these grades. The number so determined for each grade is the number of officers designated for limited duty prescribed for the grade concerned.

(f) At the time of making the computations required by subsections (b) and (c), the Secretary shall also determine the numbers of officers on active duty, excluding officers carried as additional numbers in grade, that will be required to meet the needs of the service during the ensuing year in the grades of captain, first lieutenant, and second lieutenant. The numbers so determined are the prescribed numbers for these grades.

(g) The number of officers designated for supply duty serving on active duty in the grade of brigadier general, including the officer serving as Quartermaster General of the Marine Corps, may not exceed 13 percent of the sum of the numbers of officers prescribed for the grades of major general and brigadier general as computed or determined under subsection (b). The Secretary, whenever the needs of the service require but at least once annually, shall compute the number of officers in the grade of brigadier general authorized under this section. The number so computed is the prescribed number of officers designated for supply duty serving on active duty in the grade of brigadier general. However, if the Secretary determines at the time of making this computation that the number of officers designated for supply duty required to meet the needs of the service in the grade of brigadier general is less than the prescribed number as computed, the lesser number becomes the prescribed number.

(h) The number of officers designated for supply duty serving on active duty in the combined grades of colonel, lieutenant colonel, and major may not exceed 8 percent of the sum of the numbers of officers prescribed for those grades as computed or determined under subsection (c). The Secretary, whenever the needs of the service require but at least once annually, shall compute the number of officers designated for supply duty authorized for these combined grades under this section. The number so computed is the number of officers designated for supply duty serving on active duty prescribed for the grades concerned. However, if the Secretary determines at the time of making this computation that the number of officers designated for supply duty required to meet the needs of the service in the combined grades is less than the prescribed number as computed, the lesser number becomes the prescribed number.

(i) The prescribed numbers of officers computed or determined under this section may not be varied between computations. However, the prescribed number for a grade is temporarily increased during the period between one computation and the next succeeding computation by—

(1) the number of officers originally appointed in that grade during that period;

(2) the number of officers of the Marine Corps Reserve ordered to active duty in that grade during that period; and

(3) the number of officers of that grade for whom vacancies exist in the next higher grade but whose promotion has been delayed for any reason.

(j) For the purpose of this section, each officer is counted in the grade in which he is serving, whether under a permanent or a temporary appointment. However, each officer serving under an appointment in the grade of general or lieutenant general and each officer in a grade to which he was appointed under section 5597 or promoted under section 5787 of this title is counted in the grade he would hold had he not been so appointed or promoted.

§ 5444. Navy: staff corps officers on active duty

(a) The number of officers serving on active duty in the grade of rear admiral in the Medical Corps, the Supply Corps, the Chaplain Corps, the Civil Engineer Corps, and the Dental Corps, respectively, excluding any rear admiral serving as a chief of bureau, may not exceed, in each corps, a number appropriate to the total number of officers in that corps serving on active duty, as set forth in the following tables. If the total number of officers on active duty in any corps falls between two strengths shown in the first column of the appropriate table, the number of rear admirals is determined by proportionate interpolation between the numbers for the two strengths. If the number of officers on active duty in a corps is less than the smallest tabulated number for the corps concerned, the number for the grade of rear admiral in that corps is $\frac{5}{10}$ of 1 percent of the total number of officers serving on active duty in the corps.

MEDICAL CORPS

Total number of officers in the corps on active duty	Number of rear admirals
3,000	15
4,000	18
5,000	19
7,000	20
9,000	21
11,000	22
13,000	23
15,000	24

SUPPLY CORPS

Total number of officers in the corps on active duty	Number of rear admirals
2,600	13
3,000	15
4,000	18
5,000	19
7,000	20
9,000	21
11,000	22
13,000	23
15,000	24
17,000	25

CHAPLAIN CORPS

Total number of officers in the corps on active duty	Number of rear admirals
500	2
1,600	3
2,800	3

CIVIL ENGINEER CORPS

Total number of officers in the corps on active duty	Number of rear admirals
1,000	5
1,500	6
2,000	7
3,000	8
4,000	9
5,000	10
7,000	11

DENTAL CORPS

Total number of officers in the corps on active duty	Number of rear admirals
1,000	5
2,000	6
4,000	7
7,000	8

(b) The number of officers serving on active duty in the grade of captain in the Medical Service Corps may not exceed 2 percent of the number of officers serving on active duty in that corps, and the number of officers serving on active duty in the grades of commander and lieutenant commander in the Nurse Corps may not exceed, respectively, $1\frac{75}{100}$ percent and $7\frac{75}{100}$ percent of the number of officers serving on active duty in that corps.

(c) The Secretary of the Navy, whenever the needs of the service require but at least once annually, shall compute—

(1) the number of rear admirals authorized under this section for each corps;

(2) the number of captains authorized under this section for the Medical Service Corps; and

(3) the number of commanders and lieutenant commanders authorized under this section for the Nurse Corps.

The numbers so computed are the numbers of officers serving on active duty prescribed for the grades and corps concerned. However, if the Secretary determines at the time of making any computation under this section that the number of officers required to meet the needs of the service in the grade of rear admiral in any of these corps, in the grade of captain in the Medical Service Corps, or in the grade of commander or lieutenant commander in the Nurse Corps is less than the prescribed number as computed, the lesser number becomes the prescribed number for the grade in the corps concerned. A reduction in the prescribed number for the grade of commander in the Nurse Corps may be applied as an increase in the prescribed number for the grade of lieutenant commander in that corps.

(d) Each officer in a staff corps who serves as a chief of bureau and who, before or during that service, is appointed to the grade of rear admiral under section 5772 or section 5781 of this title shall, upon termination of his appointment as chief of bureau, be carried in excess of the prescribed number until the next vacancy occurs in the grade of rear admiral in his corps.

(e) The prescribed numbers of officers computed or determined under this section may not be varied between computations. However, the prescribed number of officers for the grade of lieutenant commander in the Nurse Corps is temporarily increased during the period between one computation and the next succeeding computation by the number of officers of that grade for whom vacancies exist in the grade of commander but whose promotion to the grade of commander has been delayed for any reason.

(f) For the purpose of this section, each officer is counted in the grade in which he is serving, whether under a permanent or a temporary appointment. However, each officer serving under an appointment in the grade of admiral or vice admiral and each officer in a grade to which he was appointed under section 5597 or promoted under section 5787 of this title is counted in the grade he would hold had he not been so appointed or promoted.

§ 5445. Suspension: sections 5442, 5443, 5444

During any period when he determines that the needs of the service so require, the President may suspend any provision of section 5442, 5443, or 5444 of this title relating to—

(1) officers serving in the grades of lieutenant and lieutenant (junior grade) in the Navy; or

(2) officers serving in the grades of captain and first lieutenant in the Marine Corps.

§ 5446. Application: sections 5442, 5443, 5444

(a) Sections 5442, 5443, and 5444 of this title are applicable only when the number of officers serving on active duty in the grade of

ensign and above in the line of the Navy exceeds the number of officers on the active list in the line of the Navy.

(b) Sections 5442, 5443, and 5444 of this title do not apply to—

- (1) women officers appointed under section 5590 of this title;
- (2) women reserve officers, other than reserve officers in the Nurse Corps and other than reserve officers appointed under section 5581 of this title;
- (3) retired officers;
- (4) officers of the Naval Reserve and the Marine Corps Reserve assigned to active duty for training;
- (5) officers of the Naval Reserve and the Marine Corps Reserve ordered to active duty in connection with organizing, administering, recruiting, instructing, training, or drilling the Naval Reserve or the Marine Corps Reserve; or
- (6) officers of the Naval Reserve and the Marine Corps Reserve ordered to temporary active duty for the purpose of prosecuting special work.

(c) Officers listed in subsection (b) are not counted as officers serving on active duty for the purpose of subsection (a) or for the purpose of sections 5442, 5443, and 5444 of this title.

§ 5447. Navy: line officers on the active list; permanent grade

(a) The distribution in permanent grades of officers on the active list in the line of the Navy, excluding fleet admirals and officers carried as additional numbers in grade, shall be based on the following percentages of the number of such officers:

- (1) Rear admiral— $7\frac{5}{100}$ of 1 percent.
- (2) Captain—6 percent.
- (3) Commander—12 percent.
- (4) Lieutenant commander—18 percent.
- (5) Lieutenant— $24\frac{7}{100}$ percent.
- (6) Lieutenant (junior grade) and ensign combined— $38\frac{5}{100}$ percent.

(b) The Secretary of the Navy, as of January 1 of each year, shall compute the number of officers authorized under subsection (a) for each grade above lieutenant (junior grade) and for the combined grades of lieutenant (junior grade) and ensign. The number so computed is the number of line officers on the active list, excluding officers carried as additional numbers in grade, prescribed for the grade or grades concerned. However, if the number of officers prescribed for the grade of captain as computed cannot be attained because of the minimum total commissioned service required for promotion to that grade by section 5780 of this title, the Secretary shall determine an appropriate lesser number. The lesser number then becomes the prescribed number for the grade of captain and the Secretary shall make a corresponding increase in the prescribed number for one or more of the lower grades.

(c) Notwithstanding the provisions of subsection (a), the number of officers not restricted in the performance of duty who may hold permanent appointments on the active list in the line of the Navy in the grade of rear admiral may not exceed 150, except in time of war or national emergency.

(d) Of the numbers of officers prescribed for grades below captain, as computed or determined under subsection (b), not more than the following percentages may be officers designated for limited duty:

- (1) Commander— $3\frac{64}{100}$ percent.
- (2) Lieutenant commander— $8\frac{62}{100}$ percent.
- (3) Lieutenant— $77\frac{2}{100}$ percent.
- (4) Lieutenant (junior grade) and ensign combined— $6\frac{4}{100}$ percent.

(e) The Secretary, as of January 1 of each year, shall compute the number of officers designated for limited duty authorized under subsection (d) for each grade above lieutenant (junior grade) and for the combined grades of lieutenant (junior grade) and ensign. The Secretary shall also determine the number of such officers, not to exceed the computed number, that will be required to meet the needs of the service during the ensuing year in each grade above lieutenant (junior grade) and in the combined grades of lieutenant (junior grade) and ensign. The number so determined is the prescribed number for the grade or grades concerned.

(f) The number of officers on the active list designated for engineering duty, aeronautical engineering duty, and special duty holding permanent appointments in the grade of rear admiral may not exceed 13 percent of the number of officers prescribed for the grade of rear admiral as computed under subsection (b). The Secretary, as of January 1 of each year, shall compute the number of officers authorized by this subsection to hold permanent appointments in the grade of rear admiral. The number so computed is the number of officers on the active list, restricted in the performance of duty, prescribed for the permanent grade of rear admiral. However, except in time of war or national emergency, the total number of officers on the active list, restricted in the performance of duty, holding permanent appointments in the grade of rear admiral may not exceed 19.

(g) The numbers of officers on the active list designated for engineering duty, aeronautical engineering duty, and special duty, respectively, holding permanent appointments in the combined grades of captain, commander, and lieutenant commander may not exceed the following percentages of the sum of the numbers of officers prescribed for those grades as computed or determined under subsection (b):

- (1) Engineering duty—9 percent.
- (2) Aeronautical engineering duty—5 percent.
- (3) Special duty—5 percent.

The Secretary, as of January 1 of each year, shall compute the number of officers designated for engineering duty, aeronautical engineering duty, and special duty, respectively, authorized under this section to hold permanent appointments in these combined grades. The number so computed for each designation is the number of officers of that designation on the active list prescribed for these combined permanent grades.

(h) The prescribed numbers of officers computed or determined under this section may not be varied between computations. However, the prescribed number for a grade is temporarily increased during the period between one annual computation and the next succeeding computation by—

(1) the number of officers originally appointed in that grade during that period; and

(2) the number of officers of that grade for whom vacancies exist in the next higher grade but whose promotion has been delayed for any reason.

(i) For the purpose of this section—

(1) each officer is counted in his permanent grade; and

(2) women officers are not counted.

§ 5448. Marine Corps: officers on the active list; permanent grade

(a) The distribution in permanent grades of officers on the active list of the Marine Corps, excluding officers carried as additional numbers in grade, shall be based on the following percentages of the number of such officers:

(1) Major general and brigadier general combined— $7\frac{5}{100}$ of 1 percent.

(2) Colonel—6 percent.

(3) Lieutenant colonel—12 percent.

(4) Major—18 percent.

(5) Captain— $24\frac{7}{100}$ percent.

(6) First lieutenant and second lieutenant combined— $38\frac{5}{100}$ percent.

However, the number of officers who may have permanent appointments on the active list of the Marine Corps in the grades of major general and brigadier general, excluding officers carried as additional numbers in grade, may not exceed 32, except in time of war or national emergency.

(b) The Secretary of the Navy, as of January 1 of each year, shall compute the number of officers authorized under subsection (a) for the grades of major general and brigadier general. At the time of making this computation, the Secretary shall also determine the number of officers required to meet the needs of the service in each of those grades. The number so determined for each grade is the number of officers on the active list, excluding officers carried as additional numbers in grade, prescribed for that grade. However, the prescribed number for the grade of major general may not exceed 50 percent of the sum of the prescribed numbers for that grade and the grade of brigadier general, and the sum of the prescribed numbers must equal the number authorized for general officer grades under subsection (a).

(c) The Secretary, as of January 1 of each year, shall compute the number of officers authorized under subsection (a) for each of the grades of colonel, lieutenant colonel, major, and captain and for the combined grades of first lieutenant and second lieutenant. The number so computed is the number of officers on the active list, excluding officers carried as additional numbers in grade, prescribed for the grade or grades concerned. However, if the number of officers prescribed for the grade of colonel as computed cannot be attained because of the minimum total commissioned service required for promotion to that grade by section 5780 of this title, the Secretary shall determine an appropriate lesser number. The lesser number then becomes the prescribed number for the grade of colonel and the Secretary shall make a corresponding increase in the prescribed number for one or more of the lower grades.

(d) Of the numbers of officers prescribed for grades below colonel, as computed or determined under subsection (c), not more than the following percentages may be officers designated for limited duty:

- (1) Lieutenant colonel— $3\frac{6}{100}$ percent.
- (2) Major— $8\frac{6}{100}$ percent.
- (3) Captain— $7\frac{7}{100}$ percent.
- (4) First lieutenant and second lieutenant combined— $6\frac{4}{100}$ percent.

(e) The Secretary, as of January 1 of each year, shall compute the number of officers designated for limited duty authorized under subsection (d) for each grade above first lieutenant and for the combined grades of first lieutenant and second lieutenant. The Secretary shall also determine the number of such officers, not to exceed the computed number, that will be required to meet the needs of the service during the ensuing year in each grade above first lieutenant and in the combined grades of first lieutenant and second lieutenant. The number so determined is the prescribed number for the grade or grades concerned.

(f) The number of officers on the active list designated for supply duty holding permanent appointments in the grade of brigadier general, including the officer serving as Quartermaster General of the Marine Corps, may not exceed 13 percent of the sum of the numbers of officers prescribed for the grades of major general and brigadier general as computed under subsection (b). The Secretary, as of January 1 of each year, shall compute the number of officers authorized by this subsection to hold permanent appointments in the grade of brigadier general. The number so computed is the number of officers on the active list designated for supply duty prescribed for the permanent grade of brigadier general. However, except in time of war or national emergency, the number of officers on the active list designated for supply duty holding permanent appointments in the grade of brigadier general may not exceed four.

(g) The number of officers on the active list designated for supply duty holding permanent appointments in the combined grades of colonel, lieutenant colonel, and major may not exceed 8 percent of the sum of the numbers of officers prescribed for those grades as computed or determined under subsection (c). The Secretary, as of January 1 of each year, shall compute the number of officers authorized by this subsection to hold permanent appointments in these combined grades. The number so computed is the number of officers on the active list designated for supply duty prescribed for these combined permanent grades.

(h) The prescribed numbers of officers computed or determined under this section may not be varied between computations. However, the prescribed number for a grade is temporarily increased during the period between one annual computation and the next succeeding computation by—

- (1) the number of officers originally appointed in that grade during that period; and
- (2) the number of officers of that grade for whom vacancies exist in the next higher grade but whose promotion has been delayed for any reason.

(i) For the purpose of this section—

- (1) each officer is counted in his permanent grade; and
- (2) women officers are not counted.

§ 5449. Navy: staff corps officers on the active list; permanent grade

(a) The number of officers on the active list of the Navy holding permanent appointments in the grade of rear admiral in the Medical Corps, the Supply Corps, the Chaplain Corps, the Civil Engineer Corps, and the Dental Corps, respectively, excluding any rear admiral serving as a chief of bureau, may not exceed, in any of those corps, $\frac{5}{10}$ of 1 percent of the number of officers on the active list of the Navy in the corps concerned. The Secretary of the Navy, as of January 1 of each year, shall compute the number of officers authorized under this section to hold permanent appointments in the grade of rear admiral in each corps. The number so computed for each corps is the number of officers on the active list in that corps prescribed for the permanent grade of rear admiral. However, except in time of war or national emergency, the numbers of officers who may hold permanent appointments on the active list of the Navy in the grade of rear admiral in these corps may not exceed—

- (1) 15 in the Medical Corps;
- (2) 13 in the Supply Corps;
- (3) 2 in the Chaplain Corps;
- (4) 4 in the Civil Engineer Corps; and
- (5) 4 in the Dental Corps.

(b) Each officer who holds a permanent appointment on the active list of the Navy in the grade of rear admiral in a staff corps, and who serves as a chief of bureau, shall, upon the termination of his appointment as chief of bureau, be carried in excess of the prescribed number until the next vacancy occurs in the permanent grade of rear admiral in his corps.

(c) The number of officers on the active list of the Navy holding permanent appointments in the grade of captain in the Medical Service Corps may not exceed 2 percent of the number of officers on the active list of the Navy in that corps. The Secretary, as of January 1 of each year, shall compute the number of officers authorized under this section to hold permanent appointments in the grade of captain in the Medical Service Corps. The number so computed is the number of officers on the active list in the Medical Service Corps prescribed for the permanent grade of captain.

(d) The numbers of officers on the active list of the Navy in the Nurse Corps holding permanent appointments in the grades of commander and lieutenant commander may not exceed $\frac{7}{10}$ of 1 percent and $1\frac{1}{10}$ percent, respectively, of the number of officers on the active list of the Navy in that corps. The Secretary, as of January 1 of each year shall compute the number of officers in the Nurse Corps authorized under this section to hold permanent appointments in each of these grades. The number so computed for each grade is the number of officers on the active list of the Navy in the Nurse Corps prescribed for that permanent grade.

(e) The prescribed numbers of officers computed under this section may not be varied between computations. However, the prescribed number of officers for the grade of lieutenant commander in the Nurse Corps is temporarily increased during the period between one annual computation and the next succeeding computation by the

number of officers of that grade for whom vacancies exist in the grade of commander but whose promotion to the grade of commander has been delayed for any reason.

(f) For the purpose of this section—

(1) each officer is counted in his permanent grade; and

(2) women officers appointed under section 5590 of this title are not counted.

§ 5450. Regular Navy: retired flag officers on active duty

(a) Except in time of war or national emergency, not more than ten retired officers of the Regular Navy in the grade of rear admiral and above may be on active duty.

(b) This section does not apply to fleet admirals or to retired officers ordered to temporary active duty to serve on boards convened under chapter 543 of this title.

§ 5451. Suspension: preceding sections

(a) Except as provided in subsection (b), the President, during a war or national emergency, may suspend any provision of the preceding sections of this chapter. Such a suspension may not continue beyond June 30 of the fiscal year following that in which the war or national emergency ends.

(b) The President may suspend provisions of sections 5442, 5443, and 5444 of this title relating to officers serving in grades above lieutenant in the Navy or captain in the Marine Corps only during a war or national emergency declared by Congress or the President after May 5, 1954.

§ 5452. Navy: women line officers on the active list; permanent grade

The numbers of women officers on the active list in the line of the Navy holding permanent appointments in the grades of commander and lieutenant commander may not exceed, respectively, 10 percent and 20 percent of the number of women officers on the active list in the line of the Navy. The Secretary of the Navy, as of January 1 of each year, shall compute the number of women officers authorized under this section to hold permanent appointments in each of these grades. The number so determined for each grade is the number of women officers on the active list in the line of the Navy prescribed for that permanent grade. The Secretary may, however, determine a lesser number for each grade. A lesser number so determined becomes the prescribed number for the grade concerned until the next annual computation is made. During the period between one annual computation and the next succeeding computation, the number of officers prescribed for the grade of lieutenant commander, as computed or determined under this section, is temporarily increased by the number of officers of that grade for whom vacancies exist in the grade of commander but whose promotion to the grade of commander has been delayed for any reason.

§ 5453. Marine Corps: women officers on the active list; permanent grade

The numbers of women officers on the active list of the Marine Corps holding permanent appointments in the grades of lieutenant colonel and major may not exceed, respectively, 10 percent and 20 percent of the number of women officers on the active list of the Marine Corps. The Secretary of the Navy, as of January 1 of each year, shall compute the number of women officers authorized under this section to hold permanent appointments in each of these grades. The number so determined for each grade is the number of women officers on the active list of the Marine Corps prescribed for that permanent grade. The Secretary may, however, determine a lesser number for each grade. A lesser number so determined becomes the prescribed number for the grade concerned until the next annual computation is made. During the period between one annual computation and the next succeeding computation, the number of officers prescribed for the grade of major, as computed or determined under this section, is temporarily increased by the number of officers of that grade for whom vacancies exist in the grade of lieutenant colonel but whose promotion to the grade of lieutenant colonel has been delayed for any reason.

§ 5454. Computations: rule when fraction occurs in final result

When there is a fraction in the final result of any computation under this chapter, a fraction of one-half or more is counted as one, and a fraction of less than one-half is disregarded.

§ 5455. Computations and determinations: effect on status of officers

No computation or determination under section 5447, 5448, 5449, 5452, or 5453 of this title may reduce the grade or pay of any officer or remove any officer from the active list.

§ 5456. Naval Reserve and Marine Corps Reserve

Subject to the authorized strengths of the Naval Reserve and the Marine Corps Reserve, the number of members of the Naval Reserve and the Marine Corps Reserve that may be in each grade is that which the Secretary of the Navy determines to be necessary to provide for mobilization requirements. The Secretary shall review these determinations at least once each year and revise them if he considers it necessary. However, no member of the Naval Reserve or the Marine Corps Reserve may be reduced in permanent grade, without his consent, as a result of such a determination.

CHAPTER 535.—GRADE AND RANK OF OFFICERS

Sec.

- 5501. Navy: grades above chief warrant officer, W-4.
- 5502. Marine Corps: grades above chief warrant officer, W-4.
- 5503. Navy and Marine Corps: warrant officer grades.
- 5504. Lineal lists: maintenance.
- 5505. Reserve officers: change of lineal position.
- 5507. Rear admirals: determination of upper half.
- 5508. Rank of line and staff corps officers of the Navy and officers of the Marine Corps.

§ 5501. Navy: grades above chief warrant officer, W-4

(a) The commissioned grades in the Navy above the grade of chief warrant officer, W-4, are:

- (1) Admiral.
- (2) Vice admiral.
- (3) Rear admiral.
- (4) Captain.
- (5) Commander.
- (6) Lieutenant commander.
- (7) Lieutenant.
- (8) Lieutenant (junior grade).
- (9) Ensign.

(b) In addition to the grades listed in subsection (a), there is also the grade of commodore. Appointments in this grade may be made under section 5597 or section 5787 of this title. Officers in the grade of commodore rank next above officers in the grade of captain.

(c) Officers having the grade or rank of rear admiral who are entitled to the basic pay and allowances of a rear admiral of the upper half rank above officers in the grade of rear admiral who are entitled to the pay and allowances of a rear admiral of the lower half.

§ 5502. Marine Corps: grades above chief warrant officer, W-4

The commissioned grades in the Marine Corps above the grade of chief warrant officer, W-4, are:

- (1) General.
- (2) Lieutenant general.
- (3) Major general.
- (4) Brigadier general.
- (5) Colonel.
- (6) Lieutenant colonel.
- (7) Major.
- (8) Captain.
- (9) First lieutenant.
- (10) Second lieutenant.

§ 5503. Navy and Marine Corps: warrant officer grades

The warrant officer grades in the Navy and the Marine Corps are:

- (1) Chief warrant officer, W-4.
- (2) Chief warrant officer, W-3.
- (3) Chief warrant officer, W-2.
- (4) Warrant officer, W-1.

§ 5504. Lineal lists: maintenance

(a) The Secretary of the Navy shall maintain a single lineal list of officers in the line of the Navy on active duty in the grade of ensign and above. Line officers shall be carried on this list in the order of seniority of the grades in which they are serving. Officers serving in the same grade shall be carried in the order of their dates of rank in that grade. Officers serving in the same grade and having the same date of rank in that grade shall be carried in the order of their seniority.

(b) The Secretary shall maintain a single lineal list of officers of the Marine Corps on active duty in the grade of second lieutenant

and above. Officers of the Marine Corps shall be carried on this list in the order of seniority of the grades in which they are serving. Officers serving in the same grade shall be carried in the order of their dates of rank in that grade. Officers serving in the same grade and having the same date of rank in that grade shall be carried in the order of their seniority.

(c) The Secretary shall maintain for each staff corps a single lineal list of officers in that corps on active duty. Staff corps officers serving in the grade of lieutenant (junior grade) or above shall be carried on the lineal lists for their respective corps in the order in which their running mates are carried on the lineal list for officers in the line. Staff corps officers serving in the grade of ensign shall be carried on the lineal lists for their respective corps in the order of their dates of rank in that grade. Staff corps officers serving in the grade of ensign and having the same date of rank in that grade shall be carried on the lineal lists for their respective corps in the order of their seniority.

(d) For the purpose of this section, each officer serving in a grade to which he was appointed under section 5597 or promoted under section 5787 of this title is considered as serving in the grade he would hold if he had not been so appointed or promoted.

(e) Each officer serving in the grade of admiral, vice admiral, general, or lieutenant general has, upon the termination of his appointment in that grade, the grade and position on the lineal list that he would hold if he had not received such an appointment.

(f) Except as provided in subsection (g), an officer's rank among officers on the same lineal list is determined by his position on that list.

(g) An officer who is appointed to an office the incumbent of which, regardless of his grade and date of rank in grade, is entitled to the rank of rear admiral with pay of the upper half or to the rank of major general shall be carried on the appropriate lineal list in the position he would have if he had not been so appointed. However, his rank among other officers holding the grade or serving with the rank of rear admiral or major general is determined by the date of his appointment to the office to which the rank of rear admiral with pay of the upper half or major general is attached, rather than by his position on the lineal list, unless his position on the list entitles him to higher rank.

(h) Persons appointed in the grade of ensign in the Navy or second lieutenant in the Marine Corps under section 5573, 6904, 6906, or 6909 of this title shall be placed on the appropriate lineal lists. The initial position on a lineal list of officers having the same date of rank shall be determined by the Secretary in accordance with their demonstrated performance regardless of the source from which procured, giving consideration to whatever differences exist in the methods of assigning grades among the various educational institutions at which the officers have been educated.

(i) Each officer appointed under section 5584, or 5586 of this title shall be placed on the appropriate lineal list after the junior officer of the same grade.

(j) Officers of the Naval Reserve and the Marine Corps Reserve, when ordered to active duty, shall be placed on the appropriate lineal

list among officers in the same grade in accordance with their dates of rank. The position of each such reserve officer among officers having the same date of rank as himself is as determined by the Secretary.

(k) There shall be excluded from the lineal lists under this section the following:

(1) Retired officers.

(2) Retired enlisted members and members of the Fleet Reserve and the Fleet Marine Corps Reserve on active duty serving under temporary appointments under section 5597 of this title.

(3) Each temporary officer whose only appointment to a grade above chief warrant officer, W-4, is an appointment under section 5597 of this title for a period of limited duration.

(4) Officers of the Naval Reserve and the Marine Corps Reserve assigned to active duty for training, ordered to active duty in connection with organizing, administering, recruiting, instructing, training, or drilling the Naval Reserve or the Marine Corps Reserve, or ordered to temporary active duty to prosecute special work.

(5) Women officers appointed under section 5590 of this title.

(6) Women reserve officers, other than reserve officers in the Nurse Corps and other than reserve officers appointed under section 5581 of this title.

§ 5505. Reserve officers: change of lineal position

(a) Notwithstanding any other provision of law, the Secretary of the Navy may change the position on the lineal list of any officer of the Naval Reserve or the Marine Corps Reserve to equalize his opportunities for promotion with officers of the Regular Navy or the Regular Marine Corps.

(b) Any officer whose lineal position is changed under this section may be appointed in the same or the next higher grade but not above that of captain in the Navy or colonel in the Marine Corps, and his date of rank may be changed to conform with his new lineal position. The authorized number of officers in any grade may be temporarily exceeded, until the next succeeding computation, by the number of officers advanced to that grade under this section.

(c) An officer appointed in a higher grade under this section is entitled to the pay and allowances of the higher grade from the date of his appointment in that grade.

§ 5507. Rear admirals: determination of upper half

(a) Each officer not restricted in the performance of duty on the active list in the line of the Navy serving in the grade of rear admiral is entitled to the basic pay and allowances of a rear admiral of the upper half from the date on which the number of officers not restricted in the performance of duty on the active list in the line of the Navy serving in the grade of rear admiral below him on the lineal list becomes equal to or greater than the number of such officers above him on the lineal list. For the purpose of determining the number of rear

admirals of the upper half, an officer not restricted in the performance of duty on the active list in the line of the Navy serving in the grade of admiral or vice admiral is considered as having the grade and position on the lineal list he would have if he had not been appointed admiral or vice admiral.

(b) Each officer restricted in the performance of duty on the active list in the line of the Navy serving in the grade of rear admiral is entitled to the basic pay and allowances of a rear admiral of the upper half from the date on which any officer below him on the lineal list becomes entitled to such pay under subsection (a).

(c) Each officer on the active list of the Navy in a staff corps serving in the grade of rear admiral is entitled to the basic pay and allowances of a rear admiral of the upper half from the date on which his running mate becomes entitled to such pay and allowances under this section, but not before the date of the vacancy he was promoted to fill.

(d) Each rear admiral of the Naval Reserve entitled to receive basic pay and allowances is entitled to the basic pay and allowances of a rear admiral of the upper half when any officer on the active list in the line of the Navy junior to him is in the upper half of the grade of rear admiral as determined under subsection (a).

(e) Each officer holding a permanent appointment in the grade of rear admiral on the retired list who is entitled to the pay of the lower half of that grade and who, in time of war or national emergency, serves satisfactorily on active duty for two years in that grade or in a higher grade is thereafter entitled when on active duty to the basic pay and allowances of a rear admiral of the upper half.

§ 5508. Rank of line and staff corps officers of the Navy and officers of the Marine Corps

(a) Except for an officer entitled to a rank higher than his grade, line and staff corps officers of the Navy serving in the same grade and officers of the Marine Corps serving in the corresponding grade rank among themselves according to their respective dates of rank in grade, whether or not they are on a lineal list. A staff corps officer with the same date of rank as his running mate ranks above all line and staff corps officers junior to his running mate.

(b) Except as provided in subsection (a), officers of the Navy on active duty serving in the same grade and having the same date of rank in that grade rank in the following order:

- (1) Officers in the line.
- (2) Officers in the Medical Corps.
- (3) Officers in the Supply Corps.
- (4) Officers in the Chaplain Corps.
- (5) Officers in the Civil Engineer Corps.
- (6) Officers in the Dental Corps.
- (7) Officers in the Medical Service Corps.
- (8) Officers in the Nurse Corps.

CHAPTER 537.—ENLISTMENTS

Sec.

5531. Recruiting campaigns: use of advertising agencies.

5532. Prohibited classes.

5533. Minors.

5534. Term: grade.

5535. Evidence of age required for certain enlistments of minors.

5536. Extension: time lost through misconduct or unauthorized absence.

5537. Extension: during disability incident to service.

5538. Extension: during war or national emergency.

5539. Extension: voluntary, periods and benefits.

5540. Expiration: rights of member.

§ 5531. Recruiting campaigns: use of advertising agencies

(a) The Secretary of the Navy shall conduct intensive recruiting campaigns to obtain enlistments in the Regular Navy and the Regular Marine Corps.

(b) Advertising agencies may be employed, under such conditions as are most advantageous to the United States, in connection with recruiting for the Marine Corps.

§ 5532. Prohibited classes

The enlistment in the naval service of a person is prohibited if that person—

- (1) is a male and under 14 years of age;
- (2) is a female and under 18 years of age;
- (3) is insane;
- (4) is intoxicated; or
- (5) has deserted in time of war from any of the armed forces unless, in time of war, his enlistment is permitted by such authority as the Secretary of the Navy designates.

§ 5533. Minors

(a) A male person at least 14 and under 18 years of age may be enlisted in the naval service if he has the consent of his parents or guardian.

(b) A female person at least 18 and under 21 years of age may be enlisted in the naval service if she has the consent of her parents or guardian.

§ 5534. Term; grade

Subject to sections 5532 and 5533 of this title, enlistments in such grades or ratings as the Secretary of the Navy prescribes may be made—

- (1) in the Regular Navy, of male persons under 18 years of age for the duration of their minority and of men at least 18 years of age for a term of two, three, four, or six years;
- (2) in the Regular Marine Corps, of male persons for the duration of their minority or for a term of two, three, four, or six years; and
- (3) in the Regular Navy or the Regular Marine Corps, of female persons for a term of two, three, four, or six years.

§ 5535. Evidence of age required for certain enlistments of minors

No minor may be enlisted in the Regular Navy as a seaman, seaman apprentice, or seaman recruit, unless he shows that he is of an age eligible under regulations to enlist by presenting to the recruiting officer, with his application for enlistment—

- (1) a birth certificate;
- (2) a verified written statement by either parent; or
- (3) a verified written statement by his legal guardian, if his parents are dead.

However, if such a certificate or statement is unobtainable, a minor may be enlisted in such a grade if the recruiting officer is convinced that the oath of the applicant as to his age is credible.

§ 5536. Extension: time lost through misconduct or unauthorized absence

(a) If an enlisted member of the naval service is unable to perform his duties for a period of more than one day because of injury, sickness, or disease resulting from his intemperate use of drugs or alcoholic liquor or from other misconduct, his enlistment is extended by the amount of time so lost.

(b) An enlisted member of the naval service who for a period of more than one day—

- (1) is absent from his station and duty without proper authority;
- (2) is confined under sentence; or
- (3) is confined while awaiting trial and disposition of his case, if his trial results in conviction;

may be permitted to serve after his return to a full duty status for a period that, when added to the time that he served before such absence or confinement, amounts to the full term of his enlistment.

§ 5537. Extension: during disability incident to service

An enlisted member of the naval service on active duty whose term of enlistment expires while he is suffering from disease or injury incident to service and not due to his misconduct, and who needs medical care or hospitalization, may be retained on active duty, with his consent, until he recovers to the extent that he is able to meet the physical requirements for reenlistment or until it is determined that recovery to that extent is impossible.

§ 5538. Extension: during war or national emergency

(a) The Secretary of the Navy may extend enlistments in the Regular Navy and the Regular Marine Corps in time of war or in time of national emergency declared by the President for such period as he considers necessary in the public interest. Each member whose enlistment is extended under this section shall be discharged not later than six months after the end of the war or national emergency, unless he voluntarily extends his enlistment.

(b) The substance of this section shall be included in the enlistment contract of each person enlisting in the Regular Navy or the Regular Marine Corps.

§ 5539. Extension: voluntary, periods and benefits

(a) Under regulations prescribed by the Secretary of the Navy with the approval of the President, a member of the Regular Navy or the Regular Marine Corps may extend or re-extend his enlistment by written agreement for a period of one, two, three, or four full years. However, the total of all such extensions of an enlistment may not exceed four years.

(b) A member who extends his enlistment under this section is entitled to the same pay and allowances as though he had reenlisted. For the purpose of determining entitlement to reenlistment bonus and to travel and transportation allowances upon discharge, all such extensions of an enlistment are considered one continuous extension.

(c) When a member is discharged from an enlistment that has been extended under this section, he has the same rights, privileges, and benefits that he would have if discharged at the same time from an enlistment not so extended.

§ 5540. Expiration: rights of member

(a) The senior officer present afloat in foreign waters shall send to the United States by Government or other transportation as soon as possible each enlisted member of the naval service who is serving on a naval vessel, whose term of enlistment has expired, and who desires to return to the United States. However, when the senior officer present afloat considers it essential to the public interest, he may retain such a member on active duty until the vessel returns to the United States.

(b) Each member retained under this section—

(1) shall be discharged not later than 30 days after his arrival in the United States; and

(2) except in time of war is entitled to an increase in basic pay of 25 percent.

(c) The substance of this section shall be included in the enlistment contract of each person enlisting in the naval service.

CHAPTER 539.—ORIGINAL APPOINTMENTS

Sec.

5571. Regular Navy and Regular Marine Corps: citizenship of officers.

5572. Regular Navy and Regular Marine Corps: appointing power.

5573. Regular Navy and Regular Marine Corps: from graduates of the Naval Academy.

5574. Regular Navy: Medical Corps.

5575. Regular Navy: Supply Corps.

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5577. Regular Navy: Civil Engineer Corps.

5578. Regular Navy: Dental Corps.

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5580. Regular Navy: Nurse Corps.

5581. Naval Reserve: Medical Corps, Dental Corps, Medical Service Corps: women.

5582. Regular Navy: transfers, line and staff corps.

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5586. Regular Navy and Regular Marine Corps: from warrant officers and enlisted members.

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5589. Regular Navy and Regular Marine Corps: officers designated for limited duty.
5590. Regular Navy and Regular Marine Corps: women.
5591. Regular Navy: Supply Corps: maximum number of ensigns appointed annually.
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5595. Regular Marine Corps: restriction on appointments of former midshipmen and cadets.
5596. Navy and Marine Corps: temporary appointments.
5597. Navy and Marine Corps: temporary appointments in time of war or national emergency.
5598. Naval Reserve and Marine Corps Reserve: temporary appointments in time of war or national emergency.
5599. Medical Corps: acting appointments for temporary service.

§ 5571. Regular Navy and Regular Marine Corps: citizenship of officers

To be eligible to hold an appointment as an officer in the Regular Navy or the Regular Marine Corps a person must be a citizen of the United States.

§ 5572. Regular Navy and Regular Marine Corps: appointing power

Each appointment to the active list of the Navy or to the active list of the Marine Corps shall be made by the President, by and with the advice and consent of the Senate.

§ 5573. Regular Navy and Regular Marine Corps: from graduates of the Naval Academy

(a) Upon graduation from the Naval Academy, a midshipman may be appointed—

- (1) an ensign on the active list of the Navy in the line or in an appropriate staff corps; or
- (2) a second lieutenant on the active list of the Marine Corps.

An appointment under this section is effective from the date of graduation of the appointee.

(b) Appointments may be made in the line of the Navy under this section irrespective of vacancies, and the authorized strength of the active list of the Navy in line officers may be temporarily exceeded by the number of these appointees in excess. The number of officers in excess shall be excluded from any computation made for the purpose of determining the number of line officers prescribed for any grade. Appointments in the Marine Corps or in a staff corps under this section may be made only to fill vacancies.

§ 5574. Regular Navy: Medical Corps

(a) Original appointments to the active list of the Navy in the Medical Corps may be made from persons who—

- (1) are at least 21 and under 32 years of age; and
- (2) are examined and found qualified by a board of officers in the Medical Corps convened by the Secretary of the Navy.

Appointments under this subsection shall be in the grade of lieutenant (junior grade).

(b) Under regulations prescribed by the Secretary, original appointments to the active list of the Navy in the Medical Corps may also be made, as the needs of the service require, from civilian doctors of medicine who have such qualifications as the Secretary prescribes. Appointments under this subsection may be in the grades of lieutenant (junior grade) through captain.

(c) Original appointments to the active list of the Navy in the Medical Corps may be made from graduates of reputable schools of osteopathy. Appointments under this subsection may be made in such numbers as the President determines to be necessary to meet the needs of the naval service for officers trained and qualified in osteopathy.

§ 5575. Regular Navy: Supply Corps

Original appointments to the active list of the Navy in the Supply Corps may be made from male persons who—

- (1) are at least 21 years of age on July 1 of the calendar year in which appointed; and
- (2) have physical, mental, and moral qualifications satisfactory to the Secretary of the Navy.

§ 5576. Regular Navy: Chaplain Corps

Original appointments to the active list of the Navy in the Chaplain Corps may be made from male persons who—

- (1) are at least 21 and under 35 years of age; and
- (2) have physical, mental, moral, and professional qualifications satisfactory to the Secretary of the Navy.

Appointments under this section shall be in the grade of lieutenant (junior grade).

§ 5577. Regular Navy: Civil Engineer Corps

Original appointments to the active list of the Navy in the Civil Engineer Corps may be made from male persons. Appointments under this section may be either in the grade of ensign or in the grade of lieutenant (junior grade) in accordance with such regulations as the Secretary of the Navy prescribes.

§ 5578. Regular Navy: Dental Corps

(a) Original appointments to the active list of the Navy in the Dental Corps may be made from persons who—

- (1) are at least 21 and under 32 years of age;
- (2) are graduates of accredited medical or dental schools and are trained in the several branches of dentistry; and
- (3) have passed physical, mental, moral, and professional examinations before boards convened by the Secretary of the Navy and have been recommended for appointment by those boards.

Appointments under this subsection shall be in the grade of lieutenant (junior grade).

(b) Under regulations prescribed by the Secretary, original appointments to the active list of the Navy in the Dental Corps may also be made, as the needs of the service require, from civilian dentists who

have such qualifications as the Secretary prescribes. Appointments under this subsection may be in the grades of lieutenant (junior grade) through captain.

§ 5579. Regular Navy: Medical Service Corps

(a) Under such regulations as the Secretary of the Navy prescribes, original appointments to the active list of the Navy in the Medical Service Corps may be made from persons who—

(1) are at least 21 and under 32 years of age; and

(2) have physical, mental, moral, and professional qualifications satisfactory to the Secretary.

(b) Appointments under this section from persons other than members of the Regular Navy shall be made from graduates of accredited schools of pharmacy, optometry, or other schools or colleges with degrees in sciences allied to medicine or degrees approved by the Surgeon General of the Navy.

(c) Appointments under this section shall be in the grade of ensign, except that persons holding doctoral degrees at the time of appointment in sciences allied to medicine approved by the Surgeon General may be appointed in the grade of lieutenant (junior grade).

(d) An officer appointed under this section from the Regular Navy may not suffer any reduction in the pay and allowances to which he was entitled at the time of his appointment because of his former permanent status.

§ 5580. Regular Navy: Nurse Corps

(a) Original appointments to the active list of the Navy in the Nurse Corps may be made from female persons who are at least 21 years of age on July 1 of the calendar year in which appointed and who have physical, mental, moral, educational, and professional qualifications satisfactory to the Secretary of the Navy.

(b) A person appointed under this section shall be appointed in the grade of—

(1) ensign, if she has not passed her twenty-seventh birthday on the date of nomination by the President and is not qualified for appointment as a lieutenant (junior grade) under clause (2); or

(2) lieutenant (junior grade), if she is qualified under regulations prescribed by the Secretary and has not passed her thirtieth birthday on the date of nomination by the President.

(c) The maximum ages specified in subsection (b) are increased by the period of active commissioned service performed after December 31, 1947. However, a maximum age is not so increased by more than five years.

§ 5581. Naval Reserve: Medical Corps, Dental Corps, Medical Service Corps: women

Women may be appointed in the Naval Reserve in the Medical Corps, the Dental Corps, and the Medical Service Corps. Except as otherwise specifically provided, provisions of this title relating to male officers of the Naval Reserve in these corps apply to women appointed under this section.

§ 5582. Regular Navy: transfers, line and staff corps

(a) Any male officer on the active list of the Navy in a staff corps in a grade not above lieutenant commander may be appointed to the active list in the line of the Navy in the same grade. An officer so appointed holds the lineal position he would have held if he had originally been appointed in and had remained in the line, and he is an additional number in the grade in which he is serving and in each grade to which he is later promoted.

(b) Any male officer on the active list in the line of the Navy in a grade not above lieutenant commander may be appointed to the active list of the Navy in the Supply Corps or the Civil Engineer Corps, in the same grade, without regard to his age.

§ 5583. Regular Marine Corps: from noncommissioned officers

Original appointments to the active list of the Marine Corps may be made from meritorious male noncommissioned officers of the Regular Marine Corps who are at least 20 and under 30 years of age. Appointments under this section shall be in the grade of second lieutenant.

§ 5584. Regular Marine Corps: from former officers

(a) Original appointments to the active list of the Marine Corps in the grade of second lieutenant may be made from male former officers of the Marine Corps who resigned from the naval service in good standing.

(b) To be eligible for an appointment under this section a person must—

(1) establish his physical, mental, moral, and professional qualifications to perform the duties of the grade of second lieutenant, to the satisfaction of the Secretary of the Navy; and

(2) be of such an age that he can complete a total of 30 years of active service before he becomes 62 years of age.

§ 5585. Regular Marine Corps: order of filling vacancies in grade of second lieutenant

Vacancies on the active list of the Marine Corps in the grade of second lieutenant shall be filled, so far as practicable, first, from members of the graduating class of the Naval Academy; second, from meritorious noncommissioned officers of the Regular Marine Corps; and third, from other persons.

§ 5586. Regular Navy and Regular Marine Corps: from warrant officers and enlisted members

(a) Original appointments may be made—

(1) to the active list of the Navy in the line or in any staff corps, except the Medical Service Corps and the Nurse Corps, in grades not above lieutenant from male warrant officers and chief petty officers of the Regular Navy who, by June 30 of the calendar year in which appointed, will have completed at least three years of service in the Regular Navy in the grade of chief petty officer or above; and

(2) to the active list of the Marine Corps in grades not above captain from male warrant officers of the Regular Marine Corps

who, by June 30 of the calendar year in which appointed, will have completed at least three years of service in the Regular Marine Corps in the grade of warrant officer, W-1, or above.

To be eligible for appointment under this subsection to the grade of lieutenant, lieutenant (junior grade), or ensign on the active list of the Navy or captain, first lieutenant, or second lieutenant on the active list of the Marine Corps, members must be under 40, 35, and 32 years of age, respectively, on June 29 of the calendar year in which they are to be appointed.

(b) Original appointments to the active list of the Navy in the line and in any appropriate staff corps in the grade of ensign may be made from male enlisted members of the Regular Navy. To be eligible for such an appointment a member must be under 33 years of age on the date of appointment and must have had at least four years of continuous service, immediately preceding the date of his appointment, in the Regular Navy.

(c) Before he may be appointed under this section, a member must apply for appointment, must be recommended by a commanding officer under whom he has served in the grade he holds at the time he applies, and, under regulations prescribed by the Secretary of the Navy, must establish his qualifications by—

- (1) recommendation of a naval examining board that he is mentally, morally, and professionally qualified; and
- (2) finding of a board of medical examiners that he is physically qualified.

A member who twice fails to establish his qualifications is ineligible for appointment under this section.

(d) Each appointment under subsection (a) shall be in the grade for which the member applies and for which he is found qualified.

(e) Each officer appointed under this section in the grade of lieutenant in the line of the Navy or in the grade of captain in the Marine Corps is an additional number in that grade only and, while in that grade, becomes eligible for consideration for promotion when the officer next senior to him becomes eligible.

(f) An officer appointed under this section may not suffer any reduction in the pay and allowances to which he was entitled at the time of his appointment because of his former status.

§ 5587. Regular Navy: officers designated for engineering duty, aeronautical engineering duty, and special duty

(a) Male persons may be originally appointed to the active list in the line of the Navy as officers designated for engineering duty, aeronautical engineering duty, or special duty. Each person so appointed shall be appointed in the grade of—

- (1) ensign, if designated for engineering duty, aeronautical engineering duty, or any type of special duty for which a graduate degree is not required; or
- (2) lieutenant (junior grade), if designated for a type of special duty for which a graduate degree is required.

The number of appointments in each of these grades and designations may not exceed, in any fiscal year, the number of vacancies that the Secretary of the Navy estimates will occur in the fiscal year for officers of the grade and designation concerned.

(b) With the approval of the Secretary, any officer on the active list in the line of the Navy may, upon his application, be designated for engineering duty, aeronautical engineering duty, or special duty.

(c) The types of special duty for which officers may be designated include communications, law, naval intelligence, photography, public information, psychology, and hydrography.

(d) Officers designated for engineering duty, aeronautical engineering duty, or special duty are additional numbers in grade. They shall perform sea or shore duty appropriate to their special qualifications but may not succeed to command except on shore and then only as authorized by the Secretary.

§ 5588. Regular Marine Corps: officers designated for supply duty

(a) With the approval of the Secretary of the Navy, any officer on the active list of the Marine Corps serving in the grade of colonel, lieutenant colonel, major, or captain may, upon his application, be designated for supply duty.

(b) The number of officers designated under this section shall be in accordance with the requirements of the service as determined by the Secretary. An officer, while so designated, is an additional number in any grade, not above brigadier general, in which he serves.

§ 5589. Regular Navy and Regular Marine Corps: officers designated for limited duty

(a) Original appointments to the active list of the Navy in the grade of ensign in the line, in the Supply Corps, and in the Civil Engineer Corps may be made from male—

- (1) warrant officers;
- (2) chief petty officers; and
- (3) first-class petty officers;

in the Regular Navy, for the performance of duty in the technical fields indicated by their warrants or ratings.

(b) Original appointments to the active list of the Marine Corps in the grade of second lieutenant may be made from male—

- (1) warrant officers;
- (2) master sergeants; and
- (3) technical sergeants;

in the Regular Marine Corps, for the performance of duty in the technical fields in which they are proficient.

(c) To be eligible for an appointment under this section a member must have completed at least 10 years of active naval service, excluding active duty for training in a reserve component.

(d) Each officer appointed under this section is known as an officer designated for limited duty. He may not suffer any reduction in the pay and allowances to which he was entitled at the time of his appointment because of his former permanent status.

(e) Any officer designated for limited duty, upon his application and upon determination by the Secretary of the Navy that he is qualified, may—

- (1) if he is in the line of the Navy, be designated for engineering duty, aeronautical engineering duty, or special duty, or be assigned to unrestricted performance of duty;

(2) if he is in a staff corps of the Navy, be assigned to unrestricted performance of duty in that corps; or

(3) if he is in the Marine Corps, be designated for supply duty or be assigned to unrestricted performance of duty.

When an officer is so designated or assigned, his status as an officer designated for limited duty terminates.

(f) The Secretary shall prescribe regulations for the appointment, designation, and assignment of officers under this section.

§ 5590. Regular Navy and Regular Marine Corps: women

(a) Women may be appointed to the active list of the Navy in the line or in any staff corps or to the active list of the Marine Corps. Except as provided in subsection (b), original appointments under this section shall be made under the same conditions as prescribed in other sections of this title for appointments under those sections.

(b) Original appointments to the active list of the Navy under this section shall be either in the grade of ensign or in the grade of lieutenant (junior grade) in the discretion of the President, and original appointments to the active list of the Marine Corps shall be either in the grade of second lieutenant or in the grade of first lieutenant in the discretion of the President. To be eligible for such an appointment a woman must—

(1) be at least 21 and under 30 years of age on July 1 of the year in which appointed; and

(2) have mental, moral, educational, professional, and physical qualifications satisfactory to the Secretary of the Navy.

(c) This section does not authorize the appointment of officers in the Nurse Corps.

§ 5591. Regular Navy: Supply Corps: maximum number of ensigns appointed annually

(a) Subject to subsection (b), the maximum number of appointments that may be made in any year to the active list of the Navy in the Supply Corps in the grade of ensign is equal to 12 percent of the number of appointments made that year to the active list in the line in the grade of ensign.

(b) If, in any year, the number of officers on the active list in the Supply Corps is less than 12 percent of the number of officers on the active list in the line, the number of appointments in that year to the active list in the Supply Corps in the grade of ensign may be increased as the President determines necessary, so long as that percentage is not exceeded.

§ 5592. Regular Navy: Civil Engineer Corps: maximum number of ensigns appointed annually

(a) Subject to subsection (b), the maximum number of appointments that may be made in any year to the active list of the Navy in the Civil Engineer Corps in the grade of ensign is equal to 3 percent of the number of appointments made that year to the active list in the line in the grade of ensign.

(b) If, in any year, the number of officers on the active list in the Civil Engineer Corps is less than 3 percent of the number of officers on the active list in the line, the number of appointments in

that year to the active list in the Civil Engineer Corps in the grade of ensign may be increased as the President determines necessary, so long as that percentage is not exceeded.

§ 5593. Regular Navy: Medical Service Corps: maximum number of ensigns appointed annually

(a) Subject to subsection (b), the maximum number of appointments that may be made in any year to the active list of the Navy in the Medical Service Corps in the grade of ensign is the same percentage of the number of appointments made in that year to the active list in the line in the grade of ensign as the authorized number of officers on the active list in the Medical Service Corps in that year is of the authorized number of officers on the active list in the line.

(b) If, in any year, the ratio of the number of officers on the active list in the Medical Service Corps to the number of officers on the active list in the line is less than the ratio of the number of officers authorized to be on the active list in the Medical Service Corps in that year to the number of officers authorized to be on the active list in the line, the number of appointments in that year to the active list in the Medical Service Corps in the grade of ensign may be increased as the President determines necessary to meet the needs of the service, not to exceed the number required to equalize these ratios.

§ 5594. Regular Navy: Nurse Corps: maximum number of ensigns appointed annually

(a) Subject to subsection (b), the maximum number of appointments that may be made in any year to the active list of the Navy in the Nurse Corps in the grade of ensign is the same percentage of the number of appointments made in that year to the active list in the line in the grade of ensign as the authorized number of officers on the active list in the Nurse Corps in that year is of the authorized number of officers on the active list in the line.

(b) If, in any year, the ratio of the number of officers on the active list in the Nurse Corps to the number of officers on the active list in the line is less than the ratio of the number of officers authorized to be on the active list in the Nurse Corps in that year to the number of officers authorized to be on the active list in the line, the number of appointments in that year to the active list in the Nurse Corps in the grade of ensign may be increased as the President determines necessary to meet the needs of the service, not to exceed the number required to equalize these ratios.

§ 5595. Regular Marine Corps: restriction on appointments of former midshipmen and cadets

No person who was a midshipman at the United States Naval Academy or who was a cadet at the United States Military Academy may be appointed in a commissioned grade in the Regular Marine Corps until after the graduation of the class of which he was a member.

§ 5596. Navy and Marine Corps: temporary appointments

(a) Temporary appointments may be made under this section only when the number of male officers serving on active duty in the grade of ensign and above in the line of the Navy exceeds the number of male officers on the active list in the line of the Navy. Officers in

a category covered by subsection (g) are not considered as officers on active duty for the purpose of this section.

(b) Temporary appointments in the Regular Navy, except in the Nurse Corps, in grades not above lieutenant and in the Regular Marine Corps in grades not above captain may be made from—

(1) warrant officers of the Regular Navy and the Regular Marine Corps, respectively; and

(2) chief and first-class petty officers of the Regular Navy and master, technical, and staff sergeants of the Regular Marine Corps, respectively.

(c) Temporary appointments in the Naval Reserve, except in the Nurse Corps, in grades not above lieutenant and in the Marine Corps Reserve in grades not above captain may be made from—

(1) warrant officers of the Naval Reserve and the Marine Corps Reserve, respectively, on active duty; and

(2) chief and first-class petty officers of the Naval Reserve and master, technical, and staff sergeants of the Marine Corps Reserve, respectively, on active duty.

(d) Temporary appointments in warrant officer grades under this section shall be made by the Secretary of the Navy under such regulations as he prescribes. Such appointments shall be made by warrant if in the grade of warrant officer, W-1, or by commission if in a higher warrant officer grade.

(e) The number of persons appointed in the Regular Navy under this section in grades above chief warrant officer, W-4, may not exceed the difference between the actual number of officers on the active list of the Navy in the line or in the staff corps concerned and the authorized number of such officers. The number of persons so appointed in the Regular Marine Corps under this section in grades above chief warrant officer, W-4, may not exceed the difference between the actual number of officers on the active list of the Marine Corps and the authorized number of such officers.

(f) Temporary appointments under this section do not change the permanent, probationary, or acting status of members so appointed, prejudice them in regard to promotion or appointment, or abridge their rights or benefits. A person receiving a temporary appointment under this section may not suffer any reduction in the pay and allowances to which he was entitled because of his permanent status at the time of his temporary appointment, or any reduction in the pay and allowances to which he was entitled under a prior temporary appointment in a lower grade.

(g) The following members of the naval service are ineligible for temporary appointments under this section:

(1) Women members.

(2) Retired members.

(3) Members of the Naval Reserve and the Marine Corps Reserve ordered to active duty for training.

(4) Members of the Naval Reserve and the Marine Corps Reserve ordered to active duty in connection with organizing, administering, recruiting, instructing, training, or drilling the Naval Reserve or the Marine Corps Reserve.

(5) Members of the Naval Reserve and the Marine Corps Reserve ordered to temporary active duty to prosecute special work.

(h) The President may terminate any appointment made under this section.

§ 5597. Navy and Marine Corps: temporary appointments in time of war or national emergency

(a) Temporary appointments may be made under this section only in time of war or during a national emergency declared by the President.

(b) Temporary appointments in the Regular Navy in grades not above lieutenant and in the Regular Marine Corps in grades not above captain may be made from—

(1) warrant officers of the Regular Navy and the Regular Marine Corps, respectively, including retired members on active duty;

(2) chief and first-class petty officers of the Regular Navy and master, technical, and staff sergeants of the Regular Marine Corps, respectively, including retired members on active duty; and

(3) chief and first-class petty officers of the Fleet Reserve and master, technical, and staff sergeants of the Fleet Marine Corps Reserve, respectively, on active duty.

(c) Temporary appointments in the Naval Reserve in grades not above lieutenant and in the Marine Corps Reserve in grades not above captain may be made from—

(1) warrant officers of the Naval Reserve and the Marine Corps Reserve, respectively, on active duty; and

(2) chief and first-class petty officers of the Naval Reserve and master, technical, and staff sergeants of the Marine Corps Reserve, respectively, on active duty.

(d) Temporary appointments in warrant officer grades under this section shall be made by the Secretary of the Navy under such regulations as he prescribes. Such appointments shall be made by warrant if in the grade of warrant officer, W-1, or by commission if in a higher warrant officer grade.

(e) Temporary appointments under this section in grades above chief warrant officer, W-4, shall be made under regulations prescribed by the President and in such numbers as he determines the needs of the service require. Such appointments shall be made by the President alone, except that appointments under subsections (f) and (g) in grades above captain in the Navy shall be made by the President, by and with the advice and consent of the Senate. The grade of commodore is established for the purposes of subsections (f) and (g).

(f) Temporary appointments in a staff corps and in the line or in a different staff corps of the Regular Navy may be made from retired officers of the Regular Navy in the line and staff corps, respectively, who are on active duty. Each officer appointed under this subsection shall be appointed in the grade in which he was serving at the time of appointment.

(g) Temporary appointments in a staff corps and in the line or in a different staff corps of the Naval Reserve may be made from retired officers of the Naval Reserve in the line and staff corps, respectively, who are on active duty. Each officer appointed under this subsection shall be appointed in the grade in which he was serving at the time of appointment.

(h) Temporary appointments under this section do not change the permanent, probationary, or acting status of members so appointed, prejudice them in regard to promotion or appointment, or abridge their rights or benefits. A person receiving a temporary appointment under this section may not suffer any reduction in the pay and allowances to which he was entitled because of his permanent status at the time of his temporary appointment, or any reduction in the pay and allowances to which he was entitled under a prior temporary appointment in a lower grade.

(i) Each temporary appointment under this section, unless expressly declined, is, without formal acceptance or oath of office, regarded as accepted on the date made, and the member so appointed is entitled to the pay and allowances of the grade to which appointed from that date.

(j) Temporary appointments under this section are effective for such periods as the President determines. However, no such appointment may be effective later than—

(1) six months after the end of the war or national emergency; or

(2) the date the appointee is released from active duty; whichever is earlier.

(k) When his temporary appointment under this section is terminated, each member of the naval service on active duty shall have the grade he would hold if he had not received any such appointment.

§ 5598. Naval Reserve and Marine Corps Reserve: temporary appointments in time of war or national emergency

(a) In time of national emergency declared by the President or by Congress, and in time of war, temporary appointments may be made in any commissioned grade in the Naval Reserve or the Marine Corps Reserve from qualified persons.

(b) Appointments under this section in the grades of chief warrant officer, W-2, chief warrant officer, W-3, and chief warrant officer, W-4, shall be made by the Secretary of the Navy, by commission, under such regulations as he prescribes.

(c) An officer appointed under this section may be ordered to active duty for such period as the President prescribes.

(d) An appointment under this section may be vacated by the President at any time. Unless sooner vacated, the appointment is effective during the war or emergency in which it is made and for six months thereafter.

(e) The appointment of a permanent warrant officer to a higher grade under this section does not vacate his permanent grade or prejudice any right, privilege, benefit, or promotion status to which he was entitled because of his permanent grade.

§ 5599. Medical Corps: acting appointments for temporary service

(a) Appointments for temporary service in the Medical Corps in the grade of lieutenant (junior grade) may be made by the President alone.

(b) Appointees under this section may not be placed on the lineal list, may not be assigned running mates, and are ineligible for promotion. The number of such appointees may not be more than 250

at any time, except that in time of war or declared national emergency the number may be increased by the President as he considers necessary to meet the needs of the naval service.

CHAPTER 541.—RUNNING MATES

Sec.

- 5651. Eligibility of officers to be running mates.
- 5652. Regular Navy: lieutenants (junior grade).
- 5653. Regular Navy: lieutenants and above.
- 5654. Regular Navy: transfers from line.
- 5655. Naval Reserve: officers ordered to active duty.
- 5656. Reassignment: running mate separated, released, or loses numbers.
- 5657. Reassignment: staff corps officer promoted.
- 5658. Reassignment: staff corps officer not promoted.
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- 5660. Reassignment: running mate advanced.
- 5661. Reassignment: staff corps officer advanced.
- 5662. Suspension: preceding sections.
- 5663. Application: preceding sections.
- 5664. Regular Navy: women staff corps officers appointed under section 5590 of this title.
- 5666. Appointments for limited duration not considered.

§ 5651. Eligibility of officers to be running mates

(a) To be eligible to be the running mate of a staff corps officer not restricted in the performance of duty, a line officer must be an officer who is not restricted in the performance of duty.

(b) To be eligible to be the running mate of a staff corps officer designated for limited duty, a line officer must be an officer who is designated for limited duty.

§ 5652. Regular Navy: lieutenants (junior grade)

(a) After the end of each calendar year, officers serving in the grade of lieutenant (junior grade) on the active list of the Navy in each staff corps who have dates of rank in that grade in the calendar year just ended, except officers appointed to that grade in a staff corps by transfer from the line, shall have assigned to them, in the order of their lineal rank, running mates from among eligible line officers on active duty serving in the grade of lieutenant (junior grade). Lieutenants (junior grade) of each staff corps other than the Medical Corps shall have running mates assigned to them from among eligible line lieutenants (junior grade) having dates of rank in the same calendar year as themselves. Lieutenants (junior grade) in the Medical Corps shall have running mates assigned to them from among eligible line lieutenants (junior grade) having dates of rank in the preceding calendar year.

(b) The officer to be assigned as the running mate of a staff corps officer under this section is the eligible line officer whose numerical position in the order of lineal rank, among the line lieutenants (junior grade) on active duty having dates of rank in the calendar year prescribed in subsection (a), most nearly equals the product of—

(1) the numerical position of the staff corps officer in his order of lineal rank as determined under subsection (c) or (d); and

(2) a fraction, of which—

(A) the numerator is the number of line lieutenants (junior grade) on active duty having dates of rank in the prescribed calendar year; and

(B) the denominator is the number of lieutenants (junior grade) in the staff corps concerned who have dates of rank in the same calendar year as such staff corps officer and who are to have running mates assigned to them under this section.

However, if in any year there is only one lieutenant (junior grade) in any corps to have a running mate assigned to him under this section, the officer to be so assigned is the eligible line officer whose numerical position is nearest the middle of the line lieutenants (junior grade) on active duty having dates of rank in the prescribed calendar year.

(c) In each staff corps in which officers may be originally appointed either in the grade of ensign or in that of lieutenant (junior grade), all the lieutenants (junior grade) who are to have running mates assigned to them under this section at any one time are regarded, for the purpose of this section, as having lineal rank among themselves in the order recommended in the approved report of a board of officers of the corps concerned. Such boards shall be convened as soon as practicable after the end of each calendar year, and their recommendations, when approved by the Secretary of the Navy, are conclusive.

(d) In each staff corps in which appointments in the grade of ensign are not authorized, all the lieutenants (junior grade) who are to have running mates assigned to them under this section at any one time are regarded, for the purposes of this section, as having lineal rank among themselves in the chronological order of their dates of rank.

§ 5653. Regular Navy: lieutenants and above

The Secretary of the Navy shall assign a running mate to each officer whose original appointment to the active list of the Navy in a staff corps is in the grade of lieutenant or above. Except as provided in section 5654 of this title, the officer to be assigned as the running mate may be any eligible line officer on active duty having the same date of rank as the staff corps officer concerned in the highest grade, permanent or temporary, to which the staff corps officer is appointed. If no eligible line officer serving on active duty in that grade has the same date of rank as the staff corps officer, the officer to be assigned as his running mate is the junior eligible line officer on active duty having the next earlier date of rank in that grade.

§ 5654. Regular Navy: transfers from line

When an officer on the active list in the line of the Navy is transferred to a staff corps in the grade of lieutenant (junior grade) or above, he shall have assigned to him as his running mate the eligible line officer on active duty who was next senior to him at the time of his transfer.

§ 5655. Naval Reserve: officers ordered to active duty

When an officer of the Naval Reserve in a staff corps is ordered to active duty and placed on a lineal list, the Secretary of the Navy shall assign to him as his running mate an eligible line officer serving on active duty in the same grade and appropriate to his lineal position.

§ 5656. Reassignment: running mate separated, released, or loses numbers

If the running mate of a staff corps officer on active duty is separated from the active list, is released from active duty, or loses numbers, the staff corps officer shall have a new running mate assigned to him. The officer to be so assigned is the eligible line officer who was next senior to the former running mate, or if there is none, the eligible line officer who was next junior to him.

§ 5657. Reassignment: staff corps officer promoted

(a) When a staff corps officer on active duty is promoted after selection, he shall have a running mate assigned to him in the higher grade. The officer to be so assigned is an eligible line officer serving in the higher grade whose name was placed on the promotion list for that grade upon approval of the report of the line selection board immediately preceding the staff corps selection board that selected the staff corps officer.

(b) The officer to be assigned as the running mate of a staff corps officer under subsection (a) is the same line officer who was the running mate of the staff corps officer before the staff corps officer was promoted, if the former running mate was selected for promotion by the line selection board immediately preceding the staff corps board. Otherwise, the officer to be assigned as the new running mate is the eligible line officer, among those so selected, who was next senior to the former running mate in the grade from which promoted, or the next junior if none senior were so selected.

(c) If a selection board for a grade in a staff corps is not convened between the dates of convening of two or more line selection boards for the grade, the earliest of those line selection boards is considered to be the line selection board immediately preceding the staff corps board for the purpose of this section.

§ 5658. Reassignment: staff corps officer not promoted

If the running mate of a staff corps officer on active duty is promoted to a higher grade and the staff corps officer is not so promoted, the staff corps officer shall have a new running mate assigned to him in the grade in which he remains. The officer to be so assigned is the eligible line officer in that grade who was next senior to the former running mate or, if there is none, the eligible line officer in that grade who was next junior to him.

§ 5659. Reassignment: staff corps officer loses numbers

(a) If a staff corps officer not restricted in the performance of duty serving on active duty in the grade of lieutenant (junior grade) or above loses numbers in grade, he shall have assigned to him as his new running mate the line officer who is the running mate of the most junior officer of his corps, not restricted in the performance of duty, who becomes senior to him as the result of his loss of numbers.

(b) If a staff corps officer restricted in the performance of duty serving on active duty in the grade of lieutenant (junior grade) or above loses numbers in grade, he shall have assigned to him as his new running mate the line officer who is the running mate of the most junior officer of his corps, restricted in the performance of duty, who becomes senior to him as the result of his loss of numbers.

§ 5660. Reassignment: running mate advanced

If the running mate of a staff corps officer on active duty is advanced in numbers, or advanced in grade under section 5789 of this title, the staff corps officer shall have a new running mate assigned to him. The officer to be so assigned is the eligible line officer, not advanced, who was next senior to the former running mate before the advancement of such former running mate or, if there is none, the senior eligible line officer remaining in the grade.

§ 5661. Reassignment: staff corps officer advanced

(a) If a staff corps officer not restricted in the performance of duty serving on active duty in the grade of lieutenant (junior grade) or above is advanced in numbers in his grade, he shall have assigned to him as his new running mate the running mate of the officer of his grade and corps, not restricted in the performance of duty, who is next senior to him in the position to which he is advanced or, if there is none, the running mate of the officer of his grade and corps, not restricted in the performance of duty, who is next junior to him in his new position.

(b) If a staff corps officer restricted in the performance of duty serving on active duty in the grade of lieutenant (junior grade) or above is advanced in numbers in his grade, he shall have assigned to him as his new running mate the running mate of the officer of his grade and corps, restricted in the performance of duty, who is next senior to him in the position to which he is advanced or, if there is none, the running mate of the officer of his grade and corps, restricted in the performance of duty, who is next junior to him in his new position.

§ 5662. Suspension: preceding sections.

(a) The President may suspend any provision of the preceding sections of this chapter relating to officers serving in the grades of lieutenant and lieutenant (junior grade) during any period when—

(1) the number of officers serving on active duty in the grade of ensign and above in the line of the Navy exceeds the number of officers on the active list in the line of the Navy; and

(2) he determines that the needs of the service so require.

(b) During a war or national emergency, the President may suspend any provision of the preceding sections of this chapter. Such a suspension may not continue beyond June 30 of the fiscal year following that in which the war or national emergency ends.

§ 5663. Application: preceding sections.

(a) The preceding sections of this chapter do not apply to—

(1) women officers appointed under section 5590 of this title;

(2) women reserve officers, other than reserve officers in the Nurse Corps and other than reserve officers appointed under section 5581 of this title;

(3) retired officers;

(4) officers of the Naval Reserve assigned to active duty for training;

(5) officers of the Naval Reserve ordered to active duty in connection with organizing, administering, recruiting, instructing, training, or drilling the Naval Reserve; or

(6) officers of the Naval Reserve ordered to temporary active duty to prosecute special work.

(b) For the purpose of the preceding sections of this chapter, officers listed in subsection (a) may not be included in any list for determining the numerical position in order of lineal rank of either line or staff corps officers, nor are they counted as officers serving on active duty for the purpose of section 5662 of this title.

§ 5664. Regular Navy: women staff corps officers appointed under section 5590 of this title

Women officers on the active list of the Navy appointed under section 5590 of this title in any staff corps shall have running mates assigned to them from among women officers on the active list in the line of the Navy. Running mates for such officers shall be assigned in the manner prescribed in this chapter for the assignment of running mates to other staff corps officers.

§ 5666. Appointments for limited duration not considered

For the purpose of this chapter an officer serving in a grade to which he has been appointed for a period of limited duration is considered as serving in the grade he would hold if he had not been so appointed.

CHAPTER 543.—SELECTION BOARDS

Sec.

- 5701. Navy; line officers: promotion and continuation on the active list.
- 5702. Navy; staff corps officers: promotion and continuation on the active list.
- 5703. Marine Corps; officers: promotion and continuation on the active list.
- 5704. Navy and Marine Corps; women officers: promotion.
- 5705. Oath of members.
- 5706. Information furnished to boards.
- 5707. Officers to be recommended for promotion or continuation.
- 5708. Reports: certification required.
- 5709. Navy and Marine Corps: retention of rear admirals, major generals, and brigadier generals on the active list.
- 5710. Reports: submission to President or Secretary of the Navy.
- 5711. Suspension and exceptions: preceding sections.

§ 5701. Navy; line officers: promotion and continuation on the active list

(a) At least once each year the Secretary of the Navy shall convene the following selection boards to recommend male officers in the line of the Navy for promotion and continuation on the active list:

(1) A board to recommend rear admirals not restricted in the performance of duty for continuation on the active list, consisting of five officers of the Regular Navy on the active list or the retired list senior in permanent rank to all officers under consideration.

(2) A board to recommend captains restricted in the performance of duty for continuation on the active list, consisting of nine officers serving in the grade of rear admiral or above.

(3) A board to recommend captains for promotion to the grade of rear admiral and a board to recommend commanders for promotion to the grade of captain, each consisting of nine officers serving in the grade of rear admiral or above.

(4) A board to recommend lieutenant commanders for promotion to the grade of commander, consisting of three officers serving in the grade of rear admiral and six officers serving in the grade of captain.

(5) A board to recommend lieutenants for promotion to the grade of lieutenant commander and a board to recommend lieutenants (junior grade) for promotion to the grade of lieutenant, each consisting of nine officers serving in the grade of captain or above.

(b) Except as provided in subsections (c) and (d), selection boards convened under clauses (2) through (5) of subsection (a) shall be composed of officers on the active list in the line of the Navy not restricted in the performance of duty.

(c) When officers designated for engineering duty, aeronautical engineering duty, or special duty are eligible for consideration by a selection board convened under subsection (a), the Secretary shall appoint, as alternate members of the board, three officers on the active list of the Navy of the same designation and classification as any such eligible officer. If three such officers are not available, he shall appoint as many as are available. Junior members of the board who are not restricted in the performance of duty, in like number, may not act upon the case of any officer designated for engineering duty, aeronautical engineering duty, or special duty. No alternate member may act upon the case of any officer who is not of the same designation as himself.

(d) When officers of the Naval Reserve are eligible for consideration by a selection board convened under subsection (a), the Secretary shall appoint an appropriate number of reserve officers, otherwise qualified under this section, as members of the board and shall appoint officers on the active list of the Navy, qualified under this section, to complete the prescribed membership.

(e) No officer may be a member of two successive boards for the consideration of officers for promotion to the same grade.

§ 5702. Navy; staff corps officers: promotion and continuation on the active list

(a) The Secretary of the Navy shall convene the following selection boards to recommend staff corps officers, other than women officers appointed under section 5590 of this title, for promotion and for continuation on the active list:

(1) A board for each corps, other than the Medical Service Corps and the Nurse Corps, to recommend captains for continuation on the active list or for promotion to the grade of rear admiral, each consisting of not less than three or more than nine officers serving in the grade of rear admiral or above.

(2) A board for each corps and each grade, as appropriate, to recommend commanders, lieutenant commanders, lieutenants, and lieutenants (junior grade) for promotion to the next higher grade, each consisting of not less than six or more than nine officers serving in the grade of captain or above.

(b) Except as provided in subsections (c) and (d), each board convened under this section to consider officers in the Medical Corps, the Supply Corps, the Chaplain Corps, the Civil Engineer Corps, or the Dental Corps shall consist of officers of the Regular Navy

in the corps concerned on the active list or the retired list, and each board convened under this section to consider officers in the Medical Service Corps or the Nurse Corps shall be composed of officers of the Regular Navy in the Medical Corps on the active list or the retired list.

(c) When there is an insufficient number of staff corps officers legally and physically qualified to serve on a board convened under this section, the Secretary shall complete the minimum required membership by appointing as members of the board officers on the active list in the line of the Navy serving in the grades prescribed in subsection (a).

(d) When officers of the Naval Reserve are eligible for consideration by a selection board convened under this section, the Secretary shall appoint an appropriate number of reserve officers, otherwise qualified under this section, as members of the board and shall appoint officers of the Regular Navy, qualified under this section, to complete the prescribed membership.

(e) Each board prescribed in this section shall be convened at least once each year as soon as practicable after the report of a corresponding selection board for line officers has been approved by the President and at such other times as the Secretary directs. However, a board to recommend officers in the Medical Service Corps for promotion to the grade of captain and boards to recommend officers in the Nurse Corps for promotion to the grades of commander and lieutenant commander need not be convened unless there is a vacancy in the grade concerned or the Secretary estimates or determines that a vacancy will occur during the next 12 months.

(f) No officer may be a member of two successive boards convened under this section for the consideration of officers for promotion to the same grade or for the consideration of captains for continuation on the active list.

§ 5703. Marine Corps; officers: promotion and continuation on the active list

(a) At least once each year the Secretary of the Navy shall convene the following selection boards to recommend male officers of the Marine Corps for promotion and for continuation on the active list:

(1) A board to recommend colonels designated for supply duty for continuation on the active list, consisting of nine officers serving in the grade of brigadier general or above.

(2) A board to recommend brigadier generals for promotion to the grade of major general, consisting of nine officers holding permanent appointments in the grade of major general or above.

(3) A board to recommend colonels for promotion to the grade of brigadier general and a board to recommend lieutenant colonels for promotion to the grade of colonel, each consisting of nine officers serving in the grade of brigadier general or above.

(4) A board to recommend majors for promotion to the grade of lieutenant colonel, consisting of three officers serving in the grade of major general or brigadier general and six officers serving in the grade of colonel.

(5) A board to recommend captains for promotion to the grade of major and a board to recommend first lieutenants for pro-

motion to the grade of captain, each consisting of nine officers serving in the grade of colonel or above.

(b) Except as provided in subsections (c), (d), and (e), selection boards convened under this section shall be composed of officers of the Regular Marine Corps on the active list or the retired list, not restricted in the performance of duty.

(c) If nine general officers are not available to comprise a selection board to recommend officers for promotion to the grade of major general, brigadier general, or colonel, the Secretary shall complete the prescribed membership by appointing as members of the board officers on the active list in the line of the Navy, not restricted in the performance of duty, serving in the grade of rear admiral or above.

(d) When officers designated for supply duty are eligible for consideration by a selection board convened under this section, the Secretary shall appoint, as alternate members of the board, three officers of that designation. If three such officers are not available, he shall appoint as many as are available. The junior members of the board who are not designated for supply duty, in like number, may not act upon the case of any officer who is designated for supply duty. No alternate member may act upon the case of any officer who is not designated for supply duty.

(e) When officers of the Marine Corps Reserve are eligible for consideration by a selection board convened under this section, the Secretary shall appoint an appropriate number of reserve officers, otherwise qualified under this section, as members of the board and shall appoint officers of the Regular Marine Corps, qualified under this section, to complete the prescribed membership.

(f) No officer may be a member of two successive boards for the consideration of officers for promotion to the same grade.

§ 5704. Navy and Marine Corps; women officers: promotion

(a) At least once each year and at such times as he directs, the Secretary of the Navy shall convene selection boards to recommend women officers on the active list in the line of the Navy for promotion to the grades of commander, lieutenant commander, and lieutenant. The Secretary shall determine the composition of these boards. However, each board shall consist of not less than six or more than nine officers in the line of the Regular Navy on the active list or the retired list.

(b) The Secretary shall convene selection boards, for each staff corps in which there are women officers appointed under section 5590 of this title, to recommend officers so appointed for promotion to the grades of commander, lieutenant commander, and lieutenant. The Secretary shall determine the composition of these boards. However, each board shall consist of not less than six or more than nine officers of the Regular Navy in the appropriate staff corps on the active list or the retired list. Each of the boards prescribed by this subsection shall be convened at least once each year as soon as practicable after the report of a corresponding selection board convened under subsection (a) has been approved by the President and at such times as the Secretary directs.

(c) At least once each year and at such times as he directs, the Secretary shall convene selection boards to recommend women officers on the active list of the Marine Corps for promotion to the grades

of lieutenant colonel, major, and captain. The Secretary shall determine the composition of these boards. However, each board shall consist of not less than six or more than nine officers of the Regular Marine Corps on the active list or the retired list.

(d) Notwithstanding subsections (a), (b), and (c), the Secretary is not required to convene a board under this section to recommend women officers for promotion to a grade when—

- (1) there are no vacancies in the grade concerned and the Secretary estimates that none will occur in the next 12 months; or
- (2) all women officers in the next lower grade are ineligible for consideration for promotion to the grade concerned.

§ 5705. Oath of members

Each member of a selection board convened under the preceding sections of this chapter shall swear that he will, without prejudice or partiality, and having in view both the special fitness of officers and the efficiency of the naval service, perform the duties imposed upon him by law.

§ 5706. Information furnished to boards

The Secretary of the Navy shall furnish the appropriate selection board with—

- (1) the number of line officers of the Navy not restricted in the performance of duty, the number of officers designated for engineering duty, the number of officers designated for aeronautical engineering duty, the number of officers designated for special duty, and the number of line officers designated for limited duty that the board may recommend for promotion to the next higher grade;
- (2) the number of staff corps officers not restricted in the performance of duty and the number of staff corps officers designated for limited duty that the board may recommend for promotion to the next higher grade;
- (3) the number of officers of the Marine Corps not restricted in the performance of duty, the number of officers of the Marine Corps designated for supply duty, and the number of officers of the Marine Corps designated for limited duty that the board may recommend for promotion to the next higher grade;
- (4) the names of all officers eligible for consideration for promotion to each grade to which the board will recommend officers for promotion;
- (5) the number of rear admirals not restricted in the performance of duty that the board may recommend for continuation on the active list;
- (6) the names of all rear admirals eligible for consideration for continuation on the active list;
- (7) the number of captains designated for engineering duty, the number of captains designated for aeronautical engineering duty, and the number of captains designated for special duty that the board may recommend for continuation on the active list;
- (8) the number of colonels designated for supply duty that the board may recommend for continuation on the active list;

(9) the number of captains in the staff corps concerned that the board may recommend for continuation on the active list;

(10) the names of all captains in the Navy or colonels in the Marine Corps eligible for consideration for continuation on the active list;

(11) the names of all officers in the promotion zone under consideration; and

(12) the records of all officers whose names are furnished to the board.

§ 5707. Officers to be recommended for promotion or continuation

(a) Of the officers considered for promotion by a selection board convened under this chapter, the board shall recommend for promotion, as appropriate—

(1) those eligible male officers on the active list in the line of the Navy or on the active list of the Marine Corps whom the board considers best fitted for promotion;

(2) those eligible officers on the active list of the Navy, other than women officers appointed under section 5590 of this title, under consideration for—

(A) promotion to any grade in the Supply Corps or the Civil Engineer Corps; or

(B) promotion to the grade of commander or above in any other staff corps; whom the board considers best fitted for promotion;

(3) those eligible officers on the active list of the Navy under consideration for promotion to the grade of commander or lieutenant commander in the Nurse Corps whom the board considers best fitted for promotion;

(4) those eligible officers other than women officers appointed under section 5590 of this title, on the active list of the Navy in any staff corps not otherwise provided for in this subsection, whom the board considers fitted for promotion;

(5) those eligible women officers, appointed under section 5590 of this title, on the active list of the Navy in the line or a staff corps or on the active list of the Marine Corps under consideration for promotion to the grade of commander, lieutenant commander, lieutenant colonel, or major whom the board considers best fitted for promotion;

(6) those eligible women officers, appointed under section 5590 of this title, on the active list of the Navy in the line or a staff corps or on the active list of the Marine Corps under consideration for promotion to the grade of lieutenant in the Navy or captain in the Marine Corps whom the board considers qualified for promotion; or

(7) those eligible officers not on the active list of the Navy or the Marine Corps whom the board considers qualified for continued active duty.

(b) Each selection board convened under the preceding sections of this chapter to recommend officers for continuation on the active list shall recommend those officers under consideration whom it considers best fitted for continued service on the active list.

(c) From among those eligible officers on the active list of the Navy or on the active list of the Marine Corps who are junior in

lineal rank to the junior officer in the appropriate promotion zone in any grade below that of captain in the Navy or colonel in the Marine Corps, the board may recommend as best fitted for promotion a number of officers that does not exceed 5 percent of the total number of officers that the board is authorized to recommend for promotion to the grade concerned, unless that number is less than one, in which case it may recommend one such officer.

(d) The recommendation of any selection board with respect to the promotion of officers of the Navy designated for engineering duty, aeronautical engineering duty, special duty, or limited duty, or officers of the Marine Corps designated for supply duty or limited duty shall be based upon their comparative fitness, within such categories, for the duties prescribed for them by law.

(e) The recommendation of a selection board with respect to any woman officer on the active list in the line of the Navy or the active list of the Marine Corps shall be based upon her comparative fitness for the duties to which she is assigned in the line of the Navy or in the Marine Corps. The recommendation of a selection board with respect to any woman officer on the active list in any staff corps, appointed under section 5590 of this title, shall be based upon her comparative fitness for the duties to which she is assigned in her staff corps.

(f) Administrative staff duty, duty in aviation, or duty in any technical specialty performed by an officer of the Marine Corps shall be given weight by the selection board in determining his fitness for promotion equal to that given to line duty equally well performed.

(g) The status of having once failed of selection for promotion to a grade shall not prejudice an officer with respect to his qualifications, his fitness for the naval service, or his eligibility for selection for promotion to that grade by the next succeeding selection board.

(h) The total number of officers that may be recommended for promotion in any grade may not exceed the number furnished the board concerned by the Secretary of the Navy under section 5706 of this title. The number of officers that may be recommended for continuation on the active list by a board convened under this chapter may not exceed the number furnished the board concerned by the Secretary under section 5706 of this title.

(i) No officer may be recommended for promotion or for continuation on the active list unless he receives the recommendation of at least two-thirds of the acting members of the board concerned. However, a board composed of five acting members or less may so recommend an officer upon the concurrence of a majority of its members.

§ 5708. Reports: certification required

(a) Each board convened under the preceding sections of this chapter shall submit a report in writing, signed by all the acting members thereof, and shall certify in its report that the board has carefully considered the case of each officer whose name was furnished to it under section 5703 of this title.

(b) A board convened under this chapter that recommends officers in any of the following categories for promotion shall certify in its report that, in the opinion of at least two-thirds of the acting members of the board if the board has more than five acting members, or in the opinion of at least a majority of the acting members if the board

has five acting members or less, the officers recommended are, subject to the limitations prescribed in section 5707 (c) of this title, selected as best fitted to assume the duties of the next higher grade:

(1) Male officers on the active list in the line of the Navy.

(2) Male officers on the active list of the Marine Corps.

(3) Male officers on the active list of the Navy in the Supply Corps.

(4) Male officers on the active list of the Navy in the Civil Engineer Corps.

(5) Officers on the active list of the Navy in the Nurse Corps in the grade of lieutenant or above.

(6) Women officers on the active list of the Navy, appointed under section 5590 of this title, in the grade of lieutenant or above.

(7) Women officers on the active list of the Marine Corps in the grade of captain or above.

(8) Officers on the active list of the Navy in any staff corps in the grade of lieutenant commander or above.

(c) A board convened under this chapter that recommends officers in any of the following categories for promotion shall certify in its report that, in the opinion of at least two-thirds of the acting members of the board, the officers recommended are selected as fitted to assume the duties of the next higher grade:

(1) Officers, other than women officers appointed under section 5590 of this title, in the grade of lieutenant or lieutenant (junior grade) on the active list of the Navy in the Medical Corps, Chaplain Corps, Dental Corps, or Medical Service Corps.

(2) Officers on the active list of the Navy in the Nurse Corps in the grade of lieutenant (junior grade).

(d) A board convened under this chapter that recommends officers in any of the following categories for promotion shall certify in its report that, in the opinion of at least two-thirds of the acting members of the board, the officers recommended are selected as qualified for promotion:

(1) Women officers in the grade of lieutenant (junior grade) on the active list of the Navy in the line or in any staff corps appointed under section 5590 of this title.

(2) Women officers on the active list of the Marine Corps in the grade of first lieutenant.

(e) The report of a board convened under this chapter that recommends for promotion officers not on the active list of the Navy or the Marine Corps shall certify in its report that, in the opinion of at least two-thirds of the acting members of the board, the officers recommended are selected as qualified for continued active duty.

(f) As required by section 6384 of this title, each board convened under this chapter to recommend officers for promotion shall report, from among those officers eligible for consideration, the name of each officer with less than 20 years of service whose record, in the opinion of the board, indicates his unsatisfactory performance of duty in his present grade and, in the opinion of the board, indicates that he would not satisfactorily perform the duties of a higher grade.

(g) A board convened under this chapter that recommends officers for continuation on the active list shall certify in its report that, in the opinion of at least two-thirds of the acting members if the board has more than five acting members or in the opinion of at least a

majority of the acting members if the board has five acting members or less, the officers recommended are selected as best fitted for continued service on the active list.

§ 5709. Navy and Marine Corps: retention of rear admirals, major generals, and brigadier generals on the active list

(a) Each year the Secretary of the Navy may convene a board to recommend rear admirals in the line of the Navy restricted in the performance of duty and rear admirals in any staff corps for retention on the active list. He shall convene such a board in any year in which he determines that one or more such officers, who would otherwise retire under section 6372 of this title, should be retained on the active list. The board shall be composed of not less than three naval officers.

(b) Each year the Secretary may convene a board to recommend officers serving in the grade of major general for retention on the active list. He shall convene such a board in any year when three or more such officers will be subject to retirement under section 6373 of this title. The board shall be composed of not less than three officers of the Regular Marine Corps or the Regular Navy on the active list or the retired list.

(c) Each year the Secretary may convene a board to recommend officers designated for supply duty serving in the grade of brigadier general for retention on the active list. He shall convene such a board in any year when two or more such officers will be subject to retirement under section 6375 of this title. The board shall be composed of not less than three officers of the Marine Corps serving in the grade of major general or above.

(d) The number of officers that may be recommended for retention by any board convened under this section may not exceed the number furnished it by the Secretary.

§ 5710. Reports: submission to President or Secretary of the Navy

(a) The report of a board convened under section 5709 of this title to recommend officers for retention on the active list shall be submitted to the Secretary of the Navy for his approval or disapproval.

(b) The report of a board convened under section 5701, 5702, 5703, or 5704 of this title shall be submitted to the President for his approval or disapproval. If any officer recommended by such a board is not acceptable to the President, the board shall be informed of the name of that officer and shall, except as provided in subsection (c) of this section, recommend another eligible officer for promotion or for continuation on the active list, as the case may be. If necessary, the board may be reconvened for this purpose.

(c) If any woman officer appointed under section 5590 of this title who is recommended for promotion to the grade of lieutenant in the Navy or captain in the Marine Corps is not acceptable to the President, the board shall be informed, the name of that officer shall be removed from the report of the board, and no additional recommendation may be made.

§ 5711. Suspension and exceptions: preceding sections

(a) The President may suspend any provision of the preceding sections of this chapter relating to officers serving in the grades of lieutenant and lieutenant (junior grade) in the Navy, other than women officers appointed under section 5590 of this title, or relating to male officers serving in the grades of captain and first lieutenant in the Marine Corps during any period when—

(1) the number of male officers serving on active duty in the grade of ensign and above in the line of the Navy exceeds the number of male officers on the active list in the line of the Navy; and

(2) he determines that the needs of the service so require.

(b) During a war or national emergency, the President may suspend any provision of the preceding sections of this chapter. Such a suspension may not continue beyond June 30 of the fiscal year following that in which the war or national emergency ends.

(c) Officers in the following categories are ineligible for consideration by a selection board under this chapter and are not counted as officers serving on active duty for the purpose of subsection (a):

(1) Women reserve officers, other than reserve officers in the Nurse Corps and other than reserve officers appointed under section 5581 of this title, whether or not on active duty.

(2) Retired officers.

(3) Officers of the Naval Reserve and the Marine Corps Reserve assigned to active duty for training.

(4) Officers of the Naval Reserve and the Marine Corps Reserve ordered to active duty in connection with organizing, administering, recruiting, instructing, training, or drilling the Naval Reserve or the Marine Corps Reserve.

(5) Officers of the Naval Reserve and the Marine Corps Reserve ordered to temporary active duty to prosecute special work.

CHAPTER 545.—PROMOTIONS

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§ 5751. Navy, male line officers; Marine Corps, male officers: eligibility for consideration by selection board

(a) Each officer not restricted in the performance of duty who is serving in the grade of brigadier general in the Marine Corps is eligible for consideration for promotion to the grade of major general by a selection board that is convened under chapter 543 of this title in the fiscal year in which he completes three years of service in the grade of brigadier general.

(b) Each male officer in the line of the Navy and each male officer of the Marine Corps is eligible for consideration for promotion to the next higher grade by a selection board that is convened, under chapter 543 of this title, in the fiscal year in which he completes the following service in the grade in which he is serving:

- (1) Three years in the grade of captain in the Navy or colonel in the Marine Corps.
- (2) Five years in the grade of commander in the Navy or lieutenant colonel in the Marine Corps.

(3) Four years in the grade of lieutenant commander in the Navy or major in the Marine Corps.

(4) Four years in the grade of lieutenant in the Navy or captain in the Marine Corps.

(5) Two years in the grade of lieutenant (junior grade) in the Navy or first lieutenant in the Marine Corps.

(c) For the purpose of this section, service in a grade includes all service in that grade or a higher grade, under either a temporary or a permanent appointment. However, service under a temporary appointment which, by its own terms, is limited in duration is considered only as service in the grade that the officer concerned would have held if he had not been so appointed. An officer promoted after August 7, 1947, shall be credited with service in the grade to which promoted only from the date of his eligibility for promotion to that grade.

(d) Notwithstanding the provisions of subsections (a), (b), and (c), no officer who has not lost numbers or precedence may become eligible for consideration by a selection board until all officers of his grade senior to him in lineal position are so eligible.

(e) Of the officers in any grade designated for limited duty who would otherwise be eligible for consideration for promotion under this section, only the junior officer in the promotion zone for officers designated for limited duty and officers senior to him in the grade concerned are eligible for consideration.

§ 5752. Regular Navy, women line officers; Regular Marine Corps, women officers: eligibility for consideration by selection board

(a) Each woman officer on the active list in the line of the Navy and each woman officer on the active list of the Marine Corps is eligible for consideration for promotion to the next higher grade by a selection board that is convened under chapter 543 of this title in the fiscal year in which she completes the following service in the grade in which she is serving:

(1) Four years in the grade of lieutenant commander in the Navy or major in the Marine Corps.

(2) Four years in the grade of lieutenant in the Navy or captain in the Marine Corps.

(3) Three years in the grade of lieutenant (junior grade) in the Navy or first lieutenant in the Marine Corps.

(b) For the purpose of this section, an officer's service in a grade is computed from her date of rank in that grade.

§ 5753. Navy; staff corps officers: eligibility for consideration by selection board

(a) Except as provided in subsections (b) and (c), staff corps officers are eligible for consideration for promotion to the next higher grade by a selection board convened under chapter 543 of this title when their running mates become eligible for consideration.

(b) The following staff corps officers are eligible for consideration for promotion to the next higher grade by a selection board convened under chapter 543 of this title when they are in the promotion zone or are senior to the officers in the promotion zone in the grade in which they are serving:

(1) Officers in the Medical Corps, the Chaplain Corps, the Dental Corps, and the Medical Service Corps in the grades of lieutenant and lieutenant (junior grade), except officers in those corps appointed under section 5590 of this title.

(2) Officers in the Nurse Corps in the grade of lieutenant (junior grade).

(c) Each woman officer on the active list of the Navy in a staff corps appointed under section 5590 of this title is eligible for consideration for promotion to the next higher grade by a selection board convened under chapter 543 of this title when the President approves the report of a line selection board that recommends for promotion to the next higher grade the running mate of the woman staff corps officer or a woman line officer junior to her running mate.

§ 5754. Eligibility for consideration by selection boards: general provision

(a) Each officer who becomes eligible for consideration for promotion under the preceding sections of this chapter remains so eligible while on active duty regardless of failures of selection for promotion.

(b) A selection board convened under chapter 543 of this title may not consider for promotion to the next higher grade any officer whose name is on the promotion list for that grade as a result of his selection by an earlier board convened under that chapter.

§ 5755. Communications with selection board

Each officer eligible for consideration for promotion by a selection board convened under chapter 543 of this title has the right to send a communication through official channels at any time not later than ten days after the convening of that board inviting attention to any matter of record in the Department of the Navy concerning himself which he considers important in his case. The communication may not criticize any officer or reflect upon the character, conduct, or motive of any officer.

§ 5756. Navy, male line officers not restricted in the performance of duty; Marine Corps, male officers not restricted in the performance of duty: numbers that may be recommended

The Secretary of the Navy shall furnish the appropriate selection board convened under chapter 543 of this title with the number of male officers in the line of the Navy not restricted in the performance of duty or male officers of the Marine Corps not restricted in the performance of duty that may be recommended for promotion to the next higher grade. This number, determined by the Secretary as of the date the board is convened, is equal to the number of vacancies existing among such officers in the higher grade, plus the number of additional vacancies estimated for the next 12 months, minus the number of officers on the promotion list for that grade.

§ 5757. Regular Navy, male line officers designated for limited duty; Regular Marine Corps, male officers designated for limited duty: numbers that may be recommended

The Secretary of the Navy shall furnish the appropriate selection board convened under chapter 543 of this title with the number of male officers in the line of the Navy designated for limited duty or

male officers of the Marine Corps designated for limited duty that may be recommended for promotion to the next higher grade. This number, determined by the Secretary as of the date the board is convened, is equal to the number of vacancies existing among such officers in the higher grade, plus the number of additional vacancies estimated for the next 12 months, minus the number of such officers on the promotion list for that grade.

§ 5758. Regular Navy; male line officers designated for engineering duty, aeronautical engineering duty, and special duty: numbers that may be recommended

(a) The Secretary of the Navy shall furnish the appropriate selection board convened under chapter 543 of this title with the numbers of officers of the Navy designated for engineering duty, aeronautical engineering duty, and special duty that may be recommended for promotion to the grade of rear admiral. He shall determine these numbers as of the date the selection board is convened. The total of these numbers is equal to the number of vacancies existing in the grade of rear admiral for officers restricted in the performance of duty, plus the number of additional vacancies estimated for the next 12 months, minus the number of such officers on the promotion list. Within the total the Secretary may allocate such numbers to any of the named categories as he considers necessary to meet the needs of the service.

(b) The Secretary shall furnish the appropriate selection board, convened under chapter 543 of this title to recommend officers for promotion to a grade below rear admiral, with the numbers of—

(1) male officers designated for engineering duty;

(2) male officers designated for aeronautical engineering duty;

and

(3) male officers designated for special duty;

that may be recommended for promotion to the grade concerned. He shall determine these numbers, based upon the needs of the service, as of the date the selection board is convened. The number for each designation—

(1) may not exceed the total number of male officers of that designation in the promotion zone; and

(2) may not be less than the product of the number of officers of that designation in the promotion zone and a fraction, of which the numerator is the number of male line officers, not restricted in the performance of duty, in the same grade, that may be recommended for promotion in that fiscal year, and the denominator is the number of male line officers, not restricted in the performance of duty, in the promotion zone for the grade concerned in that year.

§ 5759. Regular Marine Corps; male officers designated for supply duty: numbers that may be recommended

(a) The Secretary of the Navy shall furnish the appropriate selection board convened under chapter 543 of this title with the number of officers of the Marine Corps designated for supply duty that may be recommended for promotion to the grade of brigadier general. This number, determined by the Secretary as of the date the selection board is convened, is equal to the number of vacancies existing in the grade of brigadier general for officers designated for supply duty, plus

the number of additional vacancies estimated for the next 12 months, minus the number of colonels designated for supply duty on the promotion list.

(b) The Secretary shall furnish the appropriate selection board, convened under chapter 543 of this title to recommend officers for promotion to a grade below brigadier general, with the number of male officers of the Marine Corps designated for supply duty that may be recommended for promotion to the grade concerned. He shall determine this number, based upon the needs of the service, as of the date the selection board is convened. The number—

(1) may not exceed the total number of male officers designated for supply duty in the promotion zone; and

(2) may not be less than the product of the number of male officers designated for supply duty in the promotion zone and a fraction, of which the numerator is the number of male officers of the Marine Corps, not restricted in the performance of duty, in the same grade, that may be recommended for promotion in that fiscal year, and the denominator is the number of male officers of the Marine Corps, not restricted in the performance of duty, in the promotion zone for the grade concerned in that year.

§ 5760. Regular Navy, women line officers; Regular Marine Corps, women officers: numbers that may be recommended

(a) The Secretary of the Navy shall furnish the appropriate selection board convened under chapter 543 of this title with the number of women officers on the active list in the line of the Navy that may be recommended for promotion to the grade of commander or lieutenant commander or the number of women officers on the active list of the Marine Corps that may be recommended for promotion to the grade of lieutenant colonel or major. This number, determined by the Secretary as of the date the selection board is convened, is equal to the number of vacancies existing in the grade concerned plus the number of additional vacancies estimated for the next 12 months, minus the number of officers on the promotion list for that grade.

(b) The Secretary shall furnish the appropriate selection board convened under chapter 543 of this title with the number of women officers on the active list in the line of the Navy that may be recommended for promotion to the grade of lieutenant or the number of women officers on the active list of the Marine Corps that may be recommended for promotion to the grade of captain. This number, determined by the Secretary as of the date the selection board is convened, is equal to the number of women officers in the next lower grade who are eligible for consideration by the board concerned.

§ 5761. Navy; staff corps officers: numbers that may be recommended for promotion to grade of rear admiral

The Secretary of the Navy shall furnish the appropriate selection board convened under chapter 543 of this title with the number of officers in any staff corps that may be recommended for promotion to the grade of rear admiral. This number, determined by the Secretary as of the date the selection board is convened, is equal to the number of vacancies existing in the grade of rear admiral in the corps

concerned, plus the number of additional vacancies estimated for the next 12 months, minus the number of captains in the corps concerned on the promotion list.

§ 5762. Navy; staff corps officers: numbers that may be recommended for promotion to grades below rear admiral

(a) The Secretary of the Navy shall furnish the appropriate selection board convened under chapter 543 of this title with the number of officers, not restricted in the performance of duty, other than women officers appointed under section 5590 of this title, that may be recommended for promotion to the grade of captain or commander in the Medical Corps, the Supply Corps, the Chaplain Corps, the Civil Engineer Corps, or the Dental Corps, or to the grade of commander in the Medical Service Corps. This number, determined by the Secretary as of the date the selection board is convened, is the product of—

(1) the number of staff corps officers, not restricted in the performance of duty, in the promotion zone for the grade and corps concerned; and

(2) a fraction, of which the numerator is the number of male line officers, not restricted in the performance of duty, who are placed on the promotion list pursuant to the report of the comparable board for the selection of line officers convened in the same fiscal year, and the denominator is the number of male line officers, not restricted in the performance of duty, in the promotion zone considered by that board.

(b) The Secretary shall furnish the appropriate selection board convened under chapter 543 of this title with the number of officers in the Medical Service Corps that may be recommended for promotion to the grade of captain. This number, determined by the Secretary as of the date the selection board is convened, is equal to the number of vacancies existing in the grade of captain in the Medical Service Corps, plus the number of additional vacancies estimated for the next 12 months, minus the number of commanders in that corps on the promotion list.

(c) The Secretary shall furnish the appropriate selection board convened under chapter 543 of this title with the number of male officers in the Supply Corps or the Civil Engineer Corps, not restricted in the performance of duty, that may be recommended for promotion to the grade of lieutenant commander or lieutenant. This number, determined by the Secretary as of the date the selection board is convened, is the product of—

(1) the number of male staff corps officers, not restricted in the performance of duty, in the promotion zone for the grade and corps concerned; and

(2) a fraction, of which the numerator is the number of male line officers, not restricted in the performance of duty, placed upon the promotion list pursuant to the report of the comparable board for the selection of line officers convened in the same fiscal year, and the denominator is the number of male line officers, not restricted in the performance of duty, in the promotion zone considered by that board.

(d) The Secretary shall furnish the appropriate selection board convened under chapter 543 of this title with the number of male

officers in the Supply Corps or the Civil Engineer Corps designated for limited duty that may be recommended for promotion to the next higher grade. This number, determined by the Secretary as of the date the selection board is convened, is the product of—

(1) the number of male staff corps officers, designated for limited duty, in the promotion zone for the grade and corps concerned; and

(2) a fraction, of which the numerator is the number of male line officers, designated for limited duty, placed on the promotion list pursuant to the report of the comparable board for the selection of line officers convened in the same fiscal year, and the denominator is the number of male line officers, designated for limited duty, in the promotion zone considered by that board.

(e) The Secretary shall furnish the appropriate selection board convened under chapter 543 of this title with the number of officers in the Medical Corps, the Chaplain Corps, the Dental Corps, or the Medical Service Corps, other than women officers appointed under section 5590 of this title, that may be recommended for promotion to the grade of lieutenant commander or lieutenant. This number, determined by the Secretary as of the date the selection board is convened, is equal to the number of officers in the promotion zone for the grade and corps concerned.

(f) The Secretary shall furnish the appropriate selection board convened under chapter 543 of this title with the number of officers in the Nurse Corps that may be recommended for promotion to the grade of commander or lieutenant commander. This number, determined by the Secretary as of the date the selection board is convened, is equal to the number of vacancies existing in the grade concerned, plus the number of additional vacancies estimated for the next 12 months, minus the number of officers in the next lower grade on the promotion list.

(g) The Secretary shall furnish the appropriate selection board convened under chapter 543 of this title with the number of officers in the Nurse Corps that may be recommended for promotion to the grade of lieutenant. This number, determined by the Secretary as of the date the selection board is convened, is equal to the number of officers in the promotion zone or senior to the officers in the zone, minus the number of lieutenants (junior grade) on the promotion list.

§ 5763. Regular Navy; women staff corps officers appointed under section 5590 of this title: number that may be recommended for promotion

The Secretary of the Navy shall furnish the appropriate selection board convened under chapter 543 of this title with the number of women officers on the active list of the Navy in a staff corps, appointed under section 5590 of this title, that may be recommended for promotion to the grade of commander or lieutenant commander. This number is the product of—

(1) the number of such women staff corps officers on the active list in the next lower grade in the corps concerned who in the current fiscal year first become eligible for consideration for promotion to the grade concerned; and

(2) a fraction, of which the numerator is the number of women line officers on the active list recommended for promotion to the

grade concerned in the approved report of the immediately preceding line selection board, and the denominator is the number of women line officers on the active list who are eligible in the fiscal year concerned for consideration for promotion to the grade concerned, exclusive of women line officers on the active list who were senior to the junior woman officer recommended for promotion to that grade in the approved report of the second preceding line selection board and exclusive of those officers junior to the junior woman line officer recommended for promotion to that grade in the approved report of the immediately preceding line selection board.

If the number so determined is a mixed number and the fraction is one-half or greater, the number that shall be furnished the board is the next higher whole number; if the number so determined is less than one, the number that shall be furnished the board is one.

§ 5764. Navy; male line officers: promotion zones

(a) The Secretary of the Navy shall establish a promotion zone in each grade for male officers in the line of the Navy not restricted in the performance of duty when he convenes a selection board under chapter 543 of this title to consider officers in that grade for recommendation for promotion to the next higher grade. The promotion zone in each grade shall be composed of that number of the most senior such officers under consideration, who are eligible for selection for promotion to the next higher grade and who have not previously failed of such selection, that must either be selected for promotion by the particular board or be considered as having failed of such selection, in order to maintain a flow of promotion consistent with the terms of service set out in section 5768 of this title and in order best to assure to individuals in succeeding years equality of opportunity for promotion. The Secretary shall determine the number in the zone on the basis of a consideration of the number of vacancies estimated for the next higher grade in each of the next five years, the number of officers who will be eligible for selection in each of those years, and the terms of service that those officers will have completed.

(b) The promotion zones in any grade below captain for male officers designated for engineering duty, for male officers designated for aeronautical engineering duty, and for male officers designated for special duty are each composed of all male officers of one such designation who have not previously failed of selection for promotion to the next higher grade and who are senior to the junior officer in the corresponding promotion zone for male line officers of the Navy not restricted in the performance of duty.

(c) The Secretary shall establish a promotion zone in each grade for male officers in the line of the Navy designated for limited duty at the time he convenes a selection board under chapter 543 of this title to consider officers in that grade for recommendation for promotion to the next higher grade. The promotion zone shall be composed of that number of the most senior such officers under consideration, who are eligible for selection for promotion to the next higher grade and who have not previously failed of such selection, that must either be selected for promotion by the particular board or be considered as having failed of such selection, in order to maintain a flow of promotion consistent with the terms of service set out in section 5768 of

this title and in order best to assure to individuals in succeeding years equality of opportunity for promotion. The Secretary shall determine the number in the zone on the basis of a consideration of the number of vacancies estimated for the next higher grade in each of the next five years, the number of officers who will be eligible for selection in each of those years, and the terms of service that those officers will have completed.

§ 5765. Marine Corps; male officers: promotion zones

(a) The Secretary of the Navy shall establish the promotion zone for officers of the Marine Corps serving in the grade of brigadier general not restricted in the performance of duty at the time he convenes a selection board under chapter 543 of this title to consider officers in that grade for recommendation for promotion to the grade of major general. The promotion zone shall be composed of that number of the most senior such officers under consideration, who are eligible for selection for promotion to the next higher grade and who have not previously failed of such selection, that must either be selected for promotion by the particular board or be considered as having failed of such selection, in order to maintain a flow of promotion consistent with the needs of the service and in order best to assure to individuals in succeeding years equality of opportunity for promotion. The Secretary shall determine the number in the zone on the basis of a consideration of the number of vacancies estimated for the grade of major general in each of the next five years and the number of officers who will be eligible for selection to that grade in each of those years.

(b) The Secretary shall establish a promotion zone in each grade below brigadier general for male officers of the Marine Corps not restricted in the performance of duty at the time he convenes a selection board under chapter 543 of this title to consider officers in that grade for recommendation for promotion to the next higher grade. The promotion zone in each grade shall be composed of that number of the most senior such officers under consideration, who are eligible for selection for promotion to the next higher grade and who have not previously failed of such selection, that must either be selected for promotion by the particular board or be considered as having failed of such selection, in order to maintain a flow of promotion consistent with the terms of service set out in section 5768 of this title and in order best to assure to individuals in succeeding years equality of opportunity for promotion. The Secretary shall determine the number in the zone on the basis of a consideration of the number of vacancies estimated for the next higher grade in the next five years, the number of officers eligible for selection in each of those years, and the terms of service which those officers will have completed.

(c) The promotion zone in any grade below colonel for male officers designated for supply duty is composed of all male officers in that grade designated for supply duty who have not previously failed of selection for promotion to the next higher grade and who are senior to the junior officer in the corresponding promotion zone for male officers in the Marine Corps not restricted in the performance of duty.

(d) The Secretary shall establish a promotion zone in each grade for male officers of the Marine Corps designated for limited duty at the time he convenes a selection board under chapter 543 of this title

to consider such officers in that grade for recommendation for promotion to the next higher grade. The promotion zone in each grade shall be composed of that number of the most senior such officers under consideration, who are eligible for selection for promotion to the next higher grade and who have not previously failed of such selection, that must either be selected for promotion by the particular board or be considered as having failed of such selection, in order to maintain a flow of promotions consistent with the terms of service set out in section 5768 of this title and in order best to assure to individuals in succeeding years equality of opportunity for promotion. The Secretary shall determine the number in the zone on the basis of a consideration of the number of vacancies estimated for the next higher grade in each of the next five years, the number of officers who will be eligible for selection in each of those years, and the terms of service which those officers will have completed.

§ 5766. Navy; staff corps officers: promotion zones

(a) Officers in any staff corps not restricted in the performance of duty, other than women officers appointed under section 5590 of this title, who have not failed of selection for promotion to the next higher grade are in the promotion zone for officers of their grade and corps when their running mates are in the promotion zone for male line officers not restricted in the performance of duty.

(b) Male officers in any staff corps designated for limited duty who have not failed of selection for promotion to the next higher grade are in the promotion zone for officers of their grade, corps, and designation, when their running mates are in the promotion zone for male line officers designated for limited duty.

§ 5767. Officers qualified for specific duties: promotion to flag or general officer grade

(a) Whenever the Secretary of the Navy determines that there are not enough officers to meet the needs of the service in the grade of rear admiral in the Navy or in the grade of major general or brigadier general in the Marine Corps, who are specially qualified for a type of duty required of officers of the grade concerned, he may direct that, of the total number of officers that a selection board may recommend for promotion to that grade, a specified number shall be officers who are specially qualified for the required type of duty. If, solely as a result of this section, the selection board selects an officer who is junior to the junior officer in the promotion zone, the board shall so certify in its report.

(b) Each officer who is promoted solely by operation of subsection (a) and who is junior to the junior officer in the promotion zone shall, when one or more officers junior to the junior officer in that promotion zone are promoted pursuant to the report of the next selection board convened after the board which selected him, have his rank adjusted in the grade for which selected according to his relative rank with such other officers in the grade from which they were promoted, unless at the time of his selection there was another officer junior to him selected under provisions other than those of subsection (a). If an officer's rank is to be adjusted under this subsection, the President, when all officers concerned are promoted to the grade for which selected, shall assign to him a later date of rank that will insure the

order of rank as provided in this subsection, and the officer shall take rank from the later date. If he is a staff corps officer, he shall have a new running mate assigned to him in accordance with his adjusted rank.

§ 5768. Navy, male line officers; Marine Corps, male officers: normal terms of service in grade and total commissioned service

(a) The normal terms of service for male officers in the line of the Navy, other than officers designated for limited duty, and for male officers of the Marine Corps, other than officers designated for limited duty, are:

Grade		Service in grade	Total commissioned service
Navy	Marine Corps		
Captain.....	Colonel.....	5 years.....	30 years.
Commander.....	Lieutenant Colonel.....	7 years.....	25 years.
Lieutenant Commander.....	Major.....	6 years.....	18 years.
Lieutenant.....	Captain.....	6 years.....	12 years.
Lieutenant (junior grade).....	First Lieutenant.....	3 years.....	6 years.

(b) The normal terms of service in grade for male officers in the line of the Navy designated for limited duty and for male officers of the Marine Corps designated for limited duty are:

Grade		Service in grade
Navy	Marine Corps	
Lieutenant Commander.....	Major.....	6 years.
Lieutenant.....	Captain.....	6 years.
Lieutenant (junior grade).....	First Lieutenant.....	3 years.

§ 5769. Navy, male line officers; Marine Corps, male officers: eligibility for promotion

(a) Male officers in the line of the Navy, and male officers of the Marine Corps, who are recommended for promotion in the report of a selection board convened under chapter 543 of this title are considered as selected for promotion upon the approval of the report by the President. The names of these officers shall be placed on the promotion list for the grade for which selected in the order of their rank at the time of the approval of the report, following the names of any male officers recommended for promotion to the same grade in an earlier approved report who have not yet been promoted.

(b) Male officers in the line of the Navy and male officers of the Marine Corps may be promoted when they become eligible for promotion under one of the following clauses:

(1) Officers not restricted in the performance of duty whose names appear on the promotion list are, in the order in which their names appear, eligible for promotion to the next higher grade as vacancies occur in that grade among officers not restricted in the performance of duty.

(2) Officers designated for limited duty whose names appear on the promotion list are, in the order in which their names appear, eligible for promotion to the next higher grade as vacancies occur in that grade among officers designated for limited duty.

(3) Captains in the Navy designated for engineering duty, aeronautical engineering duty, or special duty whose names appear on the promotion list are, in the order in which their names appear, eligible for promotion to the grade of rear admiral as vacancies occur in that grade among officers restricted in the performance of duty.

(4) Colonels designated for supply duty whose names appear on the promotion list are, in the order in which their names appear, eligible for promotion to the grade of brigadier general as vacancies occur in that grade among officers designated for supply duty.

(5) An officer in the grade of commander or below designated for engineering duty, aeronautical engineering duty, or special duty whose name appears on the promotion list is eligible for promotion to the next higher grade when the line officer not restricted in the performance of duty whose name appears next below his on the promotion list becomes eligible for promotion.

(6) An officer in the grade of lieutenant colonel or below designated for supply duty whose name appears on the promotion list is eligible for promotion to the next higher grade when the officer not restricted in the performance of duty whose name appears next below his on the promotion list becomes eligible for promotion.

However, an officer in the grade of lieutenant in the Navy designated for engineering duty, aeronautical engineering duty, or special duty is not eligible for promotion to the grade of lieutenant commander until there is a vacancy for him among officers of his designation in the combined grades of captain, commander, and lieutenant commander; and an officer in the grade of captain in the Marine Corps designated for supply duty is not eligible for promotion to the grade of major until there is a vacancy for him among officers of his designation in the combined grades of colonel, lieutenant colonel, and major.

(c) Except as provided in subsection (d), each male officer in the line of the Navy and each male officer of the Marine Corps, when promoted to a higher grade, shall be assigned the date of rank and registered number that will give him rank in the order in which his name appeared on the promotion list for that grade.

(d) Each officer promoted to the grade of major general under this section shall be assigned the date of rank held by him in the grade of brigadier general. However, except as provided in sections 5767 and 5777 of this title, the date of rank may not be earlier than that of the junior officer then in the grade of major general.

§ 5770. Regular Navy; male line officers not restricted to the performance of duty or designated for limited duty: sea or foreign service required

(a) A male officer on the active list in the line of the Navy who is not restricted in the performance of duty or who is designated for

limited duty may not be promoted to the grade of lieutenant commander or above under section 5769 of this title, although otherwise eligible for promotion, until he has had at least two years of sea or foreign service after his name was placed on the promotion list for promotion to the grade in which he is serving.

(b) The Secretary of the Navy shall determine the types of duty that may be considered sea or foreign service for the purpose of this section.

§ 5771. Regular Navy, women line officers; Regular Marine Corps, women officers: eligibility for promotion

(a) Women officers on the active list in the line of the Navy and women officers on the active list of the Marine Corps who are recommended for promotion in the report of a selection board convened under chapter 543 of this title are considered as selected for promotion upon approval of the report by the President. The names of these officers shall be placed on the promotion list for the grade for which selected in the order of their rank at the time of the approval of the report, following the names of any women officers recommended for promotion to the same grade in an earlier approved report who have not yet been promoted.

(b) Women officers on the active list in the line of the Navy and women officers on the active list of the Marine Corps may be promoted when they become eligible for promotion under one of the following clauses:

(1) Women officers of the Navy on the promotion list for the grade of commander or lieutenant commander and women officers of the Marine Corps on the promotion list for the grade of lieutenant colonel or major are, in the order in which their names appear, eligible for promotion to the grade concerned as vacancies occur in that grade.

(2) Women officers of the Navy on the promotion list for the grade of lieutenant and women officers of the Marine Corps on the promotion list for the grade of captain are eligible for promotion on July 1 following the date of approval of the report of the selection board.

(c) When promoted to a higher grade, each woman line officer on the active list of the Navy and each woman officer on the active list of the Marine Corps shall be assigned the date of rank and registered number that will give her rank in the order in which her name appeared on the promotion list for that grade.

§ 5772. Navy; staff corps officers: eligibility for promotion to grade of rear admiral

Officers in any staff corps recommended for promotion to the grade of rear admiral in the report of a selection board convened under chapter 543 of this title are considered as selected for promotion upon approval of the report by the President. The names of these officers shall be placed on the promotion list for the grade of rear admiral in the corps concerned. Each such officer may be promoted when a vacancy occurs in the grade of rear admiral in his corps. When promoted, each staff corps officer shall have the same date of rank as the running mate assigned to him in the grade of rear admiral. However, if the staff corps officer is promoted to the grade of rear admiral

before the line officer who is to be his running mate in that grade is so promoted, the staff corps officer shall have, as his interim date of rank, the date of the occurrence of the vacancy that he was promoted to fill. When his running mate is promoted to the grade of rear admiral, the staff corps officer shall have the same date of rank as that assigned to his running mate.

§ 5773. Navy; staff corps officers: eligibility for promotion to grades below rear admiral

(a) Officers in any staff corps, other than women officers appointed under section 5590 of this title, recommended for promotion to a grade below rear admiral in the report of a selection board convened under chapter 543 of this title are considered as selected for promotion upon the approval of the report by the President. The names of these officers shall be placed on the promotion list for the grade and corps concerned.

(b) Except as provided in subsection (c), each staff corps officer whose name is placed on a promotion list under subsection (a) is eligible for promotion to the grade for which selected when the line officer who is to be his running mate in the higher grade becomes eligible for promotion to that grade. When promoted, each such staff corps officer shall be assigned the same date of rank as that of his running mate in the higher grade.

(c) Each commander in the Medical Service Corps, and each lieutenant commander and lieutenant in the Nurse Corps, whose name is placed on a promotion list under subsection (a) may be promoted to the grade for which selected when a vacancy for him occurs in that grade. When promoted, each such officer shall be assigned the same date of rank as that of his running mate in the higher grade.

§ 5774. Regular Navy; women staff corps officers appointed under section 5590 of this title: eligibility for promotion

Each woman officer on the active list of the Navy in any staff corps, appointed under section 5590 of this title, who is recommended for promotion to a grade above lieutenant (junior grade) in the approved report of a selection board convened under chapter 543 of this title is eligible for promotion when the line officer who is to be her running mate in the higher grade becomes eligible for promotion to that grade.

§ 5775. Officers promoted under preceding sections: date from which entitled to pay and allowances of grade to which promoted

(a) Each officer who is promoted under the preceding sections of this chapter is entitled to the pay and allowances of the grade to which promoted from the date of the occurrence of the vacancy that he was promoted to fill, if he is in one of the following categories:

(1) Male line officers of the Navy not restricted in the performance of duty.

(2) Male line officers of the Navy designated for engineering duty, aeronautical engineering duty, or special duty promoted to the grade of rear admiral.

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(3) Male line officers of the Navy designated for engineering duty, aeronautical engineering duty, or special duty who are promoted to the grade of lieutenant commander to fill vacancies in the combined grades of lieutenant commander, commander, and captain and whose promotion was delayed because there were no vacancies for them at the time when they would otherwise have been eligible for promotion under section 5769 (b) of this title.

(4) Male line officers of the Navy designated for limited duty.

(5) Women line officers on the active list of the Navy promoted to the grade of commander or lieutenant commander.

(6) Male officers of the Marine Corps not restricted in the performance of duty.

(7) Male officers of the Marine Corps designated for supply duty promoted to the grade of brigadier general.

(8) Male officers of the Marine Corps designated for supply duty who are promoted to the grade of major to fill vacancies in the combined grades of major, lieutenant colonel, and colonel and whose promotion was delayed because there were no vacancies for them at the time when they would otherwise have been eligible for promotion under section 5769 (b) of this title.

(9) Male officers of the Marine Corps designated for limited duty.

(10) Women officers on the active list of the Marine Corps promoted to the grade of lieutenant colonel or major.

(11) Staff corps officers of the Navy promoted to the grade of rear admiral.

(b) Each male line officer of the Navy designated for engineering duty, aeronautical engineering duty, or special duty and each male officer of the Marine Corps designated for supply duty, if not in a category listed in subsection (a), is entitled, when promoted under the preceding sections of this chapter, to the pay and allowances of the grade to which promoted from the date on which he became eligible for promotion to that grade.

(c) Each woman line officer on the active list of the Navy promoted to the grade of lieutenant and each woman officer on the active list of the Marine Corps promoted to the grade of captain under the preceding sections of this chapter is entitled to the pay and allowances of the grade to which promoted from July 1 following the date on which the President approved the report of the selection board that recommended her for promotion.

(d) Except as provided in subsection (e), each male staff corps officer and each woman staff corps officer who is promoted to a grade below rear admiral under the preceding sections of this chapter is entitled to the pay and allowances of the grade to which promoted from the date on which his running mate in that grade became eligible for promotion to that grade.

(e) Each officer in the Medical Service Corps who is promoted to the grade of captain and each officer in the Nurse Corps who is promoted to the grade of commander or lieutenant commander under the preceding sections of this chapter is entitled to the pay and allowances of the grade to which promoted from—

(1) the date of the occurrence of the vacancy that he was promoted to fill; or

(2) the date on which the President approved the report of the selection board that recommended him for promotion; whichever is later.

§ 5776. Failure of selection

(a) Subject to subsection (b), a male officer in the line of the Navy, or a male officer of the Marine Corps, who is eligible for consideration for promotion by a selection board convened under chapter 543 of this title and is not selected for promotion is considered as having failed of selection for promotion if he is, or is senior to, the junior officer of his category in the promotion zone established in his grade under section 5764 or section 5765 of this title. Such an officer is not considered as having failed of selection if he is junior to the junior officer of his category in the promotion zone in his grade.

(b) A male officer in the line of the Navy restricted in the performance of duty serving in the grade of captain, or a male officer of the Marine Corps restricted in the performance of duty serving in the grade of colonel, who is eligible for consideration for promotion by a selection board convened under chapter 543 of this title and who is not selected for promotion is not considered as having failed of selection. There are no promotion zones for such officers for promotion to the grade of rear admiral or brigadier general.

(c) Subject to subsections (d) and (e), an officer in a staff corps of the Navy who is eligible for consideration for promotion by a selection board convened under chapter 543 of this title and is not selected for promotion is considered as having failed of selection for promotion if he is, or is senior to, the junior officer of his category in the promotion zone established in his grade and corps under section 5766 of this title. Such an officer is not considered as having failed of selection if he is junior to the junior officer of his category in the promotion zone in his grade and corps.

(d) An officer in the grade of lieutenant commander or lieutenant in the Nurse Corps who is eligible for consideration for promotion by a selection board convened under chapter 543 of this title and is not selected for promotion is not considered as having failed of selection for promotion, whether or not she is in the promotion zone for officers of her grade and corps.

(e) A woman officer appointed under section 5590 of this title who is eligible for consideration for promotion by a selection board convened under chapter 543 of this title and is not selected for promotion is not considered as having failed of selection for promotion. There are no promotion zones for women officers so appointed.

§ 5777. Removal from promotion list

(a) The President may remove the name of any officer from a promotion list.

(b) If the Senate rejects an officer's appointment to the grade for which he has been recommended, the officer's name shall be removed from the promotion list.

(c) An officer whose name is removed from a promotion list under subsection (a) or (b) continues to be eligible for consideration for promotion. If he is recommended for promotion by the next selection board, and the report of the board is approved by the President,

his name shall be placed on the promotion list without prejudice and, if he is promoted, he shall have the same lineal position and date of rank that he would have had if his name had not been removed. However, if the officer is not recommended for promotion in the approved report of the next selection board, or if he is so recommended but the President removes his name from the promotion list or the Senate rejects his appointment, he is considered for all purposes as having twice failed of selection for promotion.

§ 5778. Promotions under preceding sections: temporary; permanent

Promotions under the preceding sections of this chapter of women officers appointed under section 5590 of this title shall be made by permanent appointments. Promotions of all other officers under the preceding sections of this chapter shall be made by—

- (1) temporary appointments when sections 5442, 5443, and 5444 of this title are applicable; and
- (2) permanent appointments when sections 5442, 5443, and 5444 of this title are inapplicable.

§ 5779. Temporary promotions: termination

The President may terminate any temporary appointment made under the preceding sections of this chapter.

§ 5780. Regular Navy, male line officers; Regular Marine Corps, male officers: permanent promotion

(a) The President may fill vacancies in any grade in the line of the Regular Navy, as determined by computations under section 5447 of this title, by making permanent appointments in that grade from officers on the active list in the line of the Navy who—

- (1) have been temporarily promoted to that grade under the preceding sections of this chapter; or
- (2) are on the promotion list for promotion to that grade under the preceding sections of this chapter.

(b) The President may fill vacancies in any grade in the Regular Marine Corps, as determined by computations under section 5448 of this title, by making permanent appointments in that grade from officers on the active list of the Marine Corps who—

- (1) have been temporarily promoted to that grade under the preceding sections of this chapter; or
- (2) are on the promotion list for promotion to that grade under the preceding sections of this chapter.

(c) An officer may not be permanently appointed under this section in the grade of captain in the Navy or colonel in the Marine Corps before the fiscal year in which he and all officers senior to him on the lineal list will have completed 18 years of total commissioned service as computed under section 6387 of this title.

(d) Officers shall be permanently appointed under this section in the order of their lineal position or, if they have not been temporarily appointed in the grade concerned, in the order in which their names appear on the promotion list for that grade.

§ 5781. Regular Navy; staff corps officers: permanent promotion to grade of rear admiral

(a) The President may fill vacancies in the grade of rear admiral in any staff corps of the Regular Navy, as determined by computations under section 5449 of this title, by making permanent appointments in that grade from officers on the active list in the corps concerned who—

(1) have been temporarily promoted to the grade of rear admiral under the preceding sections of this chapter; or

(2) are on the promotion list for promotion to the grade of rear admiral under the preceding sections of this chapter.

(b) Officers shall be permanently appointed under this section in the order of their lineal position or, if they have not been temporarily appointed in the grade of rear admiral, in the order in which their names appear on the promotion list for promotion to that grade.

(c) Each officer permanently appointed in the grade of rear admiral under this section shall be given the same date of rank as his running mate if his running mate has been permanently appointed in that grade. If his running mate has not been permanently appointed in the grade of rear admiral, the staff corps officer shall be given, as his interim date of rank, the date of rank stated in his temporary commission. When his running mate is permanently appointed in the grade of rear admiral, the staff corps officer shall be given the same date of rank as that given to his running mate.

§ 5782. Regular Navy; staff corps officers: permanent promotion to grades below rear admiral

(a) Permanent appointments may be made in any grade below rear admiral in any staff corps of the Regular Navy from officers on the active list in the corps concerned who—

(1) have been temporarily promoted to the grade concerned under the preceding sections of this chapter; or

(2) are on the promotion list for promotion to that grade under the preceding sections of this chapter.

(b) A staff corps officer whose running mate is on the active list of the Navy may be permanently appointed in a grade under this section when his running mate is permanently appointed in that grade under section 5780 of this title. A staff corps officer so appointed is considered as appointed simultaneously with his running mate and he shall be given the same date of rank as his running mate. A staff corps officer whose running mate is not on the active list of the Navy may be permanently appointed in a grade under this section when the most senior of those male line officers on the active list who are junior to his running mate is permanently appointed in that grade under section 5780 of this title. A staff corps officer so appointed is considered as appointed simultaneously with that line officer and he shall be given the same date of rank as that line officer.

(c) If a staff corps officer is on a promotion list for promotion under the preceding sections of this chapter and his running mate in the grade in which he is serving is not on such a promotion list, the line officer who is to be the running mate of the staff corps officer in the next higher grade is considered to be his running mate for the purpose of subsection (b).

(d) Notwithstanding subsections (b) and (c), no officer may be permanently appointed in the grade of captain in the Medical Service Corps or in the grade of commander or lieutenant commander in the Nurse Corps unless there is a vacancy for him in the grade and corps concerned as determined by computations under section 5449 (c) and (d) of this title.

§ 5783. Naval Reserve and Marine Corps Reserve: permanent promotion

(a) Permanent appointments may be made in any grade in the line of the Naval Reserve from officers holding permanent appointments in the grade of ensign or above in the line of the Naval Reserve who are on active duty and who—

- (1) have been temporarily promoted to the grade concerned under the preceding sections of this chapter; or
- (2) are on the promotion list for promotion to the grade concerned under the preceding sections of this chapter.

An officer in the line of the Naval Reserve may be permanently appointed in a grade in the Naval Reserve under this subsection when the most junior of those male line officers on the active list who are senior to him is permanently appointed in that grade in the Regular Navy. The reserve officer is considered for all purposes to have been appointed simultaneously with the regular officer and he shall be given the same date of rank as the regular officer.

(b) Permanent appointments may be made in any grade in the Marine Corps Reserve from officers holding permanent appointments in the grade of second lieutenant or above in the Marine Corps Reserve who are on active duty and who—

- (1) have been temporarily promoted to the grade concerned under the preceding sections of this chapter; or
- (2) are on the promotion list for promotion to the grade concerned under the preceding sections of this chapter.

An officer of the Marine Corps Reserve may be permanently appointed in a grade in the Marine Corps Reserve under this subsection when the most junior of the male officers on the active list of the Marine Corps who are senior to him is permanently appointed in that grade in the Regular Marine Corps. The reserve officer is considered for all purposes to have been appointed simultaneously with the regular officer and he shall be given the same date of rank as the regular officer.

(c) Permanent appointments may be made in any grade in the Naval Reserve in any staff corps from officers holding permanent appointments in the grade of ensign or above in the Naval Reserve in the corps concerned who are on active duty and who—

- (1) have been temporarily promoted to the grade concerned under the preceding sections of this chapter; or
- (2) are on the promotion list for promotion to the grade concerned under the preceding sections of this chapter.

A reserve staff corps officer whose running mate is on the active list of the Navy may be permanently appointed in a grade in the Naval Reserve under this subsection when his running mate is permanently appointed in that grade in the Regular Navy. A reserve staff corps officer whose running mate is not on the active list of the Navy may be permanently appointed in a grade in the Naval Reserve under this

subsection when the most senior of those male line officers on the active list of the Navy who are junior to his running mate is permanently appointed in that grade in the Regular Navy. If a reserve staff corps officer is on a promotion list for promotion under the preceding sections of this chapter and his running mate in the grade in which he is serving is not on such a promotion list, the line officer who is to be the running mate of the staff corps officer in the next higher grade is considered to be his running mate for the purpose of this subsection. A reserve staff corps officer permanently appointed in a grade under this subsection is considered as appointed simultaneously with the line officer upon whom his eligibility for permanent appointment depends, and he shall be given the same date of rank as that line officer.

§ 5784. Navy, ensigns; Marine Corps, second lieutenants: temporary promotion

(a) Promotions may be made under this section only when the number of male officers serving on active duty in the grade of ensign and above in the line of the Navy exceeds the number of male officers on the active list in the line of the Navy.

(b) Officers serving on active duty in the grade of ensign in the Navy may be promoted to the grade of lieutenant (junior grade) and officers serving on active duty in the grade of second lieutenant in the Marine Corps may be promoted to the grade of first lieutenant.

(c) Promotions under this section shall be made by temporary appointments.

(d) The President may terminate any temporary appointment made under this section.

(e) Temporary appointments under this section do not change the permanent, probationary, or acting status of members so appointed, prejudice them in regard to other promotion or appointment, or abridge their rights or benefits. A member who receives a temporary appointment under this section may not suffer any reduction in the pay and allowances to which he was entitled because of his permanent status at the time of his temporary appointment, or any reduction in the pay and allowances to which he was entitled under a prior temporary appointment in a lower grade.

(f) Women officers appointed under section 5590 of this title may not be promoted under this section.

§ 5785. Suspension preceding sections

(a) The President may suspend any provision of the preceding sections of this chapter relating to officers serving in the grades of lieutenant and lieutenant (junior grade) in the Navy, other than women officers appointed under section 5590 of this title, or relating to male officers serving in the grades of captain and first lieutenant in the Marine Corps during any period when—

(1) the number of male officers serving on active duty in the grade of ensign and above in the line of the Navy exceeds the number of male officers on the active list in the line of the Navy; and

(2) he determines that the needs of the service so require.

(b) During a war or national emergency, the President may suspend any provision of the preceding sections of this chapter relating

to officers of the Navy and the Marine Corps, other than women officers appointed under section 5590 of this title. Such a suspension may not continue beyond June 30 of the fiscal year following that in which the war or national emergency ends.

§ 5786. Application: preceding sections

(a) Officers in the following categories are ineligible for promotion under the preceding sections of this chapter:

(1) Women reserve officers, other than reserve officers in the Nurse Corps and other than reserve officers appointed under section 5581 of this title.

(2) Retired officers.

(3) Officers of the Naval Reserve and the Marine Corps Reserve on inactive duty.

(4) Officers of the Naval Reserve and the Marine Corps Reserve assigned to active duty for training.

(5) Officers of the Naval Reserve and the Marine Corps Reserve ordered to active duty in connection with organizing, administering, recruiting, instructing, training, or drilling the Naval Reserve or the Marine Corps Reserve.

(6) Officers of the Naval Reserve and the Marine Corps Reserve ordered to temporary active duty to prosecute special work.

(7) Temporary officers serving in grades above chief warrant officer, W-4, whose only appointment to any such grade was made under section 5597 of this title.

(b) Officers listed in subsection (a) are not counted as officers serving on active duty for the purpose of sections 5784 and 5785 of this title.

(c) For the purpose of the preceding sections of this chapter, an officer serving in a grade to which he was appointed for a period of limited duration or in a grade to which he was temporarily promoted under section 5787 of this title is considered as serving in the grade he would hold if he had not received any such appointment or promotion.

§ 5787. Temporary promotions in time of war or national emergency

(a) Promotions may be made under this section only in time of war or during a national emergency declared by the President.

(b) The President may promote to a higher grade any member of the naval service serving on active duty in the Navy in the grade of ensign or above or serving on active duty in the Marine Corps in the grade of second lieutenant or above. Such promotions shall be made under such regulations as the President prescribes and in such numbers as he determines the needs of the service require.

(c) The Secretary of the Navy, under such regulations as he prescribes, may promote to the next higher warrant officer grade any member of the naval service serving on active duty in a warrant officer grade below chief warrant officer, W-4.

(d) The grade of commodore in the Navy is established for the purposes of this section.

(e) Promotions under this section shall be made by temporary appointments. Each such appointment to the grade of commodore or above in the Navy or to the grade of brigadier general or above

in the Marine Corps shall be made by the President, by and with the advice and consent of the Senate. Each such appointment to a warrant officer grade shall be made by the Secretary, by commission. All other temporary appointments under this section shall be made by the President alone.

(f) Temporary promotions under this section to the grade of lieutenant or above in the Navy or to the grade of captain or above in the Marine Corps may be made only upon the recommendation of a board of officers convened for that purpose. In addition to recommending officers for promotion, a board so convened shall make the report required by section 6395 of this title.

(g) Each temporary appointment under this section, unless expressly declined, is, without formal acceptance, regarded as accepted on the date made, and the member so appointed is entitled to the pay and allowances of the grade to which promoted from that date.

(h) Temporary appointments under this section do not change the permanent, probationary, or acting status of members so appointed, prejudice them in regard to other promotion or appointment, or abridge their rights or benefits. A member who receives a temporary appointment under this section may not suffer any reduction in the pay and allowances to which he was entitled at the time of his appointment.

(i) Temporary appointments under this section are effective for such periods as the President determines. However, no such appointment may be effective later than—

(1) six months after the end of the war or national emergency;

or

(2) the date the appointee is released from active duty;

whichever is earlier.

(j) When his temporary appointment under this section is terminated or expires, each member of the naval service on active duty shall have the grade he would hold if he had not received any such appointment.

§ 5788. Navy, ensigns; Marine Corps, second lieutenants: eligibility for promotion

(a) Each officer, other than a retired officer, serving on active duty in the Navy or the Marine Corps who holds a permanent appointment in the grade of ensign or second lieutenant may be permanently promoted to the next higher grade on the third anniversary of his date of rank as ensign or second lieutenant.

(b) Each officer holding a temporary appointment in the grade of ensign or second lieutenant, unless he is promoted earlier, may be temporarily promoted to the next higher grade on the third anniversary of his date of rank as ensign or second lieutenant.

(c) Each officer promoted under this section is entitled to the pay and allowances of the higher grade from his date of rank in that grade unless he is entitled to them from an earlier date under another provision of law.

§ 5789. Officers receiving thanks of Congress

(a) An officer in the line of the Navy or an officer of the Marine Corps may be advanced one grade if, upon recommendation of the President by name, he receives the thanks of Congress for highly

distinguished conduct in conflict with the enemy or for extraordinary heroism in the line of his profession.

(b) An officer may be promoted under this section even though there are no vacancies in the higher grade. He shall be carried as an additional number in that grade until the actual number of officers in that grade falls below the prescribed number.

§ 5790. Officers advanced in rank

(a) An officer of the Navy or of the Marine Corps may be advanced, by and with the advice and consent of the Senate, not more than 30 numbers on the lineal list for eminent and conspicuous conduct in battle or for extraordinary heroism.

(b) An officer who as a result of an advancement under this section becomes senior to any officer in the next higher grade may be appointed by the President, by and with the advice and consent of the Senate, to the higher grade even though there are no vacancies in that grade.

(c) An officer promoted after an advancement under this section is an additional number in each grade in which he serves.

§ 5791. Appointing power

(a) Except as provided in section 5787 of this title, permanent and temporary appointments under this chapter in the Regular Navy and in the Regular Marine Corps shall be made by the President, by and with the advice and consent of the Senate.

(b) Permanent and temporary appointments under this chapter in the grade of rear admiral in the Naval Reserve and in the grades of major general and brigadier general in the Marine Corps Reserve shall be made by the President, by and with the advice and consent of the Senate. Except as provided in sections 5787 and 5790 of this title, all other permanent and temporary appointments under this chapter in the Naval Reserve and in the Marine Corps Reserve shall be made by the President alone.

§ 5792. Oath of office not required

An officer of the naval service who has served continuously since he subscribed to the oath of office prescribed in section 16 of title 5 is not required to take a new oath upon his promotion to a higher grade.

CHAPTER 547.—EXAMINATIONS FOR PROMOTION

Sec.

5861. Physical examination.

5862. Mental, moral, and professional examination: examining boards; board members.

5863. Examining boards: procedure.

5864. Discharge of officer not morally qualified.

5865. Effect of failure to qualify professionally.

5866. Delegation of power of President to Secretary of the Navy.

§ 5861. Physical examination

Before an officer on the active list of the Navy or the Marine Corps may be permanently promoted to a higher grade, or before an officer of the Navy or the Marine Corps may be temporarily promoted to a

higher grade under section 5769, 5772, 5773, or 5784 of this title, he must be examined by a board of officers and certified—

(1) physically fit to perform all his duties at sea, if an officer of the Navy, or at sea and in the field, if an officer of the Marine Corps; or

(2) physically disqualified by wounds received in the line of duty that do not incapacitate him for other duties in the grade to which he is to be promoted.

Only officers of the Medical Corps or Dental Corps are eligible to serve on these boards.

§ 5862. Mental, moral, and professional examination: examining boards; board members

(a) Before an officer on the active list of the Navy or the Marine Corps may be permanently promoted to a higher grade, he must, except as provided in subsection (c), be examined by an examining board and certified, under section 5863 of this title, to be qualified.

(b) Before an officer on the active list of the Navy below the grade of rear admiral or an officer on the active list of the Marine Corps below the grade of major general may be temporarily promoted to a higher grade under section 5769, 5772, 5773, or 5784 of this title, he must be examined by an examining board and certified, under section 5863 of this title, to be qualified.

(c) An officer who has successfully passed the mental, moral, and professional examination for temporary promotion to a grade under subsection (b) may not again be examined for permanent appointment in that grade.

(d) Each board for the mental, moral, and professional examination of officers shall be convened by the President or, when authorized by the Secretary of the Navy, by the senior officer present, or other commanding officer, on a foreign station. A board convened by a senior officer present, or other commanding officer, on a foreign station may only examine officers who are under the command of the convening authority and who are directed to appear before the board.

(e) Each examining board convened under this section shall be composed of commissioned officers of the naval service. At least three members must act in each case. No member may act in the case of any officer senior to him.

§ 5863. Examining boards: procedure

(a) Except as provided in subsection (b), an examining board convened under section 5862 of this title may take testimony and may examine all matter in the records of the executive part of the Department of the Navy relating to the case of any officer that it is considering. The president of a board shall administer the oath to all witnesses who testify in person before the board. A record shall be made of the examination and statement of the officer and of the testimony of the witnesses.

(b) The report of an examining board convened under section 5862 of this title, recommending an officer for promotion, is conclusive, after its approval, as to any fact concerning that officer that was considered and decided upon by the examining board. Such a fact may not again be considered by a later examining board unless it is a continuing one and shows the unfitness of the officer to perform his

duties at sea. If a board fails to comply with this subsection, the President may direct a reexamination of the case of the officer concerned.

(c) An officer is entitled to be present and submit a statement under oath when an examining board convened under section 5862 of this title is considering his case. Before the board may find an officer not qualified, it must conduct a public examination of the records of the executive part of the Department of the Navy concerning the officer and, unless he fails to appear after due notice, of the officer himself.

(d) An examining board shall report the recommendation of an officer for promotion in the following terms: "We hereby certify that _____ has the mental, moral, and professional qualifications to perform efficiently all the duties, both at sea and on shore, of the grade to which he is to be promoted, and recommend him for promotion".

(e) The record and certification of a board in each case, with any record of the executive part of the Department of the Navy considered by the board to be necessary in the determination of that case, shall be submitted to the President for approval or disapproval of the finding.

§ 5864. Discharge of officer not morally qualified

An officer who is found by an examining board convened under section 5862 of this title to be, from any cause arising from his own misconduct, not morally qualified to perform the duties of the grade for which he is being examined shall, if the finding is approved by the President, be discharged from the naval service with not more than one year's pay.

§ 5865. Effect of failure to qualify professionally

(a) An officer who is certified as not professionally qualified by an examining board convened under section 5862 of this title shall be suspended from promotion for six months from the date of approval of that certification. At the expiration of that period he shall be reexamined. If he is found professionally qualified and if he is otherwise qualified, he shall be promoted and assigned the date of rank in the higher grade and the lineal position to which he would have been entitled if he had not been suspended, and he is entitled to the pay and allowances of the higher grade from the date he first became eligible for promotion to that grade.

(b) An officer of the Navy in the grade of lieutenant (junior grade) or above or an officer of the Marine Corps in the grade of first lieutenant or above who is found not professionally qualified upon his reexamination is considered as having twice failed of selection for promotion.

(c) An officer of the Navy in the grade of ensign or an officer of the Marine Corps in the grade of second lieutenant who is found not professionally qualified upon his reexamination shall be honorably discharged with severance pay computed on the basis of two months' basic pay at the time of discharge multiplied by the number of years of his active commissioned service in the naval service, exclusive of training duty, but the payment may not be more than one year's basic pay.

§ 5866. Delegation of power of President to Secretary of the Navy

The President may direct the Secretary of the Navy to take any action on the records of proceedings of examining boards and boards of medical examiners that is required to be taken by the President under this chapter.

CHAPTER 551.—OFFICERS IN COMMAND

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- 5955. Retired officers withdrawn from command.

§ 5941. Assignment to command: regulations

The President may prescribe regulations governing the assignment of officers to command fleets, subdivisions of fleets, and vessels.

§ 5942. Aviation commands: eligibility

(a) To be eligible to command an aircraft carrier or an aircraft tender, an officer must be an officer in the line of the Navy who is designated as a naval aviator or naval aviation observer and who is otherwise qualified.

(b) To be eligible to command a naval aviation school, a naval air station, or a naval aviation unit organized for flight tactical purposes, an officer must be an officer in the line of the Navy designated as a naval aviator.

(c) To be eligible to command a Marine Corps aviation school, a Marine Corps air station, or a Marine Corps aviation unit organized for flight tactical purposes, an officer must be an officer of the Marine Corps designated as a naval aviator.

§ 5943. Naval shipyards

Commanders of naval shipyards may be selected by the President from officers of the Navy not below the grade of commander.

§ 5944. Marine Corps officers: limitation on power to command

Officers of the Marine Corps may not command vessels or naval shipyards.

§ 5945. Staff corps officers: limitation on power to command

An officer in a staff corps may command only such activities as are appropriate to his corps. An officer in the Nurse Corps may not exercise command.

§ 5946. Precedence accorded commanding officers

The commanding officer of a vessel or of a naval station takes precedence over all officers under his command.

§ 5947. Requirement of exemplary conduct

All commanding officers and others in authority in the naval service are required to show in themselves a good example of virtue, honor, patriotism, and subordination; to be vigilant in inspecting the conduct of all persons who are placed under their command; to guard against and suppress all dissolute and immoral practices, and to correct, according to the laws and regulations of the Navy, all persons who are guilty of them; and to take all necessary and proper measures, under the laws, regulations, and customs of the naval service, to promote and safeguard the morale, the physical well-being, and the general welfare of the officers and enlisted persons under their command or charge.

§ 5948. Consular powers: senior officer present afloat

In any foreign port where there is no resident consul of the United States, or on the high seas, the senior officer present afloat has the powers of a consul in relation to mariners of the United States.

§ 5949. Policy as to leave and liberty

The commanding officer of a vessel shall favor the faithful and obedient in granting leave and liberty.

§ 5950. Exemption from Supply Corps duties

The commanding officer of a vessel may not be required to perform the duties of an officer in the Supply Corps.

§ 5951. Continuation of authority after loss of vessel or aircraft

If the crew of any naval vessel or naval aircraft are separated from their vessel or aircraft because of its wreck, loss, or destruction, all the command and authority given to the officers of the vessel or aircraft remain in full force until the crew are discharged or reassigned.

§ 5952. Marine Corps organizations on vessels: authority of officers

When an organization of the Marine Corps is embarked in any vessel, not as part of the authorized complement of the vessel, the authority of the officers of that organization is the same as though the organization were serving at a naval station. However, this section does not impair the paramount authority of the commanding officer of a vessel over the vessel and all persons embarked in it.

§ 5953. Executive officer: assignment; authority

(a) The Secretary of the Navy may detail a line officer of the Navy as executive officer of a vessel or a naval station. When practicable, the officer so detailed shall be one who is next in rank to the commanding officer.

(b) While executing the orders of the commanding officer, the executive officer takes precedence over all officers attached or assigned

to the vessel or station, and his orders are considered as coming from the commanding officer. However, the executive officer has no independent authority by reason of his detail as such an officer.

(c) Any officer in a staff corps who is attached or assigned to a vessel or naval station and who is senior to the executive officer of that vessel or station may communicate directly with the commanding officer.

§ 5954. Command: when different commands of Marine Corps and Army or Air Force join

(a) When different commands of the Marine Corps and the Army join or serve together, the officer highest in rank in the Marine Corps or the Army on duty there, and who is otherwise eligible to command, commands all those forces, unless otherwise directed by the President.

(b) When different commands of the Marine Corps and the Air Force join or serve together, the officer highest in rank in the Marine Corps or the Air Force on duty there, and who is otherwise eligible to command, commands all those forces, unless otherwise directed by the President.

§ 5955. Retired officers withdrawn from command

Retired officers of the Navy shall be withdrawn from command.

CHAPTER 553.—SPECIAL ASSIGNMENTS AND DETAILS

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5981. Squadrons: detail of officers on active list to command.

5982. Ships and squadrons: detail of retired officers to command.

5983. State Department: assignment of enlisted members as custodians of buildings in foreign countries.

5984. Military institutions and colleges: details as superintendents and instructors.

5985. Nautical Schools: detail of naval officers as superintendents or instructors.

5986. Technical institutions: detail of naval officers to promote knowledge of naval engineering and naval architecture.

5987. American National Red Cross: detail of officers in the Medical Corps.

§ 5981. Squadrons: detail of officers on active list to command

The President may select any officer on the active list of the Navy not below the grade of commander and assign him to the command of a squadron, with the rank and title of a flag officer.

§ 5982. Ships and squadrons: detail of retired officers to command

(a) In time of war, the President, by and with the advice and consent of the Senate, may detail retired officers of the Navy on active duty to the command of squadrons and single ships, if he believes that the good of the service requires that they be so detailed.

(b) In making details under subsection (a), the President may select any retired officer not below the grade of commander and assign him to the command of a squadron, with the rank and title of a flag officer.

(c) If a retired officer detailed under subsection (a) receives, on the recommendation of the President, a vote of thanks of Congress for his services and gallantry in action against the enemy, the President, by and with the advice and consent of the Senate, may appoint him to the active list of the Navy.

§ 5983. State Department: assignment of enlisted members as custodians of buildings in foreign countries

Upon the request of the Secretary of State, the Secretary of the Navy may assign enlisted members of the naval service to serve as custodians under the supervision of the principal officer at any embassy, legation, or consulate.

§ 5984. Military institutions and colleges: details as superintendents and instructors

(a) Upon the application of any established college or university, or military institute, seminary, or academy in the United States or its Territories that gives instruction and drill in military tactics and has the capacity to educate at the same time at least 150 male students, the President may detail—

(1) an officer of the Navy as superintendent or professor; and

(2) with their consent, retired officers and petty officers of the Navy as instructors in military drill and tactics.

(b) The number of officers detailed at any one time as superintendents or professors under subsection (a) may not exceed 10. As many retired officers and petty officers may be detailed as instructors under subsection (a) as the President considers necessary.

(c) Details under this section shall be made, first, to State institutions required to provide instruction in military tactics under section 304 of title 7, and then, as practicable, according to population.

§ 5985. Nautical Schools: detail of naval officers as superintendents or instructors

The President may detail officers of the Navy as superintendents or instructors of institutions receiving benefits under the Act of March 4, 1911, ch. 265, 36 Stat. 1353, as amended, when in his opinion it can be done without detriment to the naval service. Officers so detailed shall be recalled from an institution if it is discontinued or if the good of the naval service requires.

§ 5986. Technical institutions: detail of naval officers to promote knowledge of naval engineering and naval architecture

(a) To promote a knowledge of naval engineering and naval architecture, the President, upon the application of any established scientific school or college in the United States, the Territories, Commonwealths, or possessions, may detail a qualified officer of the Navy as a professor in that school or college. The number of officers detailed under this section may not exceed 25 at any one time.

(b) The President may prescribe regulations for detailing such officers and may recall them when the public interest requires.

§ 5987. American National Red Cross: detail of officers in the Medical Corps

The Secretary of the Navy may detail one or more officers in the Medical Corps of the Navy for duty with the Services to the Armed Forces Division of the American National Red Cross.

CHAPTER 555.—ADMINISTRATION

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§ 6011. Navy Regulations

United States Navy Regulations shall be issued by the Secretary of the Navy with the approval of the President.

§ 6012. Additional regulations for Marine Corps

The President may prescribe military regulations for the discipline of the Marine Corps.

§ 6013. Enlisted grades and ratings: authority to establish

The Secretary of the Navy may establish such enlisted grades and ratings as are necessary for the proper administration of the Navy and the Marine Corps.

§ 6014. Enlisted members: authority for transfer between Marine Corps and Hospital Corps of the Navy

Under regulations prescribed by the Secretary of the Navy, enlisted members of the Marine Corps are eligible for transfer to the Hospital Corps of the Navy, and enlisted members of the Hospital Corps are eligible for transfer to the Marine Corps.

§ 6015. Women members: duty; qualifications; restrictions

The Secretary of the Navy may prescribe the manner in which women officers appointed under section 5590 of this title, women warrant officers, and enlisted women members of the Regular Navy and the Regular Marine Corps shall be trained and qualified for military duty. The Secretary may prescribe the kind of military duty to which such women members may be assigned and the military authority which they may exercise. However, women may not be assigned

to duty in aircraft that are engaged in combat missions nor may they be assigned to duty on vessels of the Navy other than hospital ships and transports.

§ 6016. Retired officers carried on Navy Register

Except as provided in section 1376 of this title, the names of retired officers of the Regular Navy and the Regular Marine Corps shall be carried on the Navy Register.

§ 6017. Retired list for Reserve members entitled to retired pay

The Secretary of the Navy shall maintain a United States Naval Reserve Retired List containing the names of members of the Naval Reserve and the Marine Corps Reserve entitled to retired pay.

§ 6018. Naval officers: shore duty; limitations

An officer of the Regular Navy, other than an officer in the Nurse Corps and other than a woman officer appointed under section 5590 of this title, may not be assigned to shore duty, unless—

- (1) the shore duty is specifically provided for by law; or
- (2) the Secretary of the Navy determines that the employment of the officer on shore duty is required by the public interest and his determination to that effect is stated in the officer's orders to shore duty.

§ 6019. Citizenship of officers of vessels

The officers of vessels of the United States shall in all cases be citizens of the United States.

§ 6020. Marine Corps officers: detail to duty in Supply Department

Officers of the Marine Corps may be detailed, in numbers required by the needs of the service, for duty in the Supply Department of the Marine Corps for a period of four years.

§ 6021. Aviation duties: number of personnel assigned

The number of officers and enlisted members of the Navy and the Marine Corps detailed to duty involving flying and to other duties in connection with aircraft shall be in accordance with the requirements of naval aviation as determined by the Secretary of the Navy.

§ 6022. Aviation training facilities

The President may maintain facilities to provide flight training for 16,000 members of the naval service.

§ 6023. Aviation designations: naval aviator

(a) Members of the naval service in the following categories may be designated as naval aviators:

- (1) Commissioned officers.
- (2) Midshipmen appointed under section 6906 of this title.
- (3) Warrant officers, W-1, classed as of the line.

(b) To be eligible for designation as a naval aviator, a member must have successfully completed the course prescribed for naval aviators and must—

(1) have flown in heavier-than-air craft a total of 200 hours at least 75 of which were flown alone or as first pilot of a dual-control aircraft; or

(2) have been in the air under training in lighter-than-air craft at least 150 hours.

§ 6024. Aviation designations: naval aviation observer

Any officer of the naval service may be designated a naval aviation observer if he has successfully completed the course prescribed for naval aviation observers and has been in the air at least 100 hours.

§ 6025. Aviation designations: aviation pilot

Any enlisted member of the naval service may be designated an aviation pilot if he has successfully completed the course prescribed for aviation pilots and—

(1) has flown in heavier-than-air craft a total of 200 hours at least 75 of which were flown alone or as first pilot of a dual-control aircraft; or

(2) has flown in lighter-than-air craft a total of 200 hours at least 150 of which were under training.

§ 6026. Supply Corps officers: bonds

(a) Each officer in the Supply Corps, before entering upon the duties of his office, shall give a good and sufficient bond to the United States, approved by the Secretary of the Navy, to account for all public money and property that he receives. The bond shall be in an amount prescribed by the Secretary. The Secretary may waive the requirement of a bond for any officer who is not accountable for public funds or public property.

(b) When required by the Secretary, an officer in the Supply Corps shall post a new bond with sufficient surety.

(c) The promotion or appointment to a new office in the Supply Corps of an officer who is bonded under this section does not affect his existing bond. The bond remains in force and continues to cover the officer in his new office.

§ 6027. Medical Department: composition

The Medical Corps, the Dental Corps, the Medical Service Corps, the Nurse Corps, and the Hospital Corps are in the Medical Department of the Navy.

§ 6028. Medical Service Corps: composition

The following sections, and such other sections as the Secretary of the Navy considers necessary, are in the Medical Service Corps:

(1) Pharmacy, Supply, and Administration Section.

(2) Medical Allied Sciences Section.

(3) Optometry Section.

§ 6029. Dental services: responsibilities of senior dental officer

(a) The Secretary of the Navy shall prescribe regulations for dental services on ships and at shore stations. Such services shall be under the senior dental officer, who is responsible to the commanding officer of the ship or station for all professional, technical, and administrative matters concerning dental services.

(b) This section does not impose any administrative requirements that would interfere with the proper functioning of battle organizations.

§ 6030. Nurse Corps officers: authority

(a) Officers in the Nurse Corps have authority in medical and sanitary matters and other work within the line of their professional duties in activities of the Medical Department after officers in the Medical Corps, Dental Corps, and Medical Service Corps.

(b) Officers in the Nurse Corps may exercise such military authority, other than command, as the Secretary of the Navy prescribes.

§ 6031. Chaplains: divine services

(a) An officer in the Chaplain Corps may conduct public worship according to the manner and forms of the church of which he is a member.

(b) The commanders of vessels and naval activities to which chaplains are attached shall cause divine service to be performed on Sunday, whenever the weather and other circumstances allow it to be done; and it is earnestly recommended to all officers, seamen, and others in the naval service diligently to attend at every performance of the worship of Almighty God.

(c) All persons in the Navy and in the Marine Corps are enjoined to behave themselves in a reverent and becoming manner during divine service.

(d) Each chaplain shall report annually to the Secretary of the Navy the official services performed by him.

§ 6032. Indebtedness to Marine Corps Exchanges: payment from appropriated funds in certain cases

Under regulations prescribed by the Secretary of the Navy, appropriations for the pay of the Marine Corps are available to pay any indebtedness to Marine Corps Exchanges of members of the Marine Corps who are discharged, who desert, or who are sentenced to prison.

§ 6033. Woman member: definition of dependents

(a) Except for the purposes of sections 231-319 of title 37, the husband of a woman member of the Regular Navy, the Regular Marine Corps, the Fleet Reserve or the Fleet Marine Corps Reserve may not be considered a dependent unless he is in fact dependent on his wife for his chief support, and the child of such a member may not be considered a dependent unless his father is dead or he is in fact dependent on his mother for his chief support.

(b) The husband of a woman member of the Naval Reserve or the Marine Corps Reserve may not be considered a dependent unless he is in fact dependent on his wife for over half of his support, and the child of such a member may not be considered a dependent unless he is in fact dependent on his mother for over half of his support.

§ 6034. Regulations for retired pay based on service in the Reserve

The Secretary of the Navy may prescribe regulations for the Navy and the Marine Corps to carry out chapter 67 of this title.

CHAPTER 557.—RATIONS

Sec.

- 6081. Navy ration: persons entitled to.
- 6082. Navy ration: composition.
- 6083. Fixing cost on certain vessels and stations.
- 6084. Enlisted members assigned to mess: basic allowance for subsistence paid to mess.
- 6085. Flight rations.
- 6086. Subsistence in hospital messes; hospital ration.
- 6087. Sale of meals by general messes.

§ 6081. Navy ration: persons entitled to

(a) Except when entitled to a basic allowance for subsistence or to a per diem in place of subsistence, each enlisted member of the naval service is entitled to a Navy ration for each day that he is on active duty, including each day that he is on leave.

(b) Each midshipman is entitled to a Navy ration, or the commuted value of the ration in money, for each day that he is on active duty, including each day that he is on leave.

(c) The Secretary of the Navy may prescribe regulations stating the conditions under which the ration or its commuted value shall be allowed under subsection (b) and may prescribe regulations establishing the rates at which the ration shall be commuted under that subsection.

§ 6082. Navy ration: composition

(a) The Navy ration consists of the following daily allowance of provisions:

- (1) Eight ounces of biscuit or twelve ounces of soft bread or twelve ounces of flour.
- (2) Twelve ounces of preserved meat or fourteen ounces of salt or smoked meat or twenty ounces of fresh meat, fish, or poultry.
- (3) Twelve ounces of dried vegetables or eighteen ounces of canned vegetables or forty-four ounces of fresh vegetables.
- (4) Four ounces of dried fruit or ten ounces of canned fruit or six ounces of preserved fruit or sixteen ounces of fresh fruit or six ounces of canned fruit or vegetable juices, or one ounce of powdered fruit juices, or six-tenths of an ounce of concentrated fruit juices.
- (5) Two ounces of cocoa or two ounces of coffee or one-half ounce of tea.
- (6) Four ounces of evaporated milk or one ounce of powdered milk or one-half pint of fresh milk.
- (7) One and six-tenths ounces of butter.
- (8) One and six-tenths ounces of cereal or rice or starch foods.
- (9) One-half ounce of cheese.

- (10) One and two-tenths eggs.
- (11) One and six-tenths ounces of lard or lard substitutes.
- (12) Two-fifths of a gill of oils or sauces or vinegar.
- (13) Five ounces of sugar.
- (14) Such quantities of baking powder and soda, flavoring extracts, mustard, pepper, pickles, salt, sirup, spices, and yeast as required.

(b) Any article of the Navy ration may be issued in excess of the authorized quantity if there is an under issue of the same value in other articles.

(c) The Secretary of the Navy may increase the daily allowance of provisions on a vessel or station having an authorized complement of less than 150 men and subsisting on a ration allowance when, in his opinion, the vessel or station is operating under conditions warranting an increase.

§ 6083. Fixing cost on certain vessels and stations

If the Secretary of the Navy considers that it is undesirable to administer the mess on any ship or at any station under the quantity allowance prescribed in section 6082 of this title, he may fix the cost of each ration for that mess.

§ 6084. Enlisted members assigned to mess: basic allowance for subsistence paid to mess

Under such regulations as the Secretary of the Navy prescribes, the basic allowance for subsistence of enlisted members of the naval service assigned to duty with and subsisting in an officers' or other mess, afloat or ashore, may be paid to the mess to which they are assigned.

§ 6085. Flight rations

An aircraft flight ration chargeable to the proper Navy or Marine Corps appropriation may be furnished to members of the naval service and to civilian employees of the Department of the Navy while engaged in flight operations. The flight ration is supplementary to any ration or subsistence allowance to which the members or employees are otherwise entitled. However, the flight ration may not be furnished without charge to any person in a travel status or to any person to whom a per diem allowance is granted in place of subsistence.

§ 6086. Subsistence in hospital messes: hospital ration

(a) Enlisted members of the naval service on duty in hospitals and enlisted members of the naval service, including retired members and members of the Fleet Reserve and the Fleet Marine Corps Reserve, when sick in hospitals, may be subsisted in hospital messes. When subsistence is furnished under this subsection, the appropriation chargeable with the maintenance of the hospital mess shall be credited at the rate prescribed by the Secretary of the Navy as the value of the hospital ration.

(b) Under such regulations as the Secretary prescribes, officers in the Nurse Corps may be subsisted in hospital messes. Each officer so subsisted shall pay for her subsistence at the rate fixed by the regulations.

§ 6087. Sale of meals by general messes

Under such regulations as the Secretary of the Navy prescribes, meals may be sold by general messes afloat and ashore.

CHAPTER 559.—MISCELLANEOUS PROHIBITIONS AND PENALTIES

Sec.

6111. Pay: withheld during absence due to use of alcohol or drugs.

6112. Pay: officers; withheld while employed by certain contractors.

6113. Loans: Supply Corps officers.

6114. Civilian employment: enlisted members.

6115. Drill pay; uniform gratuity: time limit for filing claim.

6116. Service credit: officers; service as midshipman or cadet not counted.

§ 6111. Pay: withheld during absence due to use of alcohol or drugs

A member of the naval service on active duty who is absent from his regular duties for a continuous period of more than one day because of disease that is directly caused by and immediately follows his intemperate use of alcoholic liquor or habit-forming drugs is not entitled to pay for the period of that absence. However, each member whose pay is so forfeited for more than one month is entitled to \$5 for personal expenses for each full month that his pay is forfeited. Determinations of periods and causes of absence under this section shall be made as prescribed by the Secretary of the Navy and are final and conclusive.

§ 6112. Pay: officers; withheld while employed by certain contractors

(a) An officer of the Regular Navy or the Regular Marine Corps, other than a retired officer, may not be employed by any person furnishing naval supplies or war materials to the United States. If such an officer is so employed, he is not entitled to any payment from the United States during that employment.

(b) If a retired officer of the Regular Navy or the Regular Marine Corps is engaged for himself or others in selling, or contracting or negotiating to sell, naval supplies or war materials to the Department of the Navy, he is not entitled to any payment from the United States while he is so engaged.

§ 6113. Loans: Supply Corps officers

Except as otherwise provided by law, an officer in the Supply Corps on active duty may not advance or lend any sum of money, public or private, or any article or commodity and may not extend credit to any officer of the naval service on active duty.

§ 6114. Civilian employment: enlisted members

Except as provided in section 6223 of this title, no enlisted member of the naval service on active duty may be ordered or permitted to leave his post to engage in a civilian pursuit or business, or a performance in civil life, for emolument, hire, or otherwise, if the pursuit, business, or performance interferes with the customary or regular employment of local civilians in their art, trade, or profession.

§ 6115. Drill pay; uniform gratuity: time limit for filing claim:

Unless the claim is filed with the General Accounting Office within three years after the end of the quarter in which the right accrued, no payment may be made on a claim accruing to any member of the Naval Reserve or the Marine Corps Reserve for—

- (1) compensation for the performance of drills, equivalent instruction or duty, appropriate duty, or administrative functions; or
- (2) uniform gratuity.

§ 6116. Service credit: officers; service as midshipman or cadet not counted

In computing length of service for any purpose, no officer of the Navy or the Marine Corps may be credited with service as a midshipman at the United States Naval Academy or as a cadet at the United States Military Academy, if he was appointed as a midshipman or cadet after March 4, 1913.

CHAPTER 561.—MISCELLANEOUS RIGHTS AND BENEFITS

Sec.

- 6141. Pay: officers; date of commencement.
- 6142. Pay: assignments.
- 6143. Pay: sale to be discouraged by commanding officer.
- 6144. Pay accounts: settlement when lost with vessel.
- 6145. Pay accounts: settlement; fixing date of loss of vessel.
- 6146. Allotments: officers.
- 6147. Allowances: prisoners.
- 6148. Disability and death benefits: Naval Reserve and Marine Corps Reserve.
- 6149. Retired pay: computed on basis of rates of pay for officers on the active list.
- 6150. Higher retired grade for officers specially commended.
- 6151. Higher retired grade and pay for members temporarily appointed or promoted during World War II.
- 6152. Emergency shore duty: advance of funds.
- 6153. Shore patrol duty: payment of expenses.
- 6154. Mileage books; commutation tickets.
- 6155. Uniforms, accouterments, and equipment: sale at cost.
- 6156. Uniform: sale to former members of the naval service.
- 6157. Motor vehicles: transportation on permanent change of station.
- 6158. Exemption from arrest for debt: enlisted members of Marine Corps.

§ 6141. Pay: officers; date of commencement

The pay of an officer of the Regular Navy or the Regular Marine Corps begins on the date he accepts his initial appointment, except that—

- (1) the pay of an officer required to give an official bond begins on the date the bond is approved by proper authority; and
- (2) the pay of an officer commissioned within six months after his graduation from the United States Naval Academy begins on the date of rank stated in his commission.

§ 6142. Pay: assignments

Each assignment of pay due an enlisted member of the naval service and each power of attorney or other authority to draw, receipt for, or transfer that pay is void, unless attested by the member's commanding officer and the disbursing officer having custody of the

member's pay record. An assignment of pay shall state the date when the transfer of pay to the assignee is to begin.

§ 6143. Pay: sale to be discouraged by commanding officer

The commanding officer of a vessel shall discourage each member of the crew from selling any part of his pay and may not attest any power of attorney for the transfer of pay unless he is satisfied that the power is not granted in consideration of money given for the purchase of pay.

§ 6144. Pay accounts: settlement when lost with vessel

When the accounts of the disbursing officer of any vessel in the employ of the United States are lost as a result of the destruction of that vessel, his return for the last month may, unless there is official evidence to the contrary, be used in computing later credits to and settling accounts of persons, other than officers, carried on his accounts. If the return for the last month has not been made, the pay accounts may be settled on principles of equity and justice.

§ 6145. Pay accounts: settlement; fixing date of loss of vessel

When a vessel of the Navy is lost or has not been heard from for so long that her loss may be presumed, the General Accounting Office, under the direction of the Secretary of the Navy, may fix the date of loss of the vessel for the purpose of settling the accounts of persons aboard other than officers.

§ 6146. Allotments: officers

The Secretary of the Navy, under such regulations as he prescribes, may permit any officer of the naval service to make allotments from his pay—

- (1) for the support of his family or relatives;
- (2) for his own savings; or
- (3) for other proper purposes.

§ 6147. Allowances: prisoners

(a) A person confined in a naval confinement facility under the sentence of a court-martial shall be allowed an amount fixed by the Secretary of the Navy of not more than \$3 a month for necessary expenses.

(b) The appropriations for the pay of the Navy or the Marine Corps, as the case may be, are available for payments under this section.

§ 6148. Disability and death benefits: Naval Reserve and Marine Corps Reserve

(a) A member of the Naval Reserve, the Fleet Reserve, the Marine Corps Reserve, or the Fleet Marine Corps Reserve who is ordered to active duty, or to perform inactive-duty training, for any period of time, and is disabled in line of duty from injury while so employed, or the beneficiary of such a member who dies from such an injury, is entitled to the same pension, compensation, death gratuity, hospital benefits, and pay and allowances as are provided by law or regulation in the case of a member of the Regular Navy or the Regular Marine Corps of the same grade and length of service. For the purpose of

this subsection, a member who is not in a pay status shall be treated as though he were receiving the pay and allowances to which he would be entitled if serving on active duty.

(b) A member of the Naval Reserve, the Fleet Reserve, the Marine Corps Reserve, or the Fleet Marine Corps Reserve who is ordered to active duty, other than active duty for training, for a period of more than 30 days, and is disabled in line of duty from disease while so employed, or the beneficiary of such a member who dies from such a disease, is entitled to the same pension, compensation, death gratuity, hospital benefits, and pay and allowances as are provided by law or regulation in the case of a member of the Regular Navy or the Regular Marine Corps of the same grade and length of service.

(c) A member of the Naval Reserve or the Marine Corps Reserve who, in time of peace, is injured in line of duty while on active duty or performing inactive-duty training, or while on authorized travel to or from such duty or training, or the beneficiary of such a member who dies from such an injury, is entitled to the same benefits administered by the Secretary of Labor as are provided for civilian employees of the United States who are injured in line of duty or who die as a result of such an injury. In determining whether a member is entitled to the benefits administered by the Secretary of Labor, sickness or disease may not be considered as an injury. For the purpose of this subsection, a member who is not in a pay status shall be treated as though he were receiving the pay and allowances to which he would be entitled if serving on active duty. The Secretary of Labor has jurisdiction of any case in which a benefit is awarded under this subsection.

(d) A member of the Naval Reserve or the Marine Corps Reserve who, in time of peace, becomes ill or contracts disease in line of duty while he is on active duty or performing inactive-duty training is entitled to receive at Government expense medical, hospital, and other treatment appropriate for that illness or disease. The treatment shall be continued until the disability resulting from the illness or disease cannot be materially improved by further treatment. Such a member is also entitled to necessary transportation and subsistence incident to treatment and return to his home upon discharge from treatment. The treatment may not extend beyond ten weeks after the member is released from active duty, except—

- (1) upon an approved recommendation of a board of medical survey consisting of one or more officers in the Medical Corps; or
- (2) upon authorization of the Surgeon General, based on the certificate of a reputable physician that the illness or disease is a continuation of the illness or disease for which the member was initially treated and that benefit will result from further treatment.

(e) If a person is entitled to benefits under more than one of the preceding subsections, or if he is entitled to benefits under any of the preceding subsections and under—

- (1) section 6327 of this title; or
- (2) the Act of June 23, 1937, ch. 376 (50 Stat. 305);

he must elect the provision that is to be applied to him.

(f) For the purpose of determining entitlement to benefits under the Act of June 23, 1937, ch. 376 (50 Stat. 305), a member who is on active duty, who is performing inactive-duty training, or who is on

authorized travel to or from such duty or training, is considered to be performing active military or naval service.

§ 6149. Retired pay: computed on basis of rates of pay for officers on the active list

Except for officers whose retired pay is computed under the Pay Readjustment Act of 1942 (56 Stat. 359), the retired pay of each retired officer of the Navy or the Marine Corps shall be computed on the basis of rates of pay provided by law, at the time of his retirement, for officers on the active list. If after the retirement of any such officer the rates of pay for officers on the active list are changed, the retired pay to which the officer is entitled shall be recomputed on the basis of the new rates.

§ 6150. Higher retired grade for officers specially commended

(a) Each officer of the Navy or the Marine Corps who has been specially commended for performance of duty before January 1, 1947, in actual combat, by the head of the military or executive department under whose jurisdiction the duty was performed, shall, after his retirement, or transfer to the Retired Reserve, be advanced to the grade next higher than that in which he was serving at the time of his retirement or transfer to the Retired Reserve, be advanced to the officer on a promotion list who is retired for physical disability.

(b) An officer retired before August 7, 1947, who is advanced under subsection (a) is entitled to the higher grade from August 7, 1947.

(c) The retired pay of an officer advanced in grade under this section is not increased or decreased by that advancement.

§ 6151. Higher retired grade and pay for members temporarily appointed or promoted during World War II

(a) Each member, other than a retired member, of the Navy or the Marine Corps who was appointed or promoted under the Act of July 24, 1941, ch. 320 (55 Stat. 603), as amended, shall, when retired, unless entitled to a higher grade, be advanced on the retired list to the highest grade in which he served satisfactorily before July 1, 1946, as determined by the Secretary of the Navy or, if he was a prisoner of war during World War II, the highest grade to which he was appointed or promoted under the Act of July 24, 1941, ch. 320 (55 Stat. 603), as amended, and in which he served satisfactorily as determined by the Secretary.

(b) Each member, other than a former member of the Fleet Reserve or the Fleet Marine Corps Reserve, who is advanced on the retired list under this section is, unless otherwise entitled to higher retired pay, entitled to retired pay at the rate of 2½ percent of the basic pay to which he would be entitled if serving on active duty in the grade to which advanced multiplied by the number of years of service creditable for basic pay, but the retired pay may not be more than 75 percent of the basic pay upon which the computation of retired pay is based. In determining the number of years to be used as a multiplier under this subsection, a part of a year that is six months or more is counted as a whole year and a part of a year that is less than six months is disregarded.

(c) Each former member of the Fleet Reserve or the Fleet Marine Corps Reserve who is advanced on the retired list under this section

is entitled to retired pay based upon the grade to which advanced. Such retired pay shall be at the rate of $2\frac{1}{2}$ percent of the basic pay of the grade to which advanced, determined by the same period of service used to determine the basic pay of the grade upon which his retainer pay is based, multiplied by the number of years of service creditable for his retainer pay at the time of retirement, but the retired pay may not be more than 75 percent of the basic pay upon which the computation of retired pay is based.

(d) A member who is advanced on the retired list under this section from the grade of warrant officer, W-1, or from an enlisted grade to a commissioned grade, and who applies to the Secretary within three months after his advancement, shall, if the Secretary approves, be restored on the retired list to his former warrant officer or enlisted grade, as the case may be. A member who is restored to his former grade under this subsection is thereafter considered for all purposes as a warrant officer, W-1, or an enlisted member, as the case may be.

§ 6152. Emergency shore duty: advance of funds

Under such regulations as the President approves, the Secretary of the Navy may, to meet necessary expenses, advance funds to members of the naval service detailed on emergency shore duty. The funds advanced may not exceed the reasonable estimate of expenses to be incurred for which reimbursement is authorized.

§ 6153. Shore patrol duty: payment of expenses

An officer, midshipman, or cadet of the naval service who is assigned to shore patrol duty away from his vessel or other duty station may be paid his actual expenses.

§ 6154. Mileage books: commutation tickets

The Secretary of the Navy may buy such mileage books, commutation tickets, and other similar transportation tickets as he considers necessary, and he may furnish them to persons ordered to perform travel on official business. Payment for those tickets before the travel is performed is not an advance of public money within the meaning of section 529 of title 31.

§ 6155. Uniforms, accouterments, and equipment: sale at cost

Under such regulations as the Secretary of the Navy prescribes, uniforms, accouterments, and equipment shall be sold by the United States at cost to officers and midshipmen of the naval service and, when the Coast Guard is operating as a service in the Navy, to officers of the Coast Guard.

§ 6156. Uniform: sale to former members of the naval service

(a) Under such regulations as the Secretary of the Navy prescribes, exterior articles of uniform may be sold to a person who has been discharged from the naval service honorably or under honorable conditions. This section does not modify section 772 or 773 of this title.

(b) Money received from sales under this section shall be covered into the Treasury to the credit of the appropriation out of which the articles were purchased.

§ 6157. Motor vehicles: transportation on permanent change of station

Notwithstanding section 73c of title 5, when any member of the naval service is ordered to make a permanent change of station, one motor vehicle owned by him for his personal use may be transported to his new station on a Government-owned vessel.

§ 6158. Exemption from arrest for debt: enlisted members of Marine Corps

Enlisted members of the Marine Corps, while on active duty, are exempt from personal arrest for debt or contract.

CHAPTER 563.—HOSPITALIZATION AND MEDICAL CARE

Sec.

6201. Members of the naval service in other United States hospitals.

6202. Insane members of the naval service.

6203. Emergency medical treatment: reimbursement for expense.

§ 6201. Members of the naval service in other United States hospitals

(a) When appropriate naval hospital facilities are unavailable, the Secretary of the Navy may provide for the care and treatment of members of the naval service, entitled to treatment in naval hospitals, in other United States hospitals, if the agencies controlling the other hospitals consent. Expenses incident to such care and treatment are chargeable to the same appropriation as would be chargeable for care and treatment in a naval hospital.

(b) The deduction authorized by section 16 of title 24 shall be made from accounts of members hospitalized under this section.

(c) Each member of the Fleet Reserve or the Fleet Marine Corps Reserve and each retired enlisted member of the naval service is entitled to a ration allowance equal in value to the hospital ration for each day he is hospitalized under this section.

§ 6202. Insane members of the naval service

A member of the naval service who becomes insane may be placed in the hospital for the insane that, in the opinion of the Secretary of the Navy, is most convenient and will provide the most beneficial treatment.

§ 6203. Emergency medical treatment: reimbursement for expense

The Secretary of the Navy shall prescribe regulations for reimbursing members of the naval service for expenses of emergency or necessary medical service, including hospitalization and medicines, when the member was in a duty status at the time he received the service and the service was not available from a Federal source. For the purpose of this section, a member on leave or liberty is in a duty status.

CHAPTER 565.—BANDS

Sec.

6221. United States Navy Band; leader's pay and allowances.

6222. United States Marine Corps Band: composition; pay and allowances of leader and second leader.

6223. Competition with civilian musicians prohibited.

6224. United States Navy Band; United States Marine Corps Band: concert tours.

§ 6221. United States Navy Band; leader's pay and allowances

(a) There is a Navy band known as the United States Navy Band.

(b) The leader of the United States Navy Band is entitled to the basic pay and allowances of a lieutenant in the Navy and is entitled to be credited for pay purposes with all service which may be credited under section 233 of title 37.

§ 6222. United States Marine Corps Band: composition; pay and allowances of leader and second leader

(a) The United States Marine Corps Band shall be composed of one leader, one second leader, and other personnel in such numbers and grades as the Secretary of the Navy considers necessary.

(b) The leader of the United States Marine Corps Band is entitled to the basic pay and allowances of an officer in pay grade O-3 and the second leader is entitled to the basic pay and allowances of an officer in pay grade W-3. They are entitled to be credited for pay purposes with all service that may be credited under section 233 of title 37.

§ 6223. Competition with civilian musicians prohibited

(a) No Navy band, except the United States Naval Academy Band, and no member of any Navy band may receive remuneration for furnishing music outside a military installation when the furnishing of such music involves competition with local civilian musicians.

(b) No member of the United States Marine Corps Band, as an individual, may furnish music in competition with any civilian musician or receive remuneration for furnishing music except under special circumstances when authorized by the President.

§ 6224. United States Navy Band; United States Marine Corps Band: concert tours

While on concert tours approved by the President, the members of the United States Navy Band and the United States Marine Corps Band lose no allowances.

CHAPTER 567.—DECORATIONS AND AWARDS

Sec.

- 6241. Medal of honor.
- 6242. Navy cross.
- 6243. Distinguished-service medal.
- 6244. Silver star medal.
- 6245. Distinguished flying cross.
- 6246. Navy and Marine Corps Medal.
- 6247. Additional awards.
- 6248. Limitations of time.
- 6249. Limitation of honorable service.
- 6250. Posthumous awards.
- 6251. Delegation of power to award.
- 6252. Regulations.
- 6253. Replacement.
- 6254. Availability of appropriations.
- 6255. Commemorative or special medals: facsimiles and ribbons.

§ 6241. Medal of honor

(a) The President may award, and present in the name of Congress, a medal of honor to any person who, while a member of the naval service, in action involving actual conflict with an enemy, or in the line of his profession, distinguishes himself conspicuously by gallantry and intrepidity at the risk of his life above and beyond the call of duty and without detriment to the mission of his command or to the command to which attached.

(b) The design of this medal shall be the same as that of the medal of honor authorized on August 8, 1942.

§ 6242. Navy cross

The President may award a Navy cross of appropriate design and a ribbon, together with a rosette or other device to be worn in place thereof, to any person who, while serving in any capacity with the Navy or the Marine Corps, distinguishes himself by extraordinary heroism in connection with military operations against an armed enemy.

§ 6243. Distinguished-service medal

The President may award a distinguished-service medal of appropriate design and a ribbon, together with a rosette or other device to be worn in place thereof, to any person who, while serving in any capacity with the Navy or the Marine Corps, distinguishes himself by exceptionally meritorious service to the United States in a duty of great responsibility.

§ 6244. Silver star medal

The President may award a silver star medal of appropriate design and a ribbon, together with a rosette or other device to be worn in place thereof, to any person who, while serving in any capacity with the Navy or the Marine Corps, distinguishes himself conspicuously by gallantry and intrepidity in action, such gallantry and service not being sufficient to justify the award of a medal of honor or a Navy cross.

§ 6245. Distinguished flying cross

The President may award a distinguished flying cross of appropriate design with accompanying ribbon to any person who, while serving in any capacity with the Navy or the Marine Corps, distinguishes himself by heroism or extraordinary achievement while participating in an aerial flight.

§ 6246. Navy and Marine Corps Medal

The President may award a medal called the "Navy and Marine Corps Medal" of appropriate design with accompanying ribbon, together with a rosette or other device to be worn in place thereof—

(1) to any person who, while serving in any capacity with the Navy or the Marine Corps, distinguishes himself by heroism not involving actual conflict with an enemy; or

(2) to any person to whom the Secretary of the Navy, before August 7, 1942, awarded a letter of commendation for heroism, and who applies for that medal, regardless of the date of the act of heroism.

§ 6247. Additional awards

Not more than one medal of honor, Navy cross, distinguished-service medal, silver star medal, distinguished flying cross, or Navy and Marine Corps Medal may be awarded to a person. However, for each succeeding act or service that would otherwise justify the award of such a medal or cross, the President may award a suitable bar, emblem, or insignia to be worn with the decoration and corresponding rosette or other device.

§ 6248. Limitations of time

Except as provided in section 6246 of this title, no medal of honor, Navy cross, distinguished-service medal, silver star medal, Navy and Marine Corps Medal, or bar, emblem, or insignia in place thereof may be awarded to a person unless—

(1) the award is made within five years after the date of the act or service justifying the award; and

(2) a statement setting forth the act or distinguished service and recommending official recognition of it was made by his superior through official channels within three years from the date of that act or service.

§ 6249. Limitation of honorable service

No medal, cross, or bar, or associated emblem or insignia may be awarded or presented to any person or to his representative if his service after he distinguished himself has not been honorable.

§ 6250. Posthumous awards

If a person who distinguishes himself dies before an award to which he is entitled is made, the award may be made and the medal, cross, or bar, or associated emblem or insignia may be presented, within five years from the date of the act or service justifying the award, to his representative as designated by the President.

§ 6251. Delegation of power to award

The President may delegate, under such conditions as he prescribes, to flag and general officers who are commanders-in-chief or commanding on important independent duty, his authority to award the Navy cross, the distinguished-service medal, the silver star medal, or the Navy and Marine Corps Medal.

§ 6252. Regulations

The President may prescribe regulations for the administration of the preceding sections of this chapter.

§ 6253. Replacement

The Secretary of the Navy may replace without charge any medal of honor, Navy cross, distinguished-service medal, silver star medal, or Navy and Marine Corps Medal, or any associated bar, emblem, or insignia awarded under this chapter that is lost or destroyed or becomes unfit for use without fault or neglect on the part of the person to whom it was awarded.

§ 6254. Availability of appropriations

The Secretary of the Navy may spend from appropriations for the pay of the Navy or the Marine Corps, as appropriate, amounts necessary to provide and replace medals of honor, Navy crosses, distinguished-service medals, silver star medals, and Navy and Marine Corps Medals, and associated bars, emblems, and insignia.

§ 6255. Commemorative or special medals: facsimiles and ribbons

Under regulations prescribed by the Secretary of the Navy, members of the naval service may wear, in place of commemorative or special medals awarded to them, miniature facsimiles of such medals and ribbons symbolic of the awards.

CHAPTER 569.—DISCHARGE OF ENLISTED MEMBERS

Sec.

- 6291. Honorable discharges.
- 6292. Minors enlisted upon false statement of age.
- 6293. Minors enlisted without consent of parent or guardian.
- 6294. Women in the Regular Navy and Regular Marine Corps: termination of enlistment.
- 6295. Regular Navy: early discharge.
- 6296. Furlough without pay.
- 6297. Disposition of uniform; clothing allowance; emergency funds.
- 6298. Authority to live at a receiving station after honorable discharge.

§ 6291. Honorable discharges

Honorable discharges, in the form prescribed by the Secretary of the Navy, may be granted to enlisted members of the naval service.

§ 6292. Minors enlisted upon false statement of age

(a) The Secretary of the Navy, under regulations prescribed by him, may discharge or release from the naval service, with pay and allowances and form of discharge certificate appropriate for his

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service after enlistment, any enlisted member who, as the result of a false statement of age on his application for enlistment, was enlisted while under the minimum statutory or administrative age limit. A member so discharged or released is entitled to transportation in kind and subsistence from the place of discharge to his home.

(b) Appropriations available for pay and allowances, subsistence, and transportation of enlisted members of the naval service are available for payments under this section.

§ 6293. Minors enlisted without consent of parent or guardian

(a) Upon application by a parent or guardian of any enlisted member of the naval service made to the Secretary of the Navy within 90 days after the member's enlistment, the member shall be discharged for his own convenience if—

(1) there is evidence satisfactory to the Secretary that the member is under 21 years of age; and

(2) the member enlisted without the written consent of his parent or guardian, if any.

(b) Upon application by either of his parents, or, in case of their death, upon application by his legal guardian, any minor enlisted in the Regular Navy as a seaman, seaman apprentice, or seaman recruit on his own oath as to age under section 5535 of this title shall be discharged if there is evidence satisfactory to the Secretary that the member—

(1) swore falsely as to his age; and

(2) was under 18 years of age when he enlisted.

(c) A member discharged under subsection (b) shall pay the full cost of first outfit, unless the Secretary relieves him of that payment.

§ 6294. Women in the Regular Navy and Regular Marine Corps: termination of enlistment

The Secretary of the Navy, under regulations prescribed by him, may terminate the enlistment of and discharge any enlisted woman in the Regular Navy or the Regular Marine Corps.

§ 6295. Regular Navy: early discharge

Under regulations prescribed by the Secretary of the Navy and approved by the President, any enlisted member of the Regular Navy may be discharged within three months before the expiration of the term of his enlistment or extended enlistment. A discharge under this section does not affect any right, privilege, or benefit that a member would have had if he had completed his enlistment or extended enlistment, except that the member is not entitled to pay and allowances for the period not served.

§ 6296. Furlough without pay

The Secretary of the Navy, under conditions prescribed by him, may grant a furlough without pay to any enlisted member of the Regular Navy for the unexpired term of his enlistment. In time of war or national emergency the member may, while on that furlough, be recalled to serve until his enlistment expires.

§ 6297. Disposition of uniform; clothing allowance; emergency funds

(a) Except as provided in subsection (b), when an enlisted member of the naval service is discharged, the exterior articles of uniform in his possession that were issued to him, other than those that he may wear from the place of discharge to his home under section 772 (d) of this title, shall be retained for military use.

(b) When an enlisted member of the naval service is discharged for bad conduct, undesirability, unsuitability, inaptitude, or otherwise than honorably—

(1) the exterior articles of uniform in his possession shall be retained for military use;

(2) under such regulations as the Secretary of the Navy prescribes, a suit of civilian clothing and an overcoat when necessary, both to cost not more than \$30, may be issued to him; and

(3) if he would be otherwise without funds to meet his immediate needs, he may be paid an amount, fixed by the Secretary, of not more than \$25.

§ 6298. Authority to live at a receiving station after honorable discharge

(a) The Secretary of the Navy may permit any person honorably discharged from the naval service to live at any naval receiving station while he is eligible for a reenlistment bonus.

(b) A person living at a naval receiving station as provided in this section is entitled to a ration and is subject to such regulations as the Secretary or other competent authority prescribes.

CHAPTER 571.—VOLUNTARY RETIREMENT

Sec.

6321. Officers: 40 years.

6322. Officers: 30 years.

6323. Officers: 20 years.

6324. Nurse Corps officers: creditable service.

6325. Officers: retired grade and pay.

6326. Enlisted members: 30 years.

6327. Officers and enlisted members of the Naval Reserve and Marine Corps Reserve: 30 years; 20 years; retired pay.

6328. Treatment of fractions of years of service in computing retired pay.

6329. Officers not to be retired for misconduct.

6330. Enlisted members: transfer to Fleet Reserve and Fleet Marine Corps Reserve; retainer pay.

6331. Members of the Fleet Reserve and Fleet Marine Corps Reserve: transfer to the retired list; retired pay.

6332. Conclusiveness of transfers.

§ 6321. Officers: 40 years

(a) Each officer of the Regular Navy or the Regular Marine Corps holding a permanent appointment in the grade of warrant officer, W-1, or above who applies for retirement after completing 40 or more years of active service shall be retired by the Secretary of the Navy.

(b) For the purpose of this section, an officer's years of active service are computed by adding all his active service in the armed forces.

§ 6322. Officers: 30 years

(a) An officer of the Regular Navy or the Regular Marine Corps holding a permanent appointment in the grade of warrant officer, W-1, or above who applies for retirement after completing 30 or more years of active service may, in the discretion of the Secretary of the Navy, be retired.

(b) For the purpose of this section, an officer's years of active service are computed by adding all his active service in the armed forces.

(c) Each officer who is retired under this section is entitled to retired pay at the rate of 75 percent of the highest basic pay of the grade in which retired.

§ 6323. Officers: 20 years

(a) An officer of the Navy or the Marine Corps who applies for retirement after completing more than 20 years of active service, of which at least 10 years was service as a commissioned officer, may, in the discretion of the President, be retired on the first day of the month designated by the President.

(b) For the purpose of this section, an officer's years of active service are computed by adding all his active service in the Navy, Marine Corps, and Coast Guard.

(c) Officers of the Naval Reserve and the Marine Corps Reserve who were transferred to the Retired Reserve from an honorary retired list under section 213 (b) of the Armed Forces Reserve Act of 1952 (66 Stat. 485) or are transferred to the Retired Reserve under section 6327 of this title, may be retired under this section, notwithstanding their retired status, if they are otherwise eligible.

§ 6324. Nurse Corps officers: creditable service

For the purpose of determining the eligibility of an officer in the Nurse Corps for voluntary retirement under this chapter, her years of active service shall be computed by adding all her active service—

(1) under an appointment or contract in the Nurse Corps of the Army or the Navy; and

(2) as a commissioned officer in the Nurse Corps of the Army or the Navy, or as a commissioned officer of the Air Force designated as an Air Force nurse.

For the purpose of this chapter, service in the Nurse Corps or the Nurse Corps Reserve abolished by the Army-Navy Nurses Act of 1947 (61 Stat. 41), is considered as if it were service as a commissioned officer in the Navy.

§ 6325. Officers: retired grade and pay

(a) Except as provided in subsection (b), each officer who is retired under section 6321, 6322, or 6323 of this title—

(1) unless otherwise entitled to a higher grade, shall be retired in the grade in which he was serving at the time of retirement; and

(2) unless otherwise entitled to higher pay, is entitled to retired pay at the rate of $2\frac{1}{2}$ percent of the basic pay to which he would be entitled if serving on active duty in the grade in which retired multiplied by the number of years of service creditable for basic pay, but the retired pay may not be more than 75 per-

cent of the basic pay upon which the computation of retired pay is based.

(b) Each officer who is retired while serving in the grade of admiral, vice admiral, general, or lieutenant general by virtue of an appointment under section 5231 or 5232 of this title or who is retired while serving in a grade to which he was appointed under section 5597 of this title or promoted under section 5787 of this title—

(1) unless otherwise entitled to a higher grade, shall be retired in the grade he would hold if he had not received such an appointment; and

(2) unless otherwise entitled to higher pay, is entitled to retired pay at the rate of 21½ percent of the basic pay to which he would be entitled if serving on active duty in the grade he would hold if he had not received such an appointment multiplied by the number of years of service creditable for basic pay, but the retired pay may not be more than 75 percent of the basic pay upon which the computation of retired pay is based.

(c) A warrant officer who retires under section 6321, 6322, or 6323 of this title may elect to be placed on the retired list in the highest grade and with the highest retired pay to which he is entitled under any provision of this title. If the pay of that highest grade is less than the pay of any warrant grade satisfactorily held by him on active duty, his retired pay shall be based on the higher pay.

§ 6326. Enlisted members: 30 years

(a) Each enlisted member of the Regular Navy or the Regular Marine Corps who applies for retirement after completing 30 or more years of active service in the armed forces shall be retired by the President.

(b) For the purpose of subsection (a), "enlisted member" includes a member of the Regular Navy or the Regular Marine Corps who holds a permanent enlisted grade and a temporary appointment in a commissioned or warrant officer grade.

(c) Each person retired under this section—

(1) unless otherwise entitled to a higher grade, shall be retired in the grade in which serving at the time of retirement; and

(2) unless otherwise entitled to higher pay, is entitled to retired pay at the rate of 75 percent of the basic pay to which he would be entitled if serving on active duty in the grade in which retired.

(d) For the purpose of subsection (c), a member who, at the time of retirement, was serving in a grade to which he was appointed under section 5597 or promoted under section 5787 of this title is considered as serving in the grade he would hold had he not been so appointed or promoted.

§ 6327. Officers and enlisted members of the Naval Reserve and Marine Corps Reserve: 30 years; 20 years; retired pay

(a) A member of the Naval Reserve or the Marine Corps Reserve may be transferred to the Retired Reserve upon his request if he has completed—

(1) at least 30 years of active service in the armed forces, other than active duty for training; or

(2) at least 20 years of active service in the armed forces other than active duty for training, the last 10 of which he served in

the 11-year period immediately preceding his transfer to the Retired Reserve.

(b) Each member who is transferred to the Retired Reserve under subsection (a) is entitled, when not on active duty, to retired pay at the rate of 50 percent of the basic pay to which he would be entitled if on active duty.

(c) This section applies only to persons who were members of the Naval Reserve or the Marine Corps Reserve on January 1, 1953.

(d) This section terminates on January 1, 1973. However, its termination will not affect any accrued rights to retired pay.

(e) This section does not prevent a member from retiring under another provision if he is eligible therefor.

§ 6328. Treatment of fractions of years of service in computing retired pay

In determining the total number of years of service to be used as a multiplier in computing the retired pay of officers retired under this chapter, a part of a year that is six months or more is counted as a whole year and a part of a year that is less than six months is disregarded.

§ 6329. Officers not to be retired for misconduct

No officer of the Navy or the Marine Corps may be retired because of misconduct for which trial by court-martial would be appropriate.

§ 6330. Enlisted members: transfer to Fleet Reserve and Fleet Marine Corps Reserve; retainer pay

(a) The Fleet Reserve and the Fleet Marine Corps Reserve are composed of members of the Regular Navy and the Regular Marine Corps, respectively, transferred thereto under—

(1) Title II of the Naval Reserve Act of 1938 (52 Stat. 1178), as amended; or

(2) this section.

(b) An enlisted member of the Regular Navy who has completed 20 or more years of active service in the armed forces may, at his request, be transferred to the Fleet Reserve. An enlisted member of the Regular Marine Corps who has completed 20 or more years of active service in the armed forces may, at his request, be transferred to the Fleet Marine Corps Reserve.

(c) Each member who is transferred to the Fleet Reserve or the Fleet Marine Corps Reserve under this section is entitled, when not on active duty, to retainer pay at the rate of 2½ percent of the basic pay that he received at the time of transfer multiplied by the number of years of active service in the armed forces. A member may recompute his retainer pay under section 1402 of this title to reflect active duty after transfer. If the member has been credited by the Secretary of the Navy with extraordinary heroism in the line of duty, which determination by the Secretary is final and conclusive for all purposes, his retainer pay shall be increased by 10 percent. However,

in no case may a member's retainer pay be more than 75 percent of the basic pay upon which the computation of retainer pay is based.

(d) For the purposes of subsections (b) and (c), a part of a year that is six months or more is counted as a whole year and a part of a year that is less than six months is disregarded. A completed minority enlistment is counted as four years of active service, and an enlistment terminated within three months before the end of the term of enlistment is counted as active service for the full term.

§ 6331. Members of the Fleet Reserve and Fleet Marine Corps Reserve: transfer to the retired list; retired pay

(a) A member of the Fleet Reserve or the Fleet Marine Corps Reserve shall be transferred to the retired list of the Regular Navy or of the Regular Marine Corps, as appropriate—

(1) upon being found not physically qualified in an examination under section 6485 of this title; or

(2) when he has completed 30 years of service.

(b) For the purpose of clause (2) of subsection (a), a member's years of service are computed by adding—

(1) the years of service credited to him upon his transfer to the Fleet Reserve or the Fleet Marine Corps Reserve;

(2) his years of active and inactive service in the armed forces before his transfer to the Fleet Reserve or the Fleet Marine Corps Reserve not credited to him upon that transfer; and

(3) his years of service, active and inactive, in the Fleet Reserve or the Fleet Marine Corps Reserve.

(c) Unless otherwise entitled to higher pay, each member transferred to the retired list under this section is entitled to retired pay at the same rate as the retainer pay to which he was entitled at the time of his transfer to the retired list.

§ 6332. Conclusiveness of transfers

When a member of the naval service is transferred by the Secretary of the Navy—

(1) to the Fleet Reserve;

(2) to the Fleet Marine Corps Reserve;

(3) from the Fleet Reserve to the retired list of the Regular Navy; or

(4) from the Fleet Marine Corps Reserve to the retired list of the Regular Marine Corps;

the transfer is conclusive for all purposes. Each member so transferred is entitled, when not on active duty, to retainer pay or retired pay from the date of transfer in accordance with his grade and number of years of creditable service as determined by the Secretary. The Secretary may correct any error or omission in his determination as to a member's grade and years of creditable service. When such a correction is made, the member is entitled, when not on active duty, to retain pay or retired pay in accordance with his grade and number of years of creditable service, as corrected, from the date of transfer.

CHAPTER 573.—INVOLUNTARY RETIREMENT, SEPARATION, AND FURLOUGH

Sec.

6371. Regular Navy; line rear admirals not restricted in performance of duty: continuation on active list; retirement.
6372. Regular Navy; line rear admirals restricted in performance of duty and staff corps rear admirals: retention on active list; retirement.
6373. Regular Marine Corps; major generals: retention on active list; retirement.
6374. Regular Marine Corps; brigadier generals not restricted in performance of duty: retirement for failures of selection for promotion.
6375. Regular Marine Corps; brigadier generals designated for supply duty: retention on active list; retirement.
6376. Regular Navy, line captains not restricted in performance of duty; Regular Marine Corps, colonels not restricted in performance of duty: retirement for length of service.
6377. Regular Navy, line captains restricted in performance of duty and staff corps captains; Regular Marine Corps, colonels designated for supply duty: retirement for length of service.
6378. Regular Navy, line captains restricted in performance of duty and staff corps captains; Regular Marine Corps, colonels designated for supply duty: continuation on active list; retirement.
6379. Regular Navy, commanders; Regular Marine Corps, lieutenant colonels: retirement for length of service and failures of selection for promotion.
6380. Regular Navy, lieutenant commanders; Regular Marine Corps, majors: retirement for length of service and failures of selection for promotion.
6381. Officers retired under preceding sections: retired grade and pay; general rule.
6382. Regular Navy, lieutenants and lieutenants (junior grade); Regular Marine Corps, captains and first lieutenants: discharge for failures of selection for promotion; severance pay.
6383. Regular Navy and Regular Marine Corps; officers designated for limited duty: retirement for length of service or failures of selection for promotion; discharge for failures of selection for promotion; reversion to prior status: retired grade; retired or severance pay.
6384. Regular Navy and Regular Marine Corps; officers having less than 20 years of service: discharge for unsatisfactory performance of duty; severance pay; reversion of limited duty officers to prior status.
6385. Officers appointed under sections 5231, 5232, and 5787 of this title: grade for purpose of preceding sections.
6386. Suspension: preceding sections.
6387. Regular Navy, male line officers; Regular Marine Corps, male officers: computation of total commissioned service.
6388. Regular Navy; certain staff corps officers: computation of total commissioned service.
6390. Regular Navy and Regular Marine Corps; officers: retirement at age 62.
6392. Regular Navy and Regular Marine Corps; officers having less than three years of service: revocation of appointments; reversion of certain officers to prior status.
6393. Regular Navy and Regular Marine Corps; women officers: termination of appointments.
6394. Regular Navy, rear admirals and commodores; Regular Marine Corps, major generals and brigadier generals: retirement on recommendation of board.
6395. Regular Navy and Regular Marine Corps; officers having less than 20 years of service: discharge during war or emergency for unsatisfactory performance of duty.
6396. Regular Navy; officers in Nurse Corps: retirement for age or length of service; retired grade and pay.
6398. Regular Navy, women commanders; Regular Marine Corps, women lieutenant colonels: retirement for age or length of service; retired grade and pay.
6399. Regular Navy, women lieutenant commanders and below; Regular Marine Corps, women majors and below: retirement at age 50; retired grade and pay.
6400. Regular Navy, women lieutenant commanders; Regular Marine Corps, women majors: retirement for length of service; retired grade and pay.

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Sec.

6401. Regular Navy, women lieutenants; Regular Marine Corps, women captains: discharge for length of service; severance pay.
6402. Regular Navy, women lieutenants (junior grade); Regular Marine Corps, women first lieutenants: discharge for length of service; severance pay.
6404. Treatment of fractions of years of service in computing retired pay and severance pay.
6405. Effect of acceptance of appointment in Foreign Service.
6406. Regular Navy and Regular Marine Corps; officers: furlough; furlough pay.
6407. Communication with selection board.
6408. Navy and Marine Corps; warrant officers, W-1: limitation on dismissal.
6409. Navy and Marine Corps; warrant officers: suspension of laws for mandatory retirement and separation during war or emergency.

§ 6371. Regular Navy; line rear admirals not restricted in performance of duty: continuation on active list; retirement

(a) Each officer not restricted in the performance of duty serving in the grade of rear admiral on the active list in the line of the Navy is eligible for consideration for continuation on the active list by a selection board convened in the fiscal year in which he first completes—

(1) at least five years of service in the grade of rear admiral; and

(2) at least 35 years of total commissioned service as computed under section 6387 of this title.

However, an officer who will become 62 years of age in the fiscal year in which he would otherwise be eligible for consideration for continuation on the active list under this section is not eligible for such consideration.

(b) The Secretary of the Navy shall determine, as of the date of the convening of the appropriate selection board, the number of officers not restricted in the performance of duty serving in the grade of rear admiral on the active list in the line of the Navy that the board may recommend for continuation on the active list. The number may not be less than 50 percent or more than 75 percent of the number of officers who are eligible for consideration for continuation under this section. In determining the number that the board may recommend, the Secretary shall consider the number of existing vacancies for rear admirals in the line of the Navy not restricted in the performance of duty and the number of vacancies that he estimates must occur during each of the next five years in order that captains will be best assured of a flow of promotion to the grade of rear admiral and that rear admirals who will become eligible for consideration in succeeding years will be best assured of equality of opportunity for continuation on the active list.

(c) An officer who is recommended for continuation on the active list in the approved report of a selection board under this section may not be retired under this section.

(d) Each officer who is considered by a selection board for continuation on the active list under this section, and who is not recommended for continuation in the approved report of the board, shall, unless retired under another provision of law, be retired on June 30 of the current fiscal year.

(e) For the purpose of this section, an officer is credited with service in the grade of rear admiral from the date of his eligibility for promotion to that grade.

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§ 6372. Regular Navy; line rear admirals restricted in performance of duty and staff corps rear admirals: retention on active list; retirement

(a) Except as provided in subsection (b), each officer restricted in the performance of duty serving in the grade of rear admiral on the active list in the line of the Navy, and each officer serving in the grade of rear admiral on the active list of the Navy in any staff corps, shall be retired on June 30 of the fiscal year in which he first completes—

(1) at least seven years of service in the grade of rear admiral; and

(2) at least 35 years of total commissioned service as computed under section 6387 or 6388 of this title.

(b) Each officer who would otherwise be retired under this section shall be retained on the active list if recommended for retention in the approved report of a board convened under section 5709 of this title. An officer so retained, if not retired under another provision of law, shall continue on the active list until June 30 of any succeeding fiscal year in which—

(1) he is not again recommended for retention in the approved report of such a board; or

(2) no such board is convened.

(c) The number of officers that may be recommended by a board for retention on the active list under this section may not exceed the number that the Secretary of the Navy determines is required to meet the needs of the service.

(d) For the purpose of this section, an officer's service in the grade of rear admiral is computed from the date of the occurrence of the vacancy that he was promoted to fill. However, service in grade of an officer promoted to the grade of rear admiral before August 7, 1947, and for any officer whose lineal position was adjusted in the grade of rear admiral or who was assigned a new running mate in that grade is computed from his date of rank in the grade of rear admiral.

§ 6373. Regular Marine Corps; major generals: retention on active list; retirement

(a) Except as provided in subsections (b) and (c), each officer serving in the grade of major general on the active list of the Marine Corps shall be retired on June 30 of the fiscal year in which he first completes—

(1) at least five years of service in the grade of major general; and

(2) at least 35 years of total commissioned service as computed under section 6387 of this title.

(b) An officer is not subject to retirement under this section while serving as Commandant of the Marine Corps.

(c) Each officer who would otherwise be retired under this section shall be retained on the active list if recommended for retention in the approved report of a board convened under section 5709 of this title. An officer so retained, if not retired under another provision of law, shall continue on the active list until June 30 of any succeeding fiscal year in which—

(1) he is not again recommended for retention in the approved report of such a board; or

(2) no such board is convened.

(d) The number of officers that may be recommended by a board for retention on the active list under this section may not exceed the number that the Secretary of the Navy determines to be necessary to meet the requirements of the Marine Corps. In any year in which the number of officers subject to retirement under this section is three or more, the Secretary shall fix the maximum number that may be recommended for retention at not less than the number of officers subject to such retirement minus two.

(e) For the purpose of this section, an officer's service in the grade of major general is computed from the date of the occurrence of the vacancy that he was promoted to fill. However, service in grade of an officer promoted to the grade of major general before August 7, 1947, is computed from the date of his appointment in that grade.

§ 6374. Regular Marine Corps; brigadier generals not restricted in performance of duty: retirement for failures of selection for promotion

Each officer not restricted in the performance of duty serving in the grade of brigadier general on the active list of the Marine Corps whose name is not on a promotion list shall be retired on June 30 of the fiscal year in which he is considered as having failed of selection for promotion to the grade of major general for the second time.

§ 6375. Regular Marine Corps; brigadier generals designated for supply duty: retention on active list; retirement

(a) Except as provided in subsections (b) and (c), each officer designated for supply duty serving in the grade of brigadier general on the active list of the Marine Corps shall be retired on June 30 of the fiscal year in which he first completes—

(1) at least five years of service in the grade of brigadier general; and

(2) at least 35 years of total commissioned service as computed under section 6387 of this title.

(b) An officer is not subject to retirement under this section while serving as Quartermaster General of the Marine Corps.

(c) Each officer who would otherwise be retired under this section shall be retained on the active list if recommended for retention in the approved report of a board convened under section 5709 of this title. An officer so retained, if not retired under another provision of law, shall continue on the active list until June 30 of any succeeding fiscal year in which—

(1) he is not again recommended for retention in the approved report of such a board; or

(2) no such board is convened.

(d) The number of officers that may be recommended by a board for retention on the active list under this section may not exceed the number that the Secretary of the Navy determines to be necessary to meet the requirements of the Marine Corps. In any year in which the number of officers subject to retirement under this section is two or more, the Secretary shall fix the maximum number that may be recommended for retention at not less than the number of officers subject to such retirement minus one.

(e) For the purpose of this section, an officer's service in the grade of brigadier general is computed from the date of the occurrence of the vacancy that he was promoted to fill. However, service in grade of an officer promoted to the grade of brigadier general before August 7, 1947, is computed from the date of his appointment in that grade.

§ 6376. Regular Navy, line captains not restricted in performance of duty; Regular Marine Corps, colonels not restricted in performance of duty: retirement for length of service

Each officer not restricted in the performance of duty serving in the grade of captain on the active list in the line of the Navy and each officer not restricted in the performance of duty serving in the grade of colonel on the active list of the Marine Corps shall, subject to section 5777 of this title, be retired on June 30 of the fiscal year in which he completes—

(1) 30 years of total commissioned service as computed under section 6387 of this title, if he is not on a promotion list and is considered as having twice failed of selection for promotion to the grade of rear admiral or brigadier general; or

(2) 31 years of total commissioned service as computed under section 6387 of this title, if he is not on a promotion list.

However, an officer who has lost numbers or precedence may not be retired because of completing 31 years of total commissioned service until June 30 of the fiscal year in which he completes five years of service in the grade of captain in the Navy or colonel in the Marine Corps. For the purpose of this section, an officer promoted to the grade of captain in the Navy or colonel in the Marine Corps after August 6, 1947, is credited with service in that grade from the date of his eligibility for promotion to the grade of captain or colonel.

§ 6377. Regular Navy, line captains restricted in performance of duty and staff corps captains; Regular Marine Corps, colonels designated for supply duty: retirement for length of service

(a) If not on a promotion list and if not continued on the active list under section 6378 of this title, each officer restricted in the performance of duty serving in the grade of captain on the active list in the line of the Navy and each officer designated for supply duty serving in the grade of colonel on the active list of the Marine Corps shall, subject to section 5777 of this title, be retired on June 30 of the fiscal year in which he completes 31 years of total commissioned service as computed under section 6387 of this title.

(b) If not on a promotion list and if not continued on the active list under section 6378 of this title, each officer serving in the grade of captain on the active list of the Navy in any staff corps except the Medical Service Corps shall, subject to section 5777 of this title, be retired on June 30 of the fiscal year in which he completes—

(1) 30 years of total commissioned service as computed under section 6388 of this title and is considered as having twice failed of selection for promotion to the grade of rear admiral; or

(2) 31 years of total commissioned service as computed under section 6388 of this title.

(c) Each officer serving in the grade of captain on the active list of the Navy in the Medical Service Corps shall be retired on June 30 of the fiscal year in which he completes 31 years of total commissioned service as computed under section 6388 of this title.

(d) Notwithstanding subsections (a), (b), and (c), an officer who has lost numbers or precedence may not be retired because of completing 31 years of total commissioned service until June 30 of the fiscal year in which he completes five years of service in the grade of captain in the Navy or colonel in the Marine Corps. For the purpose of this section, an officer promoted to the grade of captain in the Navy or colonel in the Marine Corps after August 6, 1947, is credited with service in that grade from the date of his eligibility for promotion to the grade of captain or colonel.

§ 6378. Regular Navy, line captains restricted in performance of duty and staff corps captains; Regular Marine Corps, colonels designated for supply duty: continuation on active list; retirement

(a) Each officer restricted in the performance of duty serving in the grade of captain on the active list in the line of the Navy, each officer serving in the grade of captain on the active list of the Navy in any staff corps except the Medical Service Corps, and each officer designated for supply duty serving in the grade of colonel on the active list of the Marine Corps is eligible for consideration for continuation on the active list by an appropriate selection board convened under section 5701, 5702, or 5703 of this title in the fiscal year in which he would be subject to retirement under section 6377 of this title and in each fiscal year thereafter while on the active list and not on a promotion list. However, any such captain or colonel who will complete 35 years of total commissioned service as computed under section 6387 or 6388 of this title or who will become 62 years of age in the fiscal year in which the selection board is convened is ineligible for consideration for continuation on the active list.

(b) Not more than the following numbers of officers recommended for continuation on the active list may be so continued until the report of the next succeeding selection board is approved:

- (1) 10 captains designated for engineering duty.
- (2) 5 captains designated for aeronautical engineering duty.
- (3) 10 captains designated for special duty.
- (4) 22 captains in the Supply Corps.
- (5) 25 captains in the Chaplain Corps.
- (6) 7 captains in the Civil Engineer Corps.

(7) The number of captains in the Medical Corps and in the Dental Corps that the Secretary of the Navy determines to be necessary to meet the needs of the service.

(8) The number of colonels designated for supply duty that the Secretary determines to be necessary to meet the requirements of the Marine Corps, but not more than two.

(c) If an officer continued on the active list under this section is not again recommended for continuation in the approved report of the next succeeding selection board, he shall be carried in excess of the number authorized to be so continued until June 30 of the then current fiscal year and shall be placed on the retired list on that date.

§ 6379. Regular Navy, commanders; Regular Marine Corps, lieutenant colonels: retirement for length of service and failures of selection for promotion

(a) Each officer on the active list of the Navy or the Marine Corps serving in the grade of commander or lieutenant colonel, except an officer designated for limited duty or an officer in the Medical Service Corps, shall, subject to the provisions of section 5777 of this title, be retired on June 30 of the fiscal year in which—

- (1) he is not on a promotion list;
- (2) he is considered as having twice failed of selection for promotion to the grade of captain in the Navy or colonel in the Marine Corps; and
- (3) he has completed at least 26 years of total commissioned service as computed under section 6387 or 6388 of this title.

(b) Each officer on the active list of the Navy in the Medical Service Corps serving in the grade of commander shall, subject to section 5777 of this title, be retired on June 30 of the fiscal year in which—

- (1) he is not on a promotion list;
- (2) he is considered as having twice failed of selection for promotion to the grade of captain; and
- (3) he has completed at least 30 years of total commissioned service as computed under section 6388 of this title.

§ 6380. Regular Navy, lieutenant commanders; Regular Marine Corps, majors: retirement for length of service and failures of selection for promotion

(a) Each officer on the active list of the Navy or the Marine Corps serving in the grade of lieutenant commander or major shall, subject to section 5777 of this title, be retired on June 30 of the fiscal year in which—

- (1) he is not on a promotion list;
- (2) he is considered as having twice failed of selection for promotion to the grade of commander or lieutenant colonel; and
- (3) he has completed at least 20 years of total commissioned service as computed under section 6387 or 6388 of this title.

(b) This section does not apply to women officers appointed under section 5590 of this title, to officers designated for limited duty, or to officers in the Nurse Corps.

§ 6381. Officers retired under preceding sections: retired grade and pay; general rule

(a) Each officer retired under the preceding sections of this chapter—

- (1) unless otherwise entitled to a higher grade, shall be retired in the grade in which he was serving at the time of retirement; and
- (2) is entitled to retired pay at the rate of $2\frac{1}{2}$ percent of the basic pay to which he would be entitled if serving on active duty in the grade in which retired multiplied by the number of years of service creditable for basic pay, but the retired pay may not be more than 75 percent of the basic pay upon which the computation of retired pay is based.

(b) The retired pay under this section of an officer commissioned in the Regular Navy or the Regular Marine Corps under the Act of April 18, 1946, ch. 141 (60 Stat. 92), or commissioned in the Regular Navy or the Regular Marine Corps after September 8, 1939, while serving on active duty as an officer in the Naval Reserve or the Marine Corps Reserve, may not be less than 50 percent of the basic pay upon which the computation of retired pay is based.

§ 6382. Regular Navy, lieutenants and lieutenants (junior grade); Regular Marine Corps, captains and first lieutenants: discharge for failures of selection for promotion; severance pay

(a) Each officer on the active list of the Navy serving in the grade of lieutenant, except an officer in the Nurse Corps, and each officer on the active list of the Marine Corps serving in the grade of captain shall be honorably discharged on June 30 of the fiscal year in which he is considered as having failed of selection for promotion to the grade of lieutenant commander or major for the second time.

(b) Each officer on the active list of the Navy serving in the grade of lieutenant (junior grade) and each officer on the active list of the Marine Corps serving in the grade of first lieutenant shall be honorably discharged on June 30 of the fiscal year in which he is considered as having failed of selection for promotion to the grade of lieutenant or captain for the second time.

(c) Each officer discharged under this section is entitled to a lump-sum payment equal to two months' basic pay at the time of discharge multiplied by the number of years of total commissioned service as computed under section 6387 or 6388 of this title, but the payment may not be more than two years' basic pay. The acceptance of a lump-sum payment under this section does not deprive a person of any retirement benefits from the United States. However, there shall be deducted from each of his retirement payments so much thereof as is based on the service for which he has received payment under this section until the total deducted equals the amount of lump-sum payment.

(d) This section does not apply to women officers appointed under section 5590 of this title or to officers designated for limited duty.

§ 6383. Regular Navy and Regular Marine Corps; officers designated for limited duty: retirement for length of service or failures of selection for promotion; discharge for failures of selection for promotion; reversion to prior status; retired grade; retired or severance pay

(a) Each officer designated for limited duty on the active list of the Navy or the Marine Corps shall be retired on the last day of the month following the month in which he completes 30 years of active naval service, exclusive of active duty for training in a reserve component.

(b) Each officer designated for limited duty on the active list of the Navy serving in the grade of lieutenant commander and each officer designated for limited duty on the active list of the Marine Corps serving in the grade of major shall be retired on June 30 of the fiscal year in which he is considered as having failed of selection for promotion to the grade of commander or lieutenant colonel for the second time.

- (c) Each officer retired under subsection (a) or (b)—
- (1) unless otherwise entitled to a higher grade, shall be retired in the grade in which he was serving at the time of retirement; and
 - (2) is entitled to retired pay at the rate of 21½ percent of the basic pay to which he would be entitled if serving on active duty in the grade in which retired multiplied by the number of years of service creditable for basic pay, but the retired pay may not be more than 75 percent of the basic pay upon which the computation of retired pay is based.
- (d) Each officer designated for limited duty on the active list of the Navy serving in the grade of lieutenant and each officer designated for limited duty on the active list of the Marine Corps serving in the grade of captain shall be honorably discharged on June 30 of the fiscal year in which he is considered as having failed of selection for promotion to the grade of lieutenant commander or major for the second time.
- (e) Each officer designated for limited duty on the active list of the Navy serving in the grade of lieutenant (junior grade) and each officer designated for limited duty on the active list of the Marine Corps serving in the grade of first lieutenant shall be honorably discharged on June 30 of the fiscal year in which he is considered as having failed of selection for promotion to the grade of lieutenant or captain for the second time.
- (f) Each officer honorably discharged under subsection (d) or (e) is entitled to a lump-sum payment computed on the basis of two months' basic pay received at the time of discharge multiplied by the number of years of total commissioned service as computed under section 6387 or 6388 of this title, but the payment may not be more than two years' basic pay. The acceptance of a lump-sum payment under this section does not deprive a person of any retirement benefits from the United States. However, there shall be deducted from each of his retirement payments so much thereof as is based on the service for which he has received payment under this section, until the total deductions equal the amount of the lump-sum payment.
- (g) If any officer subject to retirement or discharge under subsections (b), (d), or (e) had the permanent status of a warrant officer when first appointed as an officer designated for limited duty, he has the option, instead of being retired or discharged, of reverting to the grade and status he would hold if he had not been so appointed. If any such officer had a permanent grade below the grade of warrant officer, W-1, when first so appointed, he has the option, instead of being retired or discharged, of reverting to the grade and status he would hold if he had not been so appointed but had instead been appointed a warrant officer, W-1.
- (h) In any computation to determine the grade and status to which an officer may revert under this section, all active service as an officer designated for limited duty or as a temporary or reserve officer is included.

§ 6384. Regular Navy and Regular Marine Corps; officers having less than 20 years of service: discharge for unsatisfactory performance of duty; severance pay; reversion of limited duty officers to prior status

(a) Each selection board convened under chapter 543 of this title to recommend officers for promotion shall report, from among those officers eligible for consideration, the name of each officer with less than 20 years of service whose record, in the opinion of the board, indicates his unsatisfactory performance of duty in his present grade, and, in the opinion of the board, indicates that he would not satisfactorily perform the duties of a higher grade.

(b) Each officer on the active list of the Navy or the Marine Corps whose name is reported under this section shall, subject to subsection (d), be honorably discharged from the naval service on June 30 of the fiscal year in which his name is so reported, with a lump-sum payment computed on the basis of two months' basic pay received at the time of discharge multiplied by the number of years of service, but the payment may not be more than two years' basic pay. The acceptance of a lump-sum payment under this section does not deprive a person of any retirement benefits from the United States. However, there shall be deducted from each of his retirement payments so much thereof as is based on the service for which he has received payment under this section, unless the total deductions equal the amount of the lump-sum payments.

(c) The years of service that are counted under subsection (b) are—

(1) for a male line officer of the Navy or a male officer of the Marine Corps, his years of total commissioned service as computed under section 6387 of this title;

(2) for a staff corps officer, other than a woman officer appointed under section 5590 of this title and other than an officer in the Nurse Corps, his years of total commissioned service as computed under section 6388 of this title;

(3) for an officer serving in the grade of lieutenant (junior grade) in the Nurse Corps, her years of total commissioned service as computed under section 6388 of this title;

(4) for an officer serving in a grade above lieutenant (junior grade) in the Nurse Corps, her years of active service as computed under section 6396 of this title; and

(5) for a woman officer appointed under section 5590 of this title, her years of active commissioned service in the Navy or the Marine Corps.

(d) Each officer designated for limited duty whose name is reported under this section has the option of reverting to a lower grade instead of being discharged. Any such officer who had the permanent status of a warrant officer when first appointed as an officer designated for limited duty may revert to the grade and status he would hold if he had not been so appointed. Any such officer who had a permanent grade below the grade of warrant officer, W-1, when first appointed

as an officer designated for limited duty may revert to the grade and status he would hold if he had not been so appointed but had instead been appointed a warrant officer, W-1.

(e) In any computation to determine the grade and status to which an officer may revert under subsection (d), all active service as an officer designated for limited duty or as a temporary or reserve officer is included.

§ 6385. Officers appointed under sections 5231, 5232, and 5787 of this title: grade for purpose of preceding sections

For the purpose of the preceding sections of this chapter, an officer serving in a grade in which he was appointed under section 5231, 5232, or 5787 of this title is considered as serving in the grade he would hold if he had not been so appointed.

§ 6386. Suspension: preceding sections

(a) The President may suspend any provision of the preceding sections of this chapter relating to officers serving in the grades of lieutenant and lieutenant (junior grade) in the Navy, other than women officers appointed under section 5590 of this title, or relating to male officers serving in the grades of captain and first lieutenant in the Marine Corps during any period when—

(1) the number of male officers serving on active duty in the grade of ensign and above in the line of the Navy exceeds the number of male officers on the active list in the line of the Navy; and

(2) he determines that the needs of the service so require.

(b) Officers in the following categories are not counted as officers serving on active duty for the purpose of clause (1) of subsection (a):

(1) Retired officers.

(2) Officers of the Naval Reserve assigned to active duty for training.

(3) Officers of the Naval Reserve ordered to active duty in connection with organizing, administering, recruiting, instructing, training, or drilling the Naval Reserve.

(4) Officers of the Naval Reserve ordered to temporary active duty to prosecute special work.

(c) During a war or national emergency, the President may suspend any provision of the preceding sections of this chapter. Such a suspension may not continue beyond June 30 of the fiscal year following that in which the war or national emergency ends.

§ 6387. Regular Navy, male line officers; Regular Marine Corps, male officers: computation of total commissioned service

(a) For the purpose of the preceding sections of this chapter, the total commissioned service of a male officer on the active list in the line of the Navy or of a male officer on the active list of the Marine Corps who has served continuously on the active list since his appointment in the grade of ensign or second lieutenant, either upon graduation from the Naval Academy or under section 6904, 6906, or 6909

of this title, is computed from June 30 of the fiscal year in which he accepted that appointment.

(b) Each other male commissioned officer on the active list in the line of the Navy or on the active list of the Marine Corps is considered to have the same total commissioned service, for the purpose of the preceding sections of this chapter, as the officer described in subsection (a) with the maximum total commissioned service who—

(1) has not lost numbers or precedence; and

(2) is, or at any time has been, junior to the other officer for the purposes of eligibility for promotion and selection for promotion during that other officer's latest period of continuous service on the active list.

§ 6388. Regular Navy; certain staff corps officers: computation of total commissioned service

(a) For the purpose of the preceding sections of this chapter, the total commissioned service of each officer originally appointed in the grade of lieutenant (junior grade) or ensign in any staff corps of the Navy, who has since that appointment served continuously on the active list of the Navy, is computed from June 30 of the fiscal year in which he accepted that appointment. However, this subsection does not apply to officers appointed under the Act of April 18, 1946, ch. 141 (60 Stat. 92).

(b) Each other commissioned officer on the active list of the Navy in any staff corps is considered to have the same total commissioned service for the purpose of the preceding sections of this chapter as the officer in his corps described in subsection (a) having the maximum total commissioned service who—

(1) has not lost numbers or precedence; and

(2) is, or at any time has been, junior to the other officer for the purposes of eligibility for promotion and selection for promotion during that other officer's latest period of continuous service on the active list.

(c) Notwithstanding subsection (b), each officer on the active list of the Navy in the Medical Service Corps appointed under the Act of April 18, 1946, ch. 141 (60 Stat. 92), is considered to have, for the purpose of the preceding sections of this chapter, total commissioned service equivalent to that of his running mate.

(d) For the purpose of the preceding sections of this chapter, the years of service to be credited to each officer on the active list of the Navy in the Nurse Corps serving in the grade of lieutenant (junior grade) is based on—

(1) her active service in the Nurse Corps and the Nurse Corps Reserve; and

(2) her active service in the Nurse Corps and the Nurse Corps Reserve abolished by the Army-Navy Nurses Act of 1947 (61 Stat. 41).

All such active service is considered commissioned service for the purpose of the preceding sections of this chapter.

(e) Except as provided in subsection (d), this section does not apply to officers in the Nurse Corps or to women officers appointed under section 5590 of this title.

§ 6390. Regular Navy and Regular Marine Corps; officers: retirement at age 62

(a) Each officer on the active list of the Navy or the Marine Corps serving in a grade below fleet admiral shall be retired by the President when he becomes 62 years of age unless the President defers his retirement. The President may defer the retirement of any such officer for as long as he considers advisable, subject to the following conditions:

(1) The retirement of any such officer may not be deferred beyond the date on which he becomes 64 years of age.

(2) Not more than ten officers whose retirement is so deferred may be on active duty at any one time.

(b) Each officer retired under this section is entitled—

(1) to the highest grade, permanent or temporary, held by him on active duty; and

(2) to retired pay at the rate of 2½ percent of the basic pay to which he would be entitled if serving on active duty in the grade in which retired multiplied by the number of years of service creditable for basic pay, but the retired pay may not be more than 75 percent of the basic pay upon which the computation of retired pay is based.

§ 6392. Regular Navy and Regular Marine Corps, officers having less than three years of service: revocation of appointments; reversion of certain officers to prior status

(a) The Secretary of the Navy, under regulations prescribed by him, may revoke the appointment of any officer on the active list of the Navy or the Marine Corps who has less than three years of continuous service as an officer on the active list of the Navy or the Marine Corps.

(b) Each officer whose appointment is revoked under this section shall be discharged from the service without advance pay or allowances.

(c) Any officer appointed in the Medical Service Corps under section 5579 of this title who had the permanent status of a warrant officer at the time of that appointment, and whose appointment is revoked under subsection (a), may be reappointed, without examination, to his former permanent status with the same lineal position and all other rights and benefits he would have had, or would have attained in due course, if he had not been appointed in the Medical Service Corps.

§ 6393. Regular Navy and Regular Marine Corps; women officers: termination of appointments

The Secretary of the Navy, under regulations prescribed by the President, may terminate the appointment of any woman officer in the Regular Navy or the Regular Marine Corps.

§ 6394. Regular Navy, rear admirals and commodores; Regular Marine Corps, major generals and brigadier generals: retirement on recommendation of board.

(a) The Secretary of the Navy may convene boards of officers to consider and recommend for retirement officers on the active list of the Navy serving in the grades of rear admiral and commodore and

officers on the active list of the Marine Corps serving in the grades of major general and brigadier general.

(b) Each board convened under this section to consider and recommend rear admirals and commodores for retirement shall be composed of not less than five officers on the active list of the Navy serving in grades above rear admiral. However, rear admirals on the active list in any staff corps may be detailed as members of any such board to consider and recommend officers of the staff corps for retirement.

(c) Each board convened under this section to consider and recommend major generals for retirement shall be composed, as far as practicable, of three officers on the active list of the Marine Corps serving in grades above major general. If there is an insufficient number of such officers available, officers on the active list in the line of the Navy serving in grades above rear admiral may be detailed to complete the prescribed membership.

(d) Each board convened under this section to consider and recommend brigadier generals for retirement shall be composed, as far as practicable, of five officers on the active list of the Marine Corps serving in grades above brigadier general. If there is an insufficient number of such officers available, officers on the active list in the line of the Navy serving in the grade of rear admiral or above may be detailed to complete the prescribed membership.

(e) The recommendation of each board convened under this section shall be submitted by the Secretary with his recommendation to the President for approval or disapproval, in whole or in part.

(f) Each officer recommended for retirement by a board convened under this section, shall, if the recommendation is approved by the President, be retired on the first day of any month set by the Secretary, but not later than the first day of the seventh month after the date of the approval by the President.

(g) Each officer retired under this section—

(1) unless otherwise entitled to a higher grade, shall be retired in the grade in which he was serving at the time of retirement; and

(2) is entitled to retired pay at the rate of 2½ percent of the basic pay to which he would be entitled if serving on active duty in the grade in which retired multiplied by the number of years of service creditable for basic pay, but the retired pay may not be more than 75 percent of the basic pay upon which the computation of retired pay is based.

§ 6395. Regular Navy and Regular Marine Corps; officers having less than 20 years of service: discharge during war or emergency for unsatisfactory performance of duty.

(a) Each board of officers convened under section 5787 of this title to recommend officers for promotion shall report, from among the officers whose names are presented to it for consideration, the name of each officer on active duty with less than 20 years of service whose record, in the opinion of the board, indicates his unsatisfactory performance of duty in his present grade and, in the opinion of the board, indicates that he would not satisfactorily perform the duties of a higher grade.

(b) Each officer in the Regular Navy or the Regular Marine Corps not on a retired list holding a permanent appointment in the grade of warrant officer, W-1, or above, whose name is reported under this section, shall, except as otherwise provided in this section, be honorably discharged on the first day of the fourth month following that in which his name is so reported.

(c) An officer who is under consideration for or undergoing disciplinary action of any kind may not be discharged under this section before the final disposition of his case. Thereafter, such an officer shall be separated from the naval service either under this section or under another provision of law, in the discretion of the Secretary of the Navy.

(d) Each officer holding a permanent appointment as a warrant officer and temporarily appointed to a higher grade, whose name is reported under this section, has the option, instead of being discharged under this section, of reverting to the grade and status he would hold if he had not been so temporarily appointed.

(e) Each officer designated for limited duty who, when first appointed as an officer designated for limited duty, had the permanent status of a warrant officer, and whose name is reported under this section, has the option, instead of being discharged under this section, of reverting to the grade and status he would hold if he had not been so appointed. Each officer designated for limited duty who, when first appointed as an officer designated for limited duty, had a permanent grade below the grade of warrant officer, W-1, and whose name is reported under this section, has the option, instead of being discharged under this section, of reverting to the grade and status he would hold if he had not been so appointed but had instead been appointed a warrant officer, W-1.

(f) In any computation to determine the grade and status to which an officer may revert under this section, all active service as an officer designated for limited duty or as a temporary or reserve officer is included.

(g) Each officer discharged under this section is entitled to a lump-sum payment equal to two months' basic pay at the time of discharge multiplied by the number of years of service, but such payment may not be more than one year's basic pay.

(h) The years of service that are counted under subsection (g) are—

- (1) for a male line officer of the Navy or a male officer of the Marine Corps, his years of total commissioned service as computed under section 6387 of this title;
- (2) for a staff corps officer, other than a woman officer appointed under section 5590 of this title and other than an officer in the Nurse Corps, his years of total commissioned service as computed under section 6388 of this title;
- (3) for an officer serving in the grade of lieutenant (junior grade) in the Nurse Corps, her years of total commissioned service as computed under section 6388 of this title;
- (4) for an officer serving in a grade above lieutenant (junior grade) in the Nurse Corps, her years of active service as computed under section 6396 of this title; and
- (5) for a woman officer appointed under section 5590 of this title, her years of active commissioned service in the Navy or the Marine Corps.

§ 6396. Regular Navy; officers in Nurse Corps: retirement for age or length of service; retired grade and pay

(a) An officer on the active list of the Navy serving in the grade of commander or lieutenant commander in the Nurse Corps may be retired by the Secretary of the Navy on the first day of any month following that in which she becomes 55 years of age or completes 20 years of service, whichever is later.

(b) An officer on the active list of the Navy serving in a grade below lieutenant commander in the Nurse Corps may be retired by the Secretary on the first day of any month following that in which she becomes 50 years of age or completes 20 years of service, whichever is later.

(c) For the purpose of determining the eligibility of an officer for retirement under this section, her years of service are computed by adding all her active service—

(1) under an appointment or contract in the Nurse Corps of the Army or the Navy;

(2) as a commissioned officer in the Nurse Corps of the Army or the Navy, or as a commissioned officer of the Air Force designated as an Air Force Nurse; and

(3) in the Nurse Corps or the Nurse Corps Reserve abolished by the Army-Navy Nurses Act of 1947 (61 Stat. 41).

(d) Each officer retired under this section shall be retired—

(1) in the highest grade satisfactorily held by her on active duty as determined by the Secretary, but not lower than her permanent grade; and

(2) with retired pay at the rate of 2½ percent of the basic pay to which she would be entitled if serving on active duty in the grade in which retired multiplied by the number of years of service creditable for basic pay, but the retired pay may not be more than 75 percent of the basic pay upon which the computation of retired pay is based.

§ 6398. Regular Navy, women commanders; Regular Marine Corps, women lieutenant colonels: retirement for age or length of service; retired grade and pay

(a) Each women officer on the active list of the Navy, appointed under section 5590 of this title, who holds a permanent appointment in the grade of commander and each woman officer on the active list of the Marine Corps who holds a permanent appointment in the grade of lieutenant colonel shall be retired by the President on the first day of the month following that in which she—

(1) becomes 55 years of age; or

(2) completes 30 years active commissioned service in the Navy or in the Marine Corps;

whichever is earlier.

(b) Each officer retired under this section—

(1) unless otherwise entitled to a higher grade, shall be retired in the permanent grade held by her at the time of retirement; and

(2) is entitled to retired pay at the rate of 2½ percent of the basic pay to which she would be entitled if serving on active duty in the grade in which retired multiplied by the number of years of service creditable for basic pay, but the retired pay may

not be more than 75 percent or less than 50 percent of the basic pay upon which the computation of retired pay is based.

§ 6399. Regular Navy, women lieutenant commanders and below; Regular Marine Corps, women majors and below: retirement at age 50; retired grade and pay

(a) Each woman officer on the active list of the Navy, appointed under section 5590 of this title, who holds a permanent appointment in a grade below commander and each woman officer on the active list of the Marine Corps who holds a permanent appointment in a grade below lieutenant colonel shall be retired by the President on the first day of the month following the date on which she becomes 50 years of age.

(b) This section does not apply to—

(1) any officer in the grade of lieutenant commander or major who is on a promotion list for promotion to the grade of commander or lieutenant colonel; or

(2) any officer while serving as assistant to the Chief of Naval Personnel with the rank of captain in the Navy or serving as assistant to the Commandant of the Marine Corps with the rank of colonel.

(c) Each officer retired under this section—

(1) unless otherwise entitled to a higher grade, shall be retired in the permanent grade held by her at the time of retirement; and

(2) is entitled to retired pay at the rate of $2\frac{1}{2}$ percent of the basic pay to which she would be entitled if serving on active duty in the grade in which retired multiplied by the number of years of service creditable for basic pay, but the retired pay may not be more than 75 percent or less than 50 percent of the basic pay upon which the computation of retired pay is based.

§ 6400. Regular Navy, women lieutenant commanders; Regular Marine Corps, women majors: retirement for length of service; retired grade and pay.

(a) Each woman officer on the active list of the Navy, appointed under section 5590 of this title, who holds a permanent appointment in the grade of lieutenant commander and each woman officer on the active list of the Marine Corps who holds a permanent appointment in the grade of major shall be retired on June 30 of the fiscal year in which—

(1) she is not on a promotion list; and

(2) she has completed 20 years of active commissioned service in the Navy or in the Marine Corps.

(b) Each officer retired under this section—

(1) unless otherwise entitled to higher grade, shall be retired in the permanent grade held by her at the time of retirement; and

(2) is entitled to retired pay at the rate of $2\frac{1}{2}$ percent of the basic pay to which she would be entitled if serving on active duty in the grade in which retired multiplied by the number of years of service creditable for basic pay, but the retired pay may not be more than 75 percent of the basic pay upon which the computation of retired pay is based.

§ 6401. Regular Navy, women lieutenants; Regular Marine Corps, women captains: discharge for length of service; severance pay

(a) Each woman officer on the active list of the Navy, appointed under section 5590 of this title, who holds a permanent appointment in the grade of lieutenant and each woman officer on the active list of the Marine Corps who holds a permanent appointment in the grade of captain shall be honorably discharged on June 30 of the fiscal year in which—

- (1) she is not on a promotion list; and
- (2) she has completed 13 years of active commissioned service in the Navy or in the Marine Corps.

(b) Each officer discharged under this section is entitled to a lump-sum payment equal to 24 times the monthly basic pay to which she was entitled at the time of discharge.

§ 6402. Regular Navy, women lieutenants (junior grade); Regular Marine Corps, women first lieutenants: discharge for length of service; severance pay

(a) Each woman officer on the active list of the Navy, appointed under section 5590 of this title, who holds a permanent appointment in the grade of lieutenant (junior grade) and each woman officer on the active list of the Marine Corps who holds a permanent appointment in the grade of first lieutenant shall be honorably discharged on June 30 of the fiscal year in which—

- (1) she is not on a promotion list; and
- (2) she has completed seven years of active commissioned service in the Navy or in the Marine Corps.

(b) Each officer discharged under this section is entitled to a lump-sum payment equal to two months' basic pay at the time of discharge multiplied by the number of years of commissioned service in the Navy or the Marine Corps.

§ 6404. Treatment of fractions of years of service in computing retired pay and severance pay

In determining the total number of years of service to be used as a multiplier in computing retired pay and lump-sum payments on discharge under this chapter, a part of a year that is six months or more is counted as a whole year and a part of a year that is less than six months is disregarded.

§ 6405. Effect of acceptance of appointment in Foreign Service

An officer of the Regular Navy, other than a retired officer, who accepts an appointment in the Foreign Service is considered as having resigned from the Navy.

§ 6406. Regular Navy and Regular Marine Corps; officers: furlough; furlough pay

(a) The Secretary of the Navy may furlough any officer of the Regular Navy or the Regular Marine Corps, other than a retired officer.

(b) Each officer on furlough is entitled to pay at the rate of one-half of his basic pay received at the time of furlough.

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§ 6407. Communication with selection board

Each officer eligible for consideration for continuation on the active list by a selection board convened under chapter 543 of this title has the right to send a communication through official channels at any time not later than ten days after the convening of that board inviting attention to any matter of record in the Department of the Navy concerning himself which he considers important in his case. The communication may not criticize any officer or reflect upon the character, conduct, or motive of any officer.

§ 6408. Navy and Marine Corps; warrant officers, W-1: limitation on dismissal

(a) No officer who holds the grade of warrant officer, W-1, may be dismissed from the Navy or the Marine Corps except in time of war, by order of the President.

(b) The President may drop from the rolls of the Navy or the Marine Corps any officer who holds the grade of warrant officer, W-1, who—

- (1) has been absent without authority for at least three months; or
- (2) is sentenced to confinement in a Federal or State penitentiary or correctional institution after having been found guilty of an offense by a court other than a court-martial or other military court, and whose sentence has become final.

§ 6409. Navy and Marine Corps; warrant officers: suspension of laws for mandatory retirement or separation during war or emergency

In time of war, or of emergency declared after May 29, 1954, by Congress or the President, the President may suspend the operation of any provision of law relating to mandatory retirement or separation of temporary warrant officers of the Navy and the Marine Corps.

CHAPTER 575.—RECALL TO ACTIVE DUTY

Sec.

6481. Retired officers of the Regular Navy and Regular Marine Corps: authority to recall.
6482. Retired enlisted members of the Regular Navy and Regular Marine Corps: authority to recall.
6483. Retired members: grade.
6484. Promotion of retired members to higher enlisted grades: retention of grade upon release from active duty.
6485. Members of the Fleet Reserve and Fleet Marine Corps Reserve: authority to recall.
6486. Members of the Fleet Reserve and Fleet Marine Corps Reserve: release from active duty.
6487. Retired rear admirals: retired pay after two years of active duty.
6488. Wartime appointments or promotions: retention of grade upon release from active duty.

§ 6481. Retired officers of the Regular Navy and Regular Marine Corps: authority to recall

In time of war or national emergency declared by the President, the Secretary of the Navy may order any retired officer of the Regular Navy or the Regular Marine Corps to active duty at sea or on shore. At any other time the Secretary may order such a retired officer to active duty at sea or on shore only with his consent.

§ 6482. Retired enlisted members of the Regular Navy and Regular Marine Corps: authority to recall

In time of war or national emergency the Secretary of the Navy may order to active duty any retired enlisted member of the Regular Navy or the Regular Marine Corps.

§ 6483. Retired members: grade

(a) Except as provided in subsection (b), each retired member of the naval service, when recalled to active duty, shall be recalled in the grade held by him on the retired list.

(b) An officer who has been advanced on the retired list or in the Retired Reserve under section 6150 of this title to a grade above captain in the Navy or above colonel in the Marine Corps, when recalled to active duty, may, in the discretion of the Secretary of the Navy, be recalled either in the grade he holds on the retired list or in the Retired Reserve or in the grade from which he was advanced.

§ 6484. Promotion of retired members to higher enlisted grades: retention of grade upon release from active duty

When on active duty, retired enlisted members of the Navy or the Marine Corps are eligible for promotion to higher enlisted grades or ratings. When released from active duty, they shall, unless entitled to a higher grade under another provision of law, retain the grades or ratings they hold at the time of their release.

§ 6485. Members of the Fleet Reserve and Fleet Marine Corps Reserve: authority to recall

(a) A member of the Fleet Reserve or the Fleet Marine Corps Reserve may be ordered by competent authority to active duty without his consent—

(1) in time of war or national emergency declared by Congress, for the duration of the war or national emergency and for six months thereafter;

(2) in time of national emergency declared by the President; or

(3) when otherwise authorized by law.

(b) In time of peace any member of the Fleet Reserve or the Fleet Marine Corps Reserve may be required to perform not more than two months' active duty for training in each four-year period and shall be physically examined at least once during each four-year period. If any member fails to report for the physical examination, the Secretary may order any pay due that member forfeited.

§ 6486. Members of the Fleet Reserve and Fleet Marine Corps Reserve: release from active duty

(a) Except as provided in subsection (b), the Secretary of the Navy may, at any time, release any member of the Fleet Reserve or the Fleet Marine Corps Reserve from active duty.

(b) In time of war or national emergency declared by Congress or by the President after January 1, 1953, a member of the Fleet Reserve or the Fleet Marine Corps Reserve, without his consent, may be released from active duty other than from active duty for training only if—

(1) a board of officers convened at his request by an authority designated by the Secretary recommends the release and the recommendation is approved;

(2) the member does not request that a board be convened; or

(3) his release is otherwise authorized by law.

This subsection does not apply during a period of demobilization or reduction in strength of the Navy or the Marine Corps.

§ 6487. Retired rear admirals: retired pay after two years of active duty

Each officer holding a permanent appointment in the grade of rear admiral on the retired list who is entitled to the pay of the lower half of that grade, and who, in time of war or national emergency, serves satisfactorily on active duty for two years in that grade or in a higher grade, is thereafter entitled, when on inactive duty, to retired pay equal to 75 percent of the basic pay of a rear admiral in the upper half of that grade.

§ 6488. Wartime appointments or promotions: retention of grade upon release from active duty

(a) A retired member of the Regular Navy or the Regular Marine Corps or a member of—

(1) the Naval Reserve;

(2) the Marine Corps Reserve;

(3) the Fleet Reserve; or

(4) the Fleet Marine Corps Reserve;

who, while on active duty, is promoted under section 5787 of this title or appointed under section 5597 of this title, is entitled, upon release from that duty, to the highest grade satisfactorily held under such a promotion or appointment as determined by the Secretary of the Navy.

(b) If a member covered by subsection (a) is later recalled to active duty, he shall, unless otherwise entitled to a higher grade, be recalled in the grade given him under that subsection.

CHAPTER 577.—DEATH BENEFITS; CARE OF THE DEAD

Sec.

6521. Allowance to dependents: designation of beneficiary.

6522. Disposition of effects.

§ 6521. Allowance to dependents: designation of beneficiary

(a) If a member of the Regular Navy, the Regular Marine Corps, the Fleet Reserve, or the Fleet Marine Corps Reserve dies, while on active duty, from injury or disease not the result of his own misconduct, the Paymaster General, upon official notification of the death, shall immediately pay an amount equal to six months' pay at the rate received by the deceased member at the time of his death to the living person highest on the following list:

(1) The surviving spouse of the deceased member.

(2) The child or children of the deceased member.

(3) Any other dependent relative designated by the deceased member.

(4) Any grandchild, parent, brother or sister, or grandparent of the deceased member whom the Secretary of the Navy determines to have been dependent on the deceased member.

(b) The determination of the Secretary as to dependency under subsection (a) (4) is conclusive upon the General Accounting Office.

(c) If a beneficiary dies before he receives the amount under subsection (a), it shall be paid to the next living beneficiary in the order set forth in that subsection.

(d) The Secretary shall prescribe regulations requiring each member having no wife, husband, or child to designate the dependent relative to whom the amount is to be paid upon his death.

(e) This section does not apply to a member appointed under section 5599 of this title.

(f) Payments under this section shall be made from appropriations available for the pay of members of the Navy or the Marine Corps, as appropriate.

§ 6522. Disposition of effects

(a) If money or other personal property of a deceased member of the naval service is in the custody of the Department of the Navy, the Secretary of the Navy shall keep it in safe custody and make a diligent effort to determine and locate the heirs or next of kin of the deceased member. Property remaining unclaimed two years after the death of the member shall be sold, and the proceeds, together with any of his money held in custody, shall be covered into the Treasury.

(b) Within five years after the date the money and proceeds are covered into the Treasury, any claim that is presented therefor supported by competent proof shall be certified to Congress for consideration.

(c) The Secretary shall prescribe regulations for the administration of this section.

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§ 6901. Naval Reserve Officers' Training Corps: administration

(a) The Naval Reserve Officers' Training Corps shall be administered under regulations prescribed by the President. These regulations, as far as practicable, shall conform to chapter 405 of this title. The Secretary of the Navy has the same powers with respect to the Naval Reserve Officers' Training Corps as the Secretary of the Army has with respect to the Reserve Officers' Training Corps.

(b) The authorized strength of the Naval Reserve Officers' Training Corps is 15,400 members, of whom not more than 14,000 may be enrolled in the Navy and Marine Corps officer candidate training program under sections 6904, 6905, and 6906 of this title.

(c) A member of the Naval Reserve Officers' Training Corps is eligible for appointment as an officer in the Naval Reserve or the Marine Corps Reserve under the same conditions as any other person.

(d) A member of the Naval Reserve Officers' Training Corps who is disabled from injury, illness, or disease occurring in line of duty while traveling to or from, or while participating in, an authorized practice cruise is entitled, at Government expense, to necessary—

- (1) hospitalization and rehospitalization;
- (2) medical and surgical care and treatment in a hospital or at his home; and
- (3) transportation and subsistence incident to such hospitalization and treatment and to his home upon discharge therefrom.

Hospitalization, care, and treatment shall be extended until the disability cannot be materially improved. The Secretary shall prescribe regulations for the administration of this subsection.

(e) Uniforms, equipment, and material issued to the Naval Reserve Officers' Training Corps may be furnished from surplus or reserve stocks of the Navy without payment.

(f) Expenditures for administration of the Naval Reserve Officers' Training Corps shall be made from appropriations made for that purpose. However, expenditures authorized by subsection (d) shall be made from appropriations available for transportation, medical care, and treatment of naval personnel.

§ 6902. Transfer of graduates of Naval Reserve Officers' Training Corps to Regular Navy

(a) Officers of the Naval Reserve who were appointed from the Naval Reserve Officers' Training Corps may be appointed to the active list in the line of the Navy in such numbers as the President considers necessary.

(b) To be eligible for such an appointment an officer must—

(1) have been under 25 years of age when he first reported for continuous active duty on board a ship of the Navy;

(2) have completed at least one year of continuous active duty on board a ship of the Navy; and

(3) establish his mental, moral, professional, and physical qualifications under such regulations as the Secretary of the Navy prescribes.

(c) Each officer appointed under this section shall be appointed in the same grade that he holds in the Naval Reserve. An officer appointed in the grade of ensign ranks from the date he reported for continuous active duty as an officer of the Naval Reserve. An officer appointed in a grade above ensign ranks from his date of rank in that grade in the Naval Reserve.

(d) While an officer is serving in the grade in which appointed under subsection (a), the requirement of sea service under section 5770 of this title does not apply.

§ 6903. Officer candidate training program: administration; qualifications for enrollment

(a) The officer candidate training program of the Navy and the Marine Corps, supplemental to other procurement programs, shall be administered by the Secretary of the Navy under such regulations as the President prescribes.

(b) To be eligible for enrollment in the officer candidate training program a person must—

(1) be a male citizen of the United States;

(2) contract, with the consent of his parent or legal guardian if he is a minor, with the Secretary or his designated representative, to serve for such period as is required by the program;

(3) agree in writing that he will accept an appointment, if offered, as a commissioned officer in the Regular Navy or the Regular Marine Corps and that, if his commission is terminated before the sixth anniversary of his date of rank, he will accept an appointment, if offered, as a commissioned officer in the Naval Reserve or the Marine Corps Reserve and not resign before that anniversary; and

(4) meet the requirements for appointment under section 6904 or 6906 or for enlistment under section 6905 of this title.

(c) The Secretary may give to any enlisted member of the naval service, or to any person who has had active military or naval service, such advanced standing in the program as may be justified by his education and training.

(d) The Secretary may release any person enrolled in the program and separate him from the naval service when the Secretary considers that the interest of the service so requires.

§ 6904. Officer candidate training program: members enrolled from Naval Reserve Officers' Training Corps; appointment as midshipmen; pay; allowances; commissioning

(a) The Secretary of the Navy may enroll in the officer candidate training program and appoint as a midshipman in the Naval Reserve any eligible member of the Naval Reserve Officers' Training Corps who will be under 25 years of age on June 30 of the calendar year in

which he is eligible under this section for appointment as an ensign in the Regular Navy or as a second lieutenant in the Regular Marine Corps.

(b) Except while on active duty, a midshipman appointed under this section is entitled to retainer pay until the completion of instruction under this section, but for not more than four academic years, at the rate of \$50 a month beginning on the day that he starts his first term of college work under this section.

(c) A midshipman appointed under this section is entitled to the same allowances as are provided for midshipmen at the Naval Academy for—

- (1) initial travel to the college or university in which matriculated;
- (2) travel while under orders; and
- (3) travel on discharge.

However, no allowance for travel on discharge may be paid to a discharged midshipman who continues his scholastic instruction in the same college or university.

(d) Upon satisfactorily completing the academic and naval science requirements of the four-year Naval Reserve Officers' Training Corps course, a midshipman may be appointed to the active list of the Navy in the grade of ensign or to the active list of the Marine Corps in the grade of second lieutenant. Such an appointment to the active list of the Navy may be in the line, the Supply Corps, the Civil Engineer Corps, or the Medical Service Corps.

(e) The date of rank of officers appointed under this section in any year is the date of graduation of midshipmen from the Naval Academy in that year. Selection for appointment in a staff corps under this section shall be made by a board of commissioned officers in the staff corps concerned.

§ 6905. Officer candidate training program: members enrolled as naval aviation officer candidates; instruction; pay; allowances

(a) The Secretary of the Navy may enroll in the officer candidate training program and enlist as a seaman recruit in the Naval Reserve any eligible person who is a high school graduate or has the equivalent education, but who is ineligible under section 6906 of this title for appointment as a midshipman in the Regular Navy, if he will be under 22 years of age on December 31 of the calendar year in which he becomes eligible for appointment as a midshipman under that section. Each seaman recruit so enlisted shall—

- (1) attend an accredited college or university authorized by the Secretary as a regular student until he satisfactorily completes at least two scholastic years; and
- (2) participate in such military or civil aviation training activities as the Secretary prescribes.

(b) Except while on active duty, a seaman recruit enlisted under this section is entitled to retainer pay at the rate of \$50 a month beginning on the day that he starts his first term of college work under this section and ending when his instruction under this section is completed.

(c) A seaman recruit enlisted under this section is entitled to the same allowances as are provided for midshipmen at the Naval Academy for—

- (1) initial travel to the college or university in which matriculated;
- (2) travel while under orders; and
- (3) travel on discharge.

However, no allowance for travel on discharge may be paid to a discharged seaman recruit who continues his scholastic instruction in the same college or university.

§ 6906. Officer candidate training program: naval aviation candidates; appointment as midshipmen; flight training; appointment as ensigns

(a) The Secretary of the Navy may enroll in the officer candidate training program and appoint as a midshipman in the Regular Navy any seaman recruit enlisted under section 6905 of this title who has completed satisfactorily his scholastic work and aviation training. The Secretary may also enroll in the officer candidate training program and appoint as a midshipman in the Regular Navy—

(1) any eligible member of the Naval Reserve Officers' Training Corps who has completed satisfactorily two scholastic years of training;

(2) any other eligible person who has completed satisfactorily at least two scholastic years of work in an accredited college or university; or

(3) any eligible enlisted member of the naval service who shows in a test that he has attained an educational level equivalent to that of two scholastic years of work in an accredited college or university,

if he will be under 22 years of age on December 31 of the calendar year in which appointed.

(b) Upon appointment under this section, a midshipman shall be ordered to flight training. If he completes flight training satisfactorily, he may be designated a naval aviator and ordered to duty involving flying.

(c) While in flight training or on other flight duty, a midshipman appointed under this section is entitled to the same pay and allowances as are provided for midshipmen at the Naval Academy and to an additional amount equal to 50 percent of his pay for duty involving flying. Each such midshipman shall be issued, at Government expense, such uniforms and equipment as the Secretary directs.

(d) After he completes satisfactorily two years of flight training and flight duty, a midshipman appointed under this section may be appointed to the active list of the Navy in the grade of ensign or to the active list of the Marine Corps in the grade of second lieutenant.

(e) The date of rank of officers appointed under subsection (d) in any year is the date of graduation of midshipmen from the Naval Academy in that year.

§ 6907. Officer candidate training program: officers other than naval aviators; retention or transfer to Reserve

(a) When an officer appointed under section 6904 of this title has at least 15 months of satisfactory service as a commissioned officer, he may, on his application, have his appointment on the active list of the Navy or the Marine Corps terminated and may be appointed in the Naval Reserve or in the Marine Corps Reserve, as appropriate, in the same grade and with the same date of rank that he had as a regular officer. In the discretion of the Secretary of the Navy, such a reserve officer may be released from active duty.

(b) During the second quarter of each calendar year, the Secretary shall examine the record of each officer on the active list of the Navy or on the active list of the Marine Corps appointed under section 6904 of this title who—

(1) in that year will have the third anniversary of the acceptance of his appointment; and

(2) applies for retention as a permanent officer before that third anniversary, but not later than March 31 of that year.

(c) From among the officers whose records are so examined the Secretary shall select for retention as many as he considers necessary. The appointment of each officer not selected shall be terminated before July 1 of the calendar year of the third anniversary of the acceptance of his appointment, or not later than that anniversary if it occurs after June 30.

(d) The appointment of each officer on the active list of the Navy or on the active list of the Marine Corps appointed under section 6904 of this title who does not apply for retention under this section shall be terminated not later than the third anniversary of the acceptance of his appointment.

(e) Upon the termination of his appointment under subsection (c) or (d), a person may be appointed a lieutenant (junior grade) in the line or in a staff corps of the Naval Reserve or a first lieutenant in the Marine Corps Reserve, as appropriate, with a date of rank three years after the date of rank of his original commission.

§ 6908. Officer candidate training program: naval aviators; retention or transfer to Reserve

(a) During the second quarter of each calendar year, the Secretary of the Navy shall examine the record of each officer appointed under section 6906 of this title who—

(1) in that year will have the first anniversary of the acceptance of his appointment; and

(2) applies for retention as a permanent officer before that first anniversary, but not later than March 31 of that year.

(b) From among the officers whose records are so examined the Secretary shall select for retention as many as he considers necessary. The appointment of each officer not selected shall be terminated before July 1 of the calendar year of the first anniversary of the acceptance of his appointment, or not later than that anniversary if it occurs after June 30.

(c) The appointment of each officer on the active list of the Navy or on the active list of the Marine Corps appointed under section 6906 of this title who does not apply for retention under this section shall

be terminated not later than the first anniversary of the acceptance of his appointment.

(d) A person who accepts an appointment in a commissioned grade in the Naval Reserve or the Marine Corps Reserve when his regular appointment is terminated under this section may apply for retainer pay. Such an officer may be paid retainer pay at the rate of \$100 for each calendar month, or part thereof, that he attends an accredited college or university as a full-time student, if his instruction in the college or university begins not later than a date fixed by the Secretary. However, no officer may be paid more than \$2,000 under this section.

§ 6909. Direct procurement: qualifications; retention or transfer to Reserve

(a) Appointments to the active list of the Navy in the grade of ensign in the line, the Supply Corps, the Civil Engineer Corps, and the Medical Service Corps and to the active list of the Marine Corps in the grade of second lieutenant may be made from male citizens who are under 25 years of age on June 30 of the calendar year in which appointed and who—

(1) have satisfactorily completed a four-year course at an accredited college or university; or

(2) are enlisted members of the Regular Navy or the Regular Marine Corps who demonstrate in a test that they have attained an educational level equivalent to that of a person who has satisfactorily completed a four-year course at an accredited college or university.

(b) The date of rank of officers appointed under this section in any year is the date of graduation of midshipmen from the Naval Academy in that year. Selection for appointment in a staff corps under this section shall be made by a board of commissioned officers in the staff corps concerned.

(c) When any officer appointed under this section has at least two years of satisfactory service as a commissioned officer, he may, on his application, have his appointment on the active list of the Navy or the active list of the Marine Corps terminated and may be appointed in the Naval Reserve or the Marine Corps Reserve, as appropriate, in the same grade and with the same date of rank that he had as a regular officer. In the discretion of the Secretary of the Navy, such a reserve officer may be released from active duty.

(d) During the second quarter of each calendar year, the Secretary shall examine the record of each officer on the active list of the Navy or on the active list of the Marine Corps appointed under this section who—

(1) in that year will have the third anniversary of the acceptance of his appointment; and

(2) applies for retention as a permanent officer before that anniversary, but not later than March 31 of that year.

(e) From among the officers whose records are so examined the Secretary shall select for retention as many as he considers necessary. The appointment of each officer not selected shall be terminated before July 1 of the calendar year of the third anniversary of the acceptance of his appointment, or not later than that anniversary if it occurs after June 30.

(f) The appointment of each officer on the active list of the Navy or on the active list of the Marine Corps appointed under this section who does not apply for retention under this section shall be terminated not later than the third anniversary of the acceptance of his appointment.

(g) Upon the termination of his appointment under subsection (e) or (f), a person may be appointed a lieutenant (junior grade) in the line or in a staff corps of the Naval Reserve or a first lieutenant in the Marine Corps Reserve, as appropriate, with a date of rank three years after the date of rank of his original commission.

§ 6910. Payment of expenses

The Secretary of the Navy may provide for the payment of all expenses of administering sections 6901 through 6909 of this title, including tuition, fees, books, and laboratory expenses.

§ 6911. Aviation cadets: grade; procurement; transfer

(a) The grade of aviation cadet is a special enlisted grade in the Naval Reserve and the Marine Corps Reserve. Under such regulations as the Secretary of the Navy prescribes, male citizens in civil life may be enlisted in, and male enlisted members of the Naval Reserve and the Marine Corps Reserve may be transferred to, the grade of aviation cadet.

(b) Except in time of war or emergency declared by Congress, at least 20 percent of the aviation cadets procured in each fiscal year shall be procured from qualified enlisted members of the Regular Navy and the Regular Marine Corps who, with their consent, are discharged for the purpose of enlisting as aviation cadets.

(c) No person may be enlisted in or transferred to the grade of aviation cadet unless he agrees in writing, with the consent of his parent or guardian if he is a minor, to serve on active duty for a continuous period of not more than four years, unless sooner released.

(d) Under such regulations as the Secretary prescribes, an aviation cadet may be transferred to another enlisted grade or rating in the Naval Reserve or the Marine Corps Reserve, as appropriate, released from active duty, or discharged.

§ 6912. Aviation cadets: pay and allowances

(a) While on active duty, an aviation cadet—

(1) is entitled to pay at the rate of \$109.20 a month, which includes extra pay for flying:

(2) is entitled to the same allowance for subsistence as prescribed for officers;

(3) shall be furnished quarters, medical care, and hospitalization; and

(4) shall be issued uniforms, clothing, and equipment at Government expense.

(b) While traveling under orders, an aviation cadet is entitled to transportation and other necessary expenses incident to travel, or cash in place thereof, on the same basis as other enlisted members.

(c) Except as provided in subsection (a), aviation cadets or their beneficiaries are entitled to the same allowances, pensions, gratuities, and other benefits as are provided for enlisted members in pay grade E-4.

§ 6913. Aviation cadets: appointment as reserve officers

(a) An aviation cadet who fulfills the requirements of section 6023 (b) of this title may be appointed an ensign in the Naval Reserve or a second lieutenant in the Marine Corps Reserve and designated a naval aviator.

(b) Aviation cadets who complete their training at approximately the same time are considered for all purposes to have begun their commissioned service on the same date, and the decision of the Secretary of the Navy in this regard is conclusive.

§ 6914. Reserve naval aviators: appointment in Regular Navy and Regular Marine Corps; eligibility; grade; rank

(a) The President, by and with the advice and consent of the Senate, may appoint to the active list in the line of the Navy as many officers of the Naval Reserve, and may appoint to the active list of the Marine Corps as many officers of the Marine Corps Reserve, as he considers necessary. To be eligible for an appointment under this section an officer must—

(1) be a naval aviator;

(2) have successfully completed aviation cadet training when he was under 25 years of age;

(3) establish his mental, moral, professional, and physical qualifications under such regulations as the Secretary of the Navy prescribes; and

(4) have completed, on June 30 of the calendar year in which appointed, at least 18 months of continuous active service after he completes his aviation cadet training.

(b) Each officer appointed under this section shall be appointed in the same grade that he holds in the Naval Reserve or the Marine Corps Reserve. An officer appointed in the grade of ensign or second lieutenant ranks from the date he reported for continuous active duty as an officer of the Naval Reserve or the Marine Corps Reserve. An officer appointed in a grade above ensign or above second lieutenant ranks according to his date of rank in that grade in the Naval Reserve or the Marine Corps Reserve, as the case may be.

(c) While an officer is serving in the grade in which appointed under subsection (a), the requirement of sea service under section 5770 of this title does not apply.

§ 6915. Reserve student aviation pilots; reserve aviation pilots: appointments in commissioned grade

(a) Under such regulations as the Secretary of the Navy prescribes, enlisted members of the Naval Reserve and the Marine Corps Reserve may be designated as student aviation pilots.

(b) A member who is not a qualified civilian aviator may not be designated as a student aviation pilot unless he agrees in writing, with the consent of his parent or guardian if he is a minor, to serve on active duty for a period of two years after successfully completing flight training, unless sooner released. Such a student aviation pilot may be released from active duty or discharged at any time by any administrative authority prescribed by the Secretary.

(c) If he is a qualified civilian aviator, a student aviation pilot may be given a brief refresher course in flight training.

(d) While he is in flight training, a student aviation pilot shall have uniforms and equipment issued to him at Government expense.

(e) Under regulations prescribed by the Secretary, a student aviation pilot of the Naval Reserve or the Marine Corps Reserve may be designated an aviation pilot upon successfully completing flight training.

(f) While on active duty, an aviation pilot of the Naval Reserve or the Marine Corps Reserve is entitled to the pay of an enlisted member in pay grade E-5 or that of his grade, whichever is greater.

(g) In time of peace, an aviation pilot who is obligated under subsection (b) to serve on active duty for a period of two years may serve, with his consent, for an additional period of not more than two years.

(h) An aviation pilot of the Naval Reserve or the Marine Corps Reserve may be released from active duty or discharged at any time by any administrative authority prescribed by the Secretary.

(i) An aviation pilot of the Naval Reserve or the Marine Corps Reserve may, if qualified under regulations prescribed by the Secretary, be appointed an ensign in the Naval Reserve or a second lieutenant in the Marine Corps Reserve, as appropriate.

CHAPTER 603.—UNITED STATES NAVAL ACADEMY

Sec.

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§ 6951. Location

The United States Naval Academy shall be located at Annapolis, Maryland.

§ 6952. Civilian teachers: number; compensation

(a) The Secretary of the Navy may employ as many civilians as professors, instructors, and lecturers at the Naval Academy as he considers necessary.

(b) The compensation of persons employed under this section is as prescribed by the Secretary.

(c) The Secretary, to the extent he considers proper, may delegate the authority conferred by this section to any person in the Department of the Navy, with or without the authority to make successive redelegations.

§ 6953. Midshipmen: appointment

Midshipmen at the Naval Academy shall be appointed by the President alone.

§ 6954. Midshipmen: number

(a) There may be at the Naval Academy at any one time midshipmen as follows:

(1) 40 selected in order of merit as established by competitive examination from the sons of members of the armed forces who were killed in action or died of wounds or injuries received or diseases contracted in, or preexisting injury or disease aggravated by, active service—

(A) during World War I or World War II as defined by laws providing service-connected compensation or pension benefits for veterans of those wars and their dependents; or

(B) after June 26, 1950, and before February 1, 1955.

The determination of the Veterans' Administration as to service connection of the cause of death is binding upon the Secretary of the Navy.

(2) Five nominated at large by the Vice President.

(3) Ten from each State, five of whom are nominated by each Senator from that State.

(4) Five nominated by each Representative in Congress.

(5) Five from the District of Columbia, nominated by the Commissioners of that District.

(6) Five from each Territory, nominated by the Delegate in Congress from that Territory.

(7) Six from Puerto Rico, five of whom are nominated by the Resident Commissioner from Puerto Rico and one who is a native of Puerto Rico nominated by the Governor of Puerto Rico.

(8) One nominated by the Governor of the Panama Canal from the sons of civilians residing in the Canal Zone or the sons of civilian personnel of the United States Government, or the Panama Railroad Company, residing in the Republic of Panama.

(b) In addition there may be appointed each year at the Academy midshipmen as follows:

(1) 75 selected by the President from the sons of members of regular components of the armed forces.

(2) 160 nominated by the Secretary of the Navy from enlisted members of the Regular Navy and the Regular Marine Corps.

(3) 160 nominated by the Secretary of the Navy from enlisted members of the Naval Reserve and the Marine Corps Reserve.

(4) 20 nominated by the Secretary of the Navy, under regulations prescribed by him, from the honor graduates of schools designated as honor schools by the Department of the Army, the Department of the Navy, or the Department of the Air Force, and from members of the Naval Reserve Officers' Training Corps.

(c) The President may also appoint as midshipmen at the Academy sons of persons who have been awarded the medal of honor for acts performed while in the armed forces.

§ 6955. Midshipmen: allotment upon redistricting of Congressional Districts

If as a result of redistricting a State the domicile of a midshipman, or a nominee, nominated by a Representative falls within a congressional district other than that from which he was nominated, he is charged to the district in which his domicile so falls. For this purpose, the number of midshipmen otherwise authorized for that district is increased to include him. However, the number as so increased is reduced by one if he fails to become a midshipman or when he is finally separated from the Naval Academy.

§ 6956. Midshipmen: nomination and selection to fill vacancies

(a) The Secretary of the Navy shall, as soon as possible after the first of June of each year, notify in writing each Senator, Representative, and delegate in Congress of any vacancy that will exist at the Naval Academy because of graduation in the following year, or that may occur for other reasons, for which the member or delegate is entitled to nominate a candidate and one or more alternates.

(b) A nomination following notification under subsection (a) shall be made by the fourth of March of the year following that in which notice of the vacancy is given. However, if the candidate dies or declines the nomination, or if the nomination cannot be made by reason of a vacancy in the membership of the Senate or the House of Representatives, the nomination may be made, as determined by the Secretary, not later than the date of the final entrance examination for that year.

(c) Nomination of candidates to fill vacancies for the District of Columbia, and selection of all candidates at large, shall be made by the fourth of March of the year in which the candidates are to enter the Academy.

(d) If the annual quota of midshipmen from—

(1) enlisted men of the Regular Navy and the Regular Marine Corps;

(2) enlisted men of the Naval Reserve and the Marine Corps Reserve; or

(3) at large by the President;

is not filled, the Secretary may fill the vacancies by nominating for appointment other candidates from any of these sources who were found best qualified on examination for admission and not otherwise nominated.

(e) If it is determined that, upon the admission of a new class to the Academy, the number of midshipmen at the Academy will be below the authorized number, the Secretary may fill the vacancies by nominating additional midshipmen from qualified candidates designated as alternates and from other qualified candidates who competed for nomination and are recommended and found qualified by the Academic Board. At least two-thirds of those nominated under this subsection shall be from qualified alternates under clauses (2)-(8) of section 6954 (a) of this title, and the remainder shall be from qualified candidates who competed for appointment under any other provision of law. An appointment of a nominee under this subsection is an additional appointment and is not in place of an appointment otherwise authorized by law.

(f) The failure of a member of a graduating class to complete the course with his class does not delay the appointment of his successor.

§ 6957. Admission of foreigners for instruction: restrictions; conditions

(a) No person from a foreign country may be permitted to receive instruction at the Naval Academy except as authorized by this section.

(b) The Secretary of the Navy may permit persons designated by the President to receive instruction at the Academy as follows:

(1) Not more than 20 at a time from Canada and the American Republics other than the United States.

(2) Not more than four at a time from the Republic of the Philippines.

Of the 20 persons permitted under clause (1) to receive instruction at the Academy at any one time, not more than three may be from the same country.

(c) A person receiving instruction under this section is entitled to the same pay and allowances, to be paid from the same appropriations, as midshipmen.

(d) Except as the Secretary determines, a person receiving instruction under this section is subject to the same regulations governing admission, attendance, discipline, resignation, discharge, dismissal, and graduation, as a midshipman. However, a person receiving instruction under this section is not entitled to an appointment in the Navy or the Marine Corps by reason of his graduation from the Academy.

§ 6958. Midshipmen: qualifications for admission

(a) Each candidate for admission to the Naval Academy—

(1) must be at least 17 years of age and must not have passed his twenty-second birthday on July 1 of the calendar year in which he enters the Academy; and

(2) shall be examined according to such regulations as the Secretary of the Navy prescribes, and if rejected at one examination may not be examined again for admission to the same class unless recommended by the Academic Board.

(b) Each candidate for admission nominated under clauses (3)–(7) of section 6954 (a) of this title must be domiciled in the State or Territory, or in the congressional district, from which he is nominated, or in the District of Columbia or Puerto Rico, if nominated from one of those places.

(c) Each candidate nominated under clause (2) or (3) of section 6954 (b) of this title—

(1) must be a citizen of the United States;

(2) must have served at least one year as an enlisted member on the date of entrance;

(3) must have passed the required physical examination; and

(4) shall be appointed in the order of merit from candidates who have, in competition with each other, passed the required mental examination.

§ 6959. Midshipmen: agreement for length of service

Each midshipman who is a citizen or national of the United States shall sign an agreement that, unless sooner separated, he will—

- (1) complete the course of instruction at the Naval Academy;
- (2) accept an appointment and serve as a commissioned officer of the Regular Navy, the Regular Marine Corps, or the Regular Air Force for at least three years immediately after graduation; and
- (3) accept an appointment as a commissioned officer in the reserve component of the Navy or the Marine Corps or as a Reserve in the Air Force for service in the Air Force Reserve and remain therein until the sixth anniversary of his graduation if an appointment in the regular component of that armed force is not tendered to him or if he is permitted to resign as a commissioned officer of that component before that anniversary.

If the midshipman is a minor and has parents or a guardian, he may sign the agreement only with the consent of the parents or guardian.

§ 6960. Midshipmen: clothing and equipment; uniform allowance

The Secretary of the Navy may prescribe the amount to be credited to a midshipman, upon original admission to the Naval Academy, for the cost of his initial issue of clothing and equipment. That amount shall be deducted from his pay. If a midshipman is discharged before graduation while owing the United States for pay advanced for the purchase of required clothing and equipment, he shall turn in as much of his clothing and equipment of a distinctively military nature as is necessary to repay the amount advanced. If the value of the clothing and equipment turned in does not cover the amount owed, the indebtedness shall be canceled.

§ 6961. Midshipmen: dismissal for best interests of the service

(a) Whenever the Superintendent of the Naval Academy believes that the continued presence of any midshipman at the Academy is contrary to the best interest of the service, he shall report in writing to the Secretary of the Navy a full statement of the facts upon which his belief is based. If the Secretary determines from the report that the Superintendent's belief is well founded, the Secretary shall serve a copy of the report on the midshipman. Within such time as the Secretary considers reasonable, the midshipman shall show cause in writing why he should not be dismissed from the Academy. The Secretary, after consideration of any cause so shown, and with the written approval of the President, may dismiss the midshipman from the Academy and from the naval service.

(b) The truth of any issue of fact raised under subsection (a), except as to the record of demerits, shall be determined by a court of inquiry convened by the Secretary.

§ 6962. Midshipmen: discharge for unsatisfactory conduct or inaptitude

(a) The Superintendent of the Naval Academy shall submit to the Secretary of the Navy in writing a full report of the facts—

- (1) whenever the Superintendent determines that the conduct of a midshipman is unsatisfactory; or

(2) whenever the Academic Board unanimously determines that a midshipman possesses insufficient aptitude to become a commissioned officer in the naval service.

(b) A midshipman upon whom a report is made under subsection (a) shall be given an opportunity to examine the report and submit a written statement thereon. If the Secretary believes, on the basis of the report and statement, that the determination of the Superintendent or of the Academic Board is reasonable and well founded, he may discharge the midshipman from the Naval Academy and from the naval service.

§ 6963. Midshipmen: discharge for deficiency

Midshipmen found deficient at any examination shall, unless the Academic Board recommends otherwise, be discharged from the Naval Academy and from the naval service.

§ 6964. Hazing: definition; prohibition

(a) In this chapter "hazing" means any unauthorized assumption of authority by a midshipman whereby another midshipman suffers or is exposed to any cruelty, indignity, humiliation, hardship, or oppression, or the deprivation or abridgement of any right.

(b) The Superintendent of the Naval Academy shall prescribe regulations, to be approved by the Secretary of the Navy, to prevent hazing.

(c) Hazing is an offense that may be dealt with as an offense against good order and discipline or as a violation of the regulations of the Naval Academy. However, no midshipman may be dismissed for a single act of hazing except by sentence of a court-martial.

(d) The finding and sentence of a court-martial of a midshipman for hazing shall be reviewed in the manner prescribed for general court-martial cases.

(e) A midshipman who is sentenced to imprisonment for hazing may not be confined with men who have been convicted of crimes or misdemeanors.

(f) A midshipman who is dismissed from the Academy for hazing may not be reappointed as a midshipman or be appointed as a commissioned officer in the Army, Navy, Air Force, or Marine Corps until two years after the graduation of the class of which he was a member.

§ 6965. Failure to report violation: dismissal

(a) Each officer stationed at the Naval Academy, each midshipman officer, each midshipman petty officer, and each civilian member of the teaching staff of the Academy shall report promptly to the Superintendent of the Naval Academy any fact that tends to show the commission of hazing or any violation of an Academy regulation by a midshipman.

(b) An officer of the naval service who fails to make a report required by subsection (a) shall be tried by court-martial and if convicted shall be dismissed from the naval service.

(c) A civilian member of the teaching staff of the Academy who fails to make a report required by subsection (a) shall, with the approval of the Secretary of the Navy, be dismissed by the Superintendent.

§ 6966. Course of study

- (a) The course at the Naval Academy is four years.
- (b) The Secretary of the Navy shall arrange the course so that classes will not be held on Sunday.

§ 6967. Degree on graduation

Under regulations prescribed by the Secretary of the Navy, the Superintendent of the Naval Academy may confer the degree of bachelor of science upon graduates of the Academy.

§ 6968. Board of Visitors

(a) A Board of Visitors to the Naval Academy is constituted annually of—

- (1) the chairman of the Committee on Armed Services of the Senate, or his designee;
- (2) three other members of the Senate designated by the Vice President or the President pro tempore of the Senate, two of whom are members of the Committee on Appropriations of the Senate;
- (3) the chairman of the Committee on Armed Services of the House of Representatives, or his designee;
- (4) four other members of the House of Representatives designated by the Speaker of the House of Representatives, two of whom are members of the Committee on Appropriations of the House of Representatives; and
- (5) six persons designated by the President.

(b) The persons designated by the President serve for three years. Two persons shall be designated by him each year to succeed the members whose terms expire that year.

(c) If a member of the Board dies or resigns, a successor shall be designated for the unexpired portion of the term by the official who designated the member.

(d) The Board shall visit the Academy annually. With the approval of the Secretary of the Navy, the Board or its members may make other visits to the Academy in connection with the duties of the Board or to consult with the Superintendent of the Academy.

(e) The Board shall inquire into the state of morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, academic methods, and other matters relating to the Academy that the Board decides to consider.

(f) Within 60 days after its annual visit, the Board shall submit a written report to the President of its action and of its views and recommendations pertaining to the Academy. Any report of a visit, other than the annual visit, shall, if approved by a majority of the members of the Board, be submitted to the President within 60 days after the approval.

(g) Upon approval by the Secretary, the Board may call in advisers for consultation.

(h) While performing his duties, each member of the Board and each adviser is entitled to not more than \$5 a day and shall be reimbursed under Government travel regulations for his travel expenses.

§ 6969. Band: composition

(a) The Naval Academy Band shall be composed of one leader, one second leader, and such enlisted members of the Navy as may be assigned.

(b) The leader of the Naval Academy Band is entitled to the basic pay and allowances of such grade as the Secretary of the Navy prescribes and the second leader is entitled to the basic pay and allowances of an officer in the grade of warrant officer, W-1. They are entitled to be credited for pay purposes with all service that may be credited under section 233 of title 37. In determining years of service for the purpose of retirement, and in determining eligibility for reenlistment bonus, the members who are assigned as leader and second leader shall be treated as if they had not been so assigned.

(c) The enlisted members assigned to the Naval Academy Band shall be distributed in grade substantially the same as in the United States Navy Band.

§ 6970. Storekeeper: detail; returns; inspection of accounts

(a) An officer of the Supply Corps shall be detailed as the storekeeper at the Naval Academy. With the approval of the Secretary of the Navy, he shall procure clothing and other necessary supplies for the midshipmen in the same manner as supplies are procured for the Navy generally. Supplies procured by the storekeeper shall be issued under such regulations as the Secretary prescribes.

(b) Under such regulations as the Secretary prescribes, the storekeeper shall make quarterly returns of the property to the Chief of the Bureau of Supplies and Accounts. The Chief of the Bureau of Supplies and Accounts shall report annually to the Secretary the receipts and expenditures under this section.

(c) The storekeeper's accounts shall be inspected quarterly by the inspector general of the Supply Corps. A report of the inspection, with any recommendation of the inspector general, shall be made to the Chief of the Bureau of Supplies and Accounts.

§ 6971. Midshipmen's store, laundry, barber shop, cobbler shop, tailor shop, and dairy: disposition of funds

(a) Funds collected from the operation of the midshipmen's store, including the barber shop, cobbler shop, and tailor shop at the Naval Academy, and the Academy dairy shall be deposited in the Treasury and are available for operating expenses of these activities and for such other expenditures as the Superintendent of the Naval Academy considers necessary in the interest of the health, comfort, and education of the midshipmen. The Superintendent shall account quarterly to the Bureau of Supplies and Accounts for all receipts and expenditures under this subsection.

(b) Funds collected from the operation of the Academy laundry shall be accounted for as public funds and are available for the maintenance of necessary laundry service for Academy activities and personnel.

§ 6972. Chapel: crypt and window spaces

The crypt and window spaces of the Naval Academy Chapel may be used only for memorials to officers of the Navy who have successfully commanded a fleet or squadron in battle or who have received

the thanks of Congress for conspicuously distinguished services in time of war. No memorial to an officer may be accepted for, or installed in, the crypt or window spaces until at least five years after the death of that officer.

§ 6973. Gifts and bequests: acceptance for benefit of Naval Academy

(a) The Secretary of the Navy may accept, hold, administer, and spend gifts and bequests of personal property made on the condition that it be used for the benefit of, or for use in connection with, the Naval Academy. Gifts and bequests of money and the proceeds from the sales of property received as gifts shall be deposited in the Treasury in the fund called "United States Naval Academy general gift fund". The Secretary may disburse funds deposited under this subsection for the benefit or use of the Naval Academy subject to the terms of the gift or bequest.

(b) For the purpose of Federal income, estate, and gift taxes, property that is accepted under this section is considered as a gift or bequest to or for the use of the United States.

(c) Upon the request of the Secretary of the Navy, the Secretary of the Treasury may invest, reinvest, or retain investments of money or securities comprising any part of the United States Naval Academy general gift fund in securities of the United States or in securities guaranteed as to principal and interest by the United States. The interest and benefits accruing from those securities shall be deposited to the credit of the United States Naval Academy general gift fund and may be disbursed as provided in this section.

§ 6974. Gifts and bequests: acceptance for benefit of museum

(a) The Secretary of the Navy may accept, hold, administer, and spend gifts and bequests of personal property, and loans of personal property other than money, for the benefit of the Naval Academy Museum, its collection, or its services. Gifts or bequests of money shall be deposited in the Treasury in the fund called "United States Naval Academy Museum Fund". The Secretary may disburse funds so deposited for the purposes specified in this section.

(b) For the purpose of Federal income, estate, and gift taxes, property that is accepted under this section is considered as a gift or bequest to or for the use of the United States.

(c) Upon the request of the Secretary of the Navy, the Secretary of the Treasury may invest, reinvest, or retain investments of the money or securities comprising any part of the United States Naval Academy Museum Fund in securities of the United States or in securities guaranteed as to principal and interest by the United States. The interest and benefits accruing from those securities shall be deposited to the credit of the United States Naval Academy Museum Fund and may be disbursed as provided in this section.

CHAPTER 605.—UNITED STATES NAVAL POSTGRADUATE SCHOOL

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§ 7041. Function

There is a United States Naval Postgraduate School for the advanced instruction and technical education of commissioned officers of the naval service in their practical and theoretical duties.

§ 7042. Superintendent; assistants

(a) The Secretary of the Navy shall detail as Superintendent of the Naval Postgraduate School an officer on the active list in the line of the Navy eligible for command at sea not below the grade of captain. The Superintendent has military command of the Postgraduate School.

(b) The Secretary shall detail officers of the Navy and the Marine Corps of appropriate grades and qualifications to assist the Superintendent in—

- (1) the advanced instruction and technical education of students; and
- (2) the administration of the Postgraduate School.

§ 7043. Academic Dean

(a) There is an Academic Dean of the Naval Postgraduate School, appointed from civil life for a term of not more than five years. He shall be appointed by the Secretary of the Navy upon the recommendation of the Postgraduate School Council consisting of the Superintendent, the Deputy Superintendent, and the directors of the technical, administrative, and professional divisions of the school.

(b) The Secretary may fix the compensation of the Academic Dean at not more than \$12,000 a year, to be paid from appropriations for the operation of the Postgraduate School.

§ 7044. Civilian teachers: number; compensation

The Secretary of the Navy may employ as many civilians as he considers necessary to serve at the Naval Postgraduate School under the direction of the Superintendent as senior professors, professors, associate professors, assistant professors, and instructors. The Secretary shall prescribe the compensation of those persons.

§ 7045. Officers of Army, Air Force, and Coast Guard: admission

(a) The Secretary of the Navy may permit officers of the Army, Air Force, and Coast Guard to receive instruction at the Naval Postgraduate School. The numbers and grades of such officers shall be as

agreed upon by the Secretary of the Navy with the Secretaries of the Army, Air Force, and Treasury, respectively.

(b) The Department of the Army, the Department of the Air Force, and the Department of the Treasury shall bear the cost of the instruction received by the students detailed for that instruction by the Secretaries of the Army, Air Force, and Treasury, respectively.

(c) While receiving instruction at the Postgraduate School, officers of the Army, Air Force, and Coast Guard are subject to the same regulations as apply to students who are officers of the naval service.

§ 7046. Officers of foreign countries: admission

(a) The Secretary of the Navy, upon authorization of the President, may permit commissioned officers of the military services of foreign countries to receive instruction at the Naval Postgraduate School.

(b) Officers receiving instruction under this section are subject to the same regulations governing attendance, discipline, discharge, and standards of study as apply to students who are officers of the United States naval service.

(c) No officer of a foreign country is entitled to an appointment in the Navy or the Marine Corps by reason of his completion of the prescribed course of study at the Postgraduate School.

§ 7047. Conferring of degrees on graduates

(a) The Superintendent of the Naval Postgraduate School, under regulations prescribed by the Secretary of the Navy, may confer on any qualified graduate a bachelor's, master's, or doctor's degree in engineering or a related field.

(b) A degree may not be conferred under this section unless the curriculum leading to that degree is accredited by the appropriate professional authority.

CHAPTER 607.—RETIREMENT OF CIVILIAN MEMBERS OF THE TEACHING STAFFS OF THE UNITED STATES NAVAL ACADEMY AND UNITED STATES NAVAL POSTGRADUATE SCHOOL

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7085. Computation of life annuity.

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§ 7081. Civilian member: definition; exceptions

(a) In this chapter "civilian member" means a civilian member of the teaching staff of the United States Naval Academy or the United States Naval Postgraduate School. It includes the Academic Dean of the Postgraduate School, senior professors, professors, associate professors, assistant professors, chief instructors, assistant chief instructors, and instructors.

(b) This chapter does not apply to any civilian member who was employed at the Naval Academy or the Postgraduate School on January 16, 1936, and who did not elect to participate in the benefits provided by the Act of January 16, 1936, ch. 3 (49 Stat. 1092).

§ 7082. Deferred annuity policy required

Each civilian member, as a part of his contract of employment, shall carry, during his employment, a deferred annuity policy, having no cash surrender or loan provision, in a joint-stock life insurance corporation that is incorporated under the laws of a State and has a charter restriction that its business must be conducted without profit to its stockholders.

§ 7083. Annuity premium to be paid by monthly installments; government reimbursement

Each civilian member shall make a monthly allotment in an amount equal to 10 percent of his monthly basic salary through the Chief, Field Branch, Bureau of Supplies and Accounts, toward the purchase of his deferred annuity policy. For each month the allotment is in force, the pay account of the civilian member shall be credited monthly from appropriations made for this purpose with an additional amount equal to 5 percent of his monthly basic salary.

§ 7084. Age of retirement

A civilian member may be retired at any time after his sixty-fifth birthday, and shall be retired by June 30 following that birthday. However, in any special case the Secretary of the Navy may defer the retirement of a member until a date not later than the member's seventieth birthday.

§ 7085. Computation of life annuity

Each civilian member who retires under section 7084 of this title is entitled to a life annuity computed by multiplying his average annual compensation during any five consecutive years of allowable service, at his option, by his number of years of service, not exceeding 35, and dividing the product by 70. The retirement annuity payable to a retired civilian member under a policy required by section 7082 of this title is counted as part of the retirement annuity provided in this section. Any difference between the amount received by the retired civilian member under his annuity policy and the total annual amount to which he is entitled under this section shall be paid to him by the Secretary of the Navy from appropriations made for this purpose.

§ 7086. Physical disability retirement

(a) Each civilian member who has served not less than five years, and who, before reaching the age of 65, becomes totally disabled for useful and efficient service in his position, by reason of disease or injury not due to his own vicious habits, intemperance, or willful misconduct shall, upon his application or upon the request of the Secretary of the Navy, be retired with a life annuity computed under section 7085 of this title.

(b) The amount that the Secretary shall pay annually under this section is the difference between the total amount to which the

retired member is entitled under subsection (a) and the immediate life annuity to which he is entitled at the time of his disability retirement under the annuity policy required by section 7082 of this title.

(c) Each civilian member retired under this section, unless the disability for which he was retired is permanent in character, shall be examined by a board of medical officers designated by the Superintendent of the Naval Academy or of the Postgraduate School, as appropriate, one year after his retirement and annually thereafter, until he becomes 65 years of age.

(d) Payments by the Secretary under this section shall be terminated if the retired civilian member is found to be sufficiently recovered for useful and efficient service in his former position and is offered reemployment in that position by the Superintendent.

(e) If a civilian member retired under this section is later reemployed by the United States, the payments by the Secretary shall be terminated.

(f) Each civilian member retired under this section who is reemployed as a civilian member of the teaching staff of the Naval Academy or the Naval Postgraduate School shall, upon his later retirement, be paid annually by the Secretary the difference between the total annual amount computed under section 7085 of this title and the immediate life annuity which the total premiums paid on his annuity contracts would buy.

(g) No person may receive payments from the Secretary of the Navy under this chapter and, for the same period of time, compensation under sections 751-756, 757-791, and 793 of title 5.

§ 7087. Election of annuity for self and beneficiary

(a) At the time of his retirement, a civilian member retiring under this chapter may elect to receive instead of the amount payable annually by the Secretary of the Navy under section 7085 or 7086 of this title a reduced annuity for his life and an annuity payable after his death to his beneficiary in either—

(1) an amount equal to his reduced annuity; or

(2) an amount equal to 50 percent of his reduced annuity.

The annuities payable to principal and beneficiary, under either election, shall be in amounts that have, on the date of the retirement of the civilian member, a combined actuarial value equal to the actuarial value of the annuity payable by the Secretary under section 7085 or 7086 of this title, as determined under actuarial tables prepared by the Civil Service Commission.

(b) If the civilian member elects to take a reduced annuity under this section, he shall, at the time of his retirement, designate the beneficiary in writing and file the designation with the Secretary.

(c) The annuity payable under this section to the beneficiary of a deceased civilian member shall be terminated upon the death of the beneficiary.

§ 7088. Regulations

The Secretary of the Navy shall prescribe regulations for the administration of this chapter.

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§ 7201. Guided missiles: research and development, procurement, and construction

The Secretary of the Navy may—

- (1) conduct research and development relating to guided missiles; and
- (2) procure and construct guided missiles.

§ 7202. Emergency and extraordinary expenses

(a) Within the limits of appropriations made for the purpose, the Secretary of the Navy may provide for any emergency or any extraordinary expense that arises in the Department of the Navy and that cannot be anticipated or classified. When it is so provided in such an appropriation, the funds may be spent on approval or authority of the Secretary for any purpose he determines to be proper, and such a determination is final and conclusive upon the accounting officers of the United States. The Secretary may certify the amount of any such expenditure that he considers advisable not to specify, and his certificate is a sufficient voucher for the expenditure of that amount.

(b) The Secretary, to the extent he considers proper, may delegate the authority conferred by this section to any person in the Department of the Navy, with or without the authority to make successive redelegations.

§ 7203. Scientific investigation and research

(a) The Secretary of the Navy may make such expenditures as he considers appropriate for scientific investigations and research from any naval appropriation available for those purposes.

(b) The Secretary, to the extent he considers proper, may delegate the authority conferred by this section to any person in the Department of the Navy, with or without the authority to make successive redelegations.

§ 7204. Schools near naval activities: financial aid; transportation of dependents

(a) The Secretary of the Navy may—

(1) contribute, out of funds specifically appropriated for the purpose, to the support of schools in any locality where a naval activity is located if he finds that the schools available in the locality are inadequate for the welfare of the dependents of—

- (A) members of the naval service;
- (B) civilian officers and employees of the Department of the Navy;
- (C) members of the Coast Guard when it is operating as a service in the Navy; and
- (D) members of the Coast and Geodetic Survey serving with the Navy;

who are stationed at the activity; and

(2) provide for the transportation of these dependents between the schools and the activity when the schools are not accessible by regular means of transportation.

(b) The Secretary, to the extent he considers proper, may delegate the authority conferred by this section to any person in the Department of the Navy, with or without the authority to make successive redelegations.

§ 7205. Promotion of health and prevention of accidents

(a) The Secretary of the Navy may make such expenditures as he considers appropriate to prevent accidents and to promote the safety and occupational health of—

- (1) members of the naval service on active duty;
- (2) civilian officers and employees of the Department of the Navy;
- (3) members of the Coast Guard when it is operating as a service in the Navy; and
- (4) members of the Coast and Geodetic Survey serving with the Navy.

The expenditures may include payments for clothing, equipment, and other materials necessary for the purposes of this section. Any appropriation available for the activities in which the personnel are engaged shall be available for these purposes.

(b) The Secretary, to the extent he considers proper, may delegate the authority conferred by this section to any person in the Department of the Navy, with or without the authority to make successive redelegations.

§ 7206. Minor construction and extension of structures

(a) The Secretary of the Navy may spend out of naval appropriations available for construction or maintenance such amounts as are required at naval activities for—

- (1) minor construction, except living quarters;
- (2) extensions to existing structures; and
- (3) improvements.

(b) Unless otherwise provided by law, not more than \$20,000 may be spent under this section for any one project.

(c) The Secretary, to the extent he considers proper, may delegate the authority conferred by this section to any person in the Department of the Navy, with or without the authority to make successive redelegations.

§ 7207. Administration of liberated and occupied areas

(a) The Secretary of the Navy may, out of any appropriation made for the purpose, provide for the administration of liberated and occupied areas by the Department of the Navy.

(b) The Secretary, to the extent he considers proper, may delegate the authority conferred by this section to any person in the Department of the Navy, with or without the authority to make successive redelegations.

§ 7208. Latin American cooperation

(a) The Secretary of the Navy may, out of any appropriation made for the purpose, provide for the expenses of travel, subsistence, and special compensation of officers and students of Latin American countries and other expenses that the Secretary considers necessary for Latin American cooperation.

(b) The Secretary, to the extent he considers proper, may delegate the authority conferred by this section to any person in the Department of the Navy, with or without the authority to make successive redelegations.

§ 7209. Rewards for recovery of missing naval property

(a) The Secretary of the Navy may, out of any appropriation made for the purpose, provide for the payment of a reward of not more than \$500 in any one case for information leading to the discovery of missing naval property or to its recovery.

(b) The Secretary, to the extent he considers proper, may delegate the authority conferred by this section to any person in the Department of the Navy, with or without the authority to make successive redelegations.

§ 7210. Purchase of patents, patent applications, and licenses

(a) The Secretary of the Navy may buy letters patent, applications for letters patent, and licenses under either letters patent or applications for letters patent. The purchases shall be made from appropriations available for the purchase or manufacture of the equipment or material to which the purchased letters patent, applications, or licenses pertain.

(b) The Secretary, to the extent he considers proper, may delegate the authority conferred by this section to any person in the Department of the Navy, with or without the authority to make successive redelegations.

§ 7211. Attendance at meetings of technical, professional, or scientific organizations

(a) The Secretary of the Navy may authorize—

(1) members of the naval service on active duty;

(2) civilian officers and employees of the Department of the Navy;

(3) members of the Coast Guard when it is operating as a service in the Navy; and

(4) members of the Coast and Geodetic Survey serving with the Navy;

to attend meetings of technical, professional, scientific, and similar organizations, if the Secretary believes that their attendance will benefit the Department. The personnel may be reimbursed for their expenses at the rates prescribed by law.

(b) The Secretary, to the extent he considers proper, may delegate the authority conferred by this section to any person in the Department of the Navy, with or without the authority to make successive redelegations.

§ 7212. Employment of outside architects and engineers

(a) Whenever the Secretary of the Navy believes that the existing facilities of the Department of the Navy are inadequate and he considers it advantageous to national defense, he may employ, by contract or otherwise, without advertising and without reference to sections 1071-1153 of title 5, architectural or engineering corporations, or firms, or individual architects or engineers, to produce designs, plans, drawings, and specifications for the accomplishment of any naval public works or utilities project or for the construction of any vessel or aircraft, or part thereof.

(b) The fee for any service under this section may not exceed 6 percent of the estimated cost, as determined by the Secretary, of the project to which the fee applies.

§ 7213. Relief of contractors and their employees from losses by enemy action

The Secretary of the Navy may use funds appropriated for the construction of public works for the temporary relief of contractors and their employees from losses resulting directly from enemy action.

§ 7214. Apprehension of deserters and prisoners; operation of shore patrols

(a) The Secretary of the Navy may make such expenditures out of available appropriations as he considers necessary to—

- (1) apprehend and deliver deserters, stragglers, and prisoners; and
- (2) operate shore patrols.

(b) The Secretary, to the extent he considers proper, may delegate the authority conferred by this section to any person in the Department of the Navy, with or without the authority to make successive redelegations.

§ 7215. Naval prisons, prison farms, and prisoners

(a) The Secretary of the Navy may provide for—

- (1) the maintenance and operation of naval prisons and prison farms; and
- (2) the subsistence, welfare, recreation, and education of naval prisoners.

(b) The Secretary, to the extent he considers proper, may delegate the authority conferred by this section to any person in the Department of the Navy, with or without the authority to make successive redelegations.

§ 7216. Collection, preservation, and display of captured flags

The Secretary of the Navy shall collect all flags, standards, and colors taken by the Navy or the Marine Corps from enemies of the United States. These flags, standards, and colors shall be delivered to the President. Under his direction they shall be preserved and displayed in any public place he considers proper.

§ 7217. Annual report to Congress: appropriations

The Secretary of the Navy shall send annually to Congress a report of the appropriations for the Department of the Navy for the preceding fiscal year showing as to each head—

- (1) the amount appropriated;
- (2) the amount spent;
- (3) the amount remaining unspent at the end of the fiscal year; and
- (4) estimate of probable demands.

§ 7218. Recognition for accomplishments, special service, and good conduct

(a) The Secretary of the Navy may—

- (1) award medals, trophies, badges, and cash prizes to members of the naval service or to groups of such members for excellence in accomplishments related to the naval service;

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(2) enter members of the naval service in competitions; and
 (3) provide badges or buttons in recognition of special service, good conduct, and discharge under conditions other than dishonorable.

(b) The Secretary has the same authority with respect to members of the Coast Guard when the Coast Guard is operating as a service in the Navy, and with respect to members of the Coast and Geodetic Survey serving with the Navy, as subsection (a) provides with respect to members of the naval service.

(c) The Secretary, to the extent he considers proper, may delegate the authority conferred by this section to any person in the Department of the Navy, with or without the authority to make successive redelegations.

§ 7219. Leases of waterfront property from States or municipalities

In leasing waterfront property from a State or municipality, the Secretary of the Navy may provide in the lease, where it is required by state law or municipal charter, that, as part or all of the consideration, any improvements placed upon the property by the United States become the property of the lessor when the lease, including any renewal, ends.

§ 7220. Gifts for welfare of enlisted members

The Secretary of the Navy may accept gifts for use in providing recreation, amusement, and contentment for enlisted members of the naval service. The fund "Ships' Stores Profits, Navy" shall be credited with these gifts.

§ 7221. Acceptance and care of gifts to vessels

The Secretary of the Navy may accept and care for such gifts of silver, colors, books, or other articles of equipment or furniture as, in accordance with custom, are made to vessels of the Navy. Necessary expenses incident to the care of gifts that are accepted shall be paid from the appropriation for the maintenance and operation of vessels.

§ 7222. Office of Naval Records and History gift fund

(a) The Secretary of the Navy may accept, hold, and administer gifts and bequests of personal property, and loans of personal property other than money, for the benefit of the Office of Naval Records and History, its collection, or its services. Gifts or bequests of money shall be deposited in the Treasury in a trust fund called "Office of Naval Records and History Fund."

(b) For the purpose of Federal income, estate, and gift taxes, property that is accepted under this section is considered as a gift or bequest to or for the use of the United States.

(c) Upon the request of the Secretary of the Navy, the Secretary of the Treasury may invest or reinvest all or any part of the funds deposited under this section in securities of the United States or in securities guaranteed by the United States. The interest accruing from these securities shall be deposited to the credit of the Office of Naval Records and History Fund.

§ 7223. Acquisition of land for radio stations and for other purposes

Land of the United States that is under the control of any department or agency of the United States may be mutually selected as a site for a naval radio station by the Secretary of the Navy and the head of the department or agency having control of the land. By direction of the President, land so selected may be transferred to and placed under the jurisdiction of the Department of the Navy for use as a naval radio station or for any other naval purpose.

§ 7224. Transportation on naval vessels during wartime

In time of war or during a national emergency declared by the President, such persons as the Secretary of the Navy authorizes by regulation may be transported and subsisted on naval vessels at Government expense.

§ 7225. Naval Reserve flag

The Secretary of the Navy shall prescribe a suitable flag to be known as the Naval Reserve flag. This flag may be flown by a sea-going merchant vessel if—

- (1) the vessel is documented under the laws of the United States;
- (2) the vessel has been designated by the Secretary, under such regulations as he prescribes, as suitable for service as a naval auxiliary in time of war; and
- (3) the master or commanding officer and at least half of the other licensed officers of the vessel are members of the Navy.

§ 7226. Naval Reserve yacht pennant

The Secretary of the Navy shall prescribe a suitable pennant to be known as the Naval Reserve yacht pennant. This pennant may be flown by a yacht or similar vessel if—

- (1) the vessel is documented under the laws of the United States;
- (2) the vessel has been designated by the Secretary, under such regulations as he prescribes, as suitable for service as a naval auxiliary in time of war; and
- (3) the captain or owner of the vessel is a member of the Navy.

§ 7227. Foreign naval vessels: supplies and services

(a) The Secretary of the Navy, under such regulations as he prescribes, may furnish to foreign naval vessels at ports and naval bases of the United States—

(1) routine port services, including pilotage, tugs, garbage removal, line handling, and utilities, on a reimbursable basis without an advance of funds if such services are furnished on a like basis to United States naval vessels at ports and naval bases of the country concerned;

(2) miscellaneous supplies, including fuel, provisions, spare parts, and general stores, on a reimbursable basis without an advance of funds if a prior agreement conferring reciprocal rights on the United States and covering the reimbursement therefor has been made with the country concerned; and

(3) supplies and services, including overhauling, repairs, alterations, and installation of equipment, if funds to cover the estimated cost thereof have been made available in advance.

(b) Payments for the supplies and services furnished under clauses (1) and (2) of subsection (a) may be credited to current appropriations so as to be available for the same purposes as the appropriation initially charged.

§ 7228. Merchant vessels: supplies

(a) The Secretary of the Navy, under such regulations as he prescribes, may sell to a merchant ship such fuel and other supplies as may be required to meet its necessities if the ship is unable—

(1) to procure the supplies from other sources at its present location; and

(2) to proceed to the nearest port where they may be obtained without endangering the safety of the ship, the health and comfort of its personnel, or the safe condition of the property carried on it.

(b) Sales under this section shall be at such prices as the Secretary considers reasonable. Payment shall be made on a cash basis or on such other basis as will reasonably assure prompt payment. Amounts received from such a sale shall, unless otherwise directed by another provision of law, be credited to the current appropriation concerned and are available for the same purposes as that appropriation.

§ 7229. Purchase of fuel

In buying fuel, the Secretary of the Navy may, in any manner he considers proper, buy the kind of fuel that is best adapted to the purpose for which it is to be used.

CHAPTER 633.—NAVAL VESSELS

Sec.

7291. Classification.

7292. Naming.

7293. Number in service in time of peace.

7294. Suspension of construction in case of treaty.

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7300. Contracts for construction: profit limitation.

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7302. Construction on Pacific Coast.

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7305. Sale of vessel stricken from Naval Vessel Register.

7306. Use for experimental purposes.

7307. Restriction on disposal.

7308. Transfer or gift of obsolete, condemned, or captured vessels.

§ 7291. Classification

The President may establish, and from time to time modify, as the needs of the service require, a classification of naval vessels.

§ 7292. Naming

(a) Not more than one vessel of the Navy may have the same name.

(b) Each battleship shall be named for a State. However, if the

names of all the States are in use, a battleship may be named for a city, place, or person.

(c) The Secretary of the Navy may change the name of any vessel bought for the Navy.

§ 7293. Number in service in time of peace

In time of peace, the President may keep in service such vessels of the Navy as are required and keep the rest in reserve.

§ 7294. Suspension of construction in case of treaty

In case of a treaty for the limitation of naval armament to which the United States is a signatory, the President may suspend so much of the authorized naval construction as is necessary to bring the naval vessels of the United States within the limitations agreed upon. Such a suspension does not apply to vessels under construction at the time the suspension is made.

§ 7295. Vessels: under-age

Vessels of the following types are considered under-age for the period after completion indicated below:

- (1) Battleships—26 years.
- (2) Aircraft carriers—20 years.
- (3) Cruisers—20 years.
- (4) Submarines—13 years.
- (5) Other combatant surface vessels—16 years.

§ 7296. Appropriations: available for other purposes

Appropriations available for the construction or conversion of vessels or their machinery, armament, and equipment may be used for any of those purposes. These appropriations for auxiliary vessels may also be used for acquisition of those vessels.

§ 7297. Changing category or type: limitations

Unless they have been specifically made available for the purpose, funds appropriated for the repair or alteration of naval vessels may not be used to make repairs or alterations of any vessel that would change its category or type.

§ 7298. Conversion of combatants and auxiliaries

To improve the military characteristics of combatant and auxiliary naval vessels, the President may convert such vessels as he considers best suited for national defense, without limitation on expenditures for any one vessel, but within the total sum appropriated for conversion of vessels.

§ 7299. Contracts: application of Public Contracts Act

Each contract for the construction, alteration, furnishing, or equipping of a naval vessel is subject to the Act of June 30, 1936, ch. 881 (48 Stat. 2036), before amendment, unless the President determines that this requirement is not in the interest of national defense.

§ 7300. Contracts for construction: profit limitation

(a) The Secretary of the Navy may not contract for the construction or manufacture of all or part of any complete naval vessel, unless the contractor agrees—

(1) to report under oath to the Secretary, when the contract is completed, as prescribed in subsection (b);

(2) to pay any excess profit into the Treasury;

(3) to make no division of any contract or subcontract for the same article for the purpose of evading this section;

(4) that the books and manufacturing spaces of its plant, affiliates, and divisions may at any time be audited and inspected, respectively, by any person designated by the Secretary of the Navy, the Secretary of the Treasury, or an authorized committee of Congress; and

(5) to make no subcontract unless the subcontractor agrees to the conditions set forth in this subsection.

(b) The report required under subsection (a) (1) shall be in the form prescribed by the Secretary of the Navy. It shall state the total contract price, the cost of performing the contract, the net profit or loss, and the percentage of the contract price that is net profit or loss. A copy shall be sent to the Secretary of the Treasury to be considered with the Federal income tax returns of the contractor.

(c) For the purposes of this section, "excess profit" means so much of the profits as the Secretary of the Treasury determines to be greater than 10 percent of the total contract price for contracts covered by this section and completed by a contractor or a subcontractor within the taxable year. The method of computing excess profits shall be determined by the Secretary of the Treasury in agreement with the Secretary of the Navy. It shall be made available to the public.

(d) When an excess profit is found owing, the Secretary of the Treasury shall allow credit for any Federal income taxes paid or to be paid on the excess profit. If a contractor or subcontractor has a net loss on the aggregate of contracts or subcontracts covered by this section and completed in a taxable year, the deficiency shall be allowed as a credit against any excess profit for the next taxable year.

(e) When paid into the Treasury, an excess profit becomes the property of the United States. The surety under the contract is not liable for its payment.

(f) This section applies to any division of a contract or subcontract covered by this section.

(g) This section does not apply to—

(1) a contract or subcontract for scientific equipment for communications, target detection, navigation, or fire control if the Secretary of the Navy designates the contract or subcontract for exemption; or

(2) a contract or subcontract, or division thereof, if the amount involved is \$10,000 or less.

§ 7301. Bids on construction: estimates required

(a) When advertising for bids for the construction of any naval vessel, the Secretary of the Navy shall require each bidder to file with his bid the estimates on which the bid is based.

(b) The Secretary, to the extent he considers proper, may delegate the authority conferred by this section to any person in the Department of the Navy, with or without the authority to make successive redelegations.

§ 7302. Construction on Pacific Coast

The Department of the Navy shall have constructed on the Pacific Coast of the United States such vessels as the President determines necessary to maintain shipyard facilities there adequate to meet the requirements of national defense.

§ 7303. Model Basin; investigation of hull designs

(a) The Bureau of Ships shall conduct at the David W. Taylor Model Basin, Carderock, Maryland, investigations to determine the most suitable shapes and forms for United States vessels and aircraft and investigations of other problems of their design.

(b) The Secretary of the Navy may authorize experiments to be made at the Model Basin for private persons. The costs of experiments made for private persons shall be paid by those persons under regulations prescribed by the Secretary. The results of private experiments are confidential and may not be divulged without the consent of the persons for whom they are made. However, the data obtained from such experiments may be used by the Secretary for governmental purposes, subject to the patent laws of the United States.

§ 7304. Examination by board; unfit vessel stricken from Naval Vessel Register

(a) The Secretary of the Navy shall designate boards of naval officers to examine vessels of the Navy. Each vessel shall be examined by a board at least once every three years, if practicable.

(b) When a board, in conducting an examination under this section, finds that any vessel is unfit for service or that an unfinished vessel in any naval shipyard cannot be finished without disproportionate expense, it shall submit a written report to the Secretary stating fully the reasons for its opinion. If the Secretary concurs, he shall strike the name of that vessel from the Naval Vessel Register.

§ 7305. Sale of vessel stricken from Naval Vessel Register

(a) This section does not apply to a vessel the disposal of which is authorized by the Federal Property and Administrative Services Act of 1949, as amended (40 U. S. C. 471 et seq.), if it is to be disposed of under that Act.

(b) The Secretary of the Navy shall appraise each vessel stricken from the Naval Vessel Register under section 7304 of this title. If he considers that the sale of the vessel is in the best interest of the United States, he shall advertise it for sale.

(c) The advertisement shall ask for sealed bids for the purchase of the vessel and shall be published for at least three months in newspapers used by the Department of the Navy for other advertisements. It shall—

- (1) state the name, location, and appraised value of the vessel to be sold;

(2) state the day, hour, and place for the opening of the bids;
 (3) state that the sale will be for cash to the bidder submitting the highest bid above the appraised value of the vessel; and

(4) specify the period of time, after the opening of the bids, within which the successful bidder will be required to pay the remaining 90 percent of the amount bid by him.

(d) The Secretary shall—

(1) require that each bid be accompanied by a cash deposit of not less than 10 percent of the amount of the bid; and

(2) require that each bid be accompanied by a bond, with two or more sureties to be approved by him, conditioned on the payment of the remaining 90 percent within the time specified in the advertisement.

(e) The bids shall be opened at the time and place stated in the advertisement, and a record shall be made of them.

(f) If the bidder whose bid is accepted defaults in the payment of all or part of the remaining 90 percent of the amount of his bid within the time specified, his cash deposit of 10 percent of that amount shall be forfeited to the United States and the Secretary shall advertise the vessel again and resell it in the manner prescribed in this section.

(g) The cash deposit forfeited by a defaulting bidder shall be applied, first, to the payment of the expenses of the advertisement and resale of the vessel and, second, to the payment of the difference, if any, between the amount bid by the defaulting bidder and the amount for which the vessel is resold. Any balance remaining shall be covered into the Treasury.

(h) This section does not prevent a suit for breach of any condition of a bond furnished by a bidder.

(i) Each vessel sold as prescribed in this section shall be delivered to the purchaser upon full payment to the Secretary of the amount bid.

(j) The net proceeds of each sale under this section shall be covered into the Treasury.

(k) A sale under this section of a vessel the disposal of which is authorized by the Federal Property and Administrative Services Act of 1949, as amended (40 U. S. C. 471 et seq.), is subject to regulations under section 205 of that Act (40 U. S. C. 486).

(l) Except as otherwise provided by law, no vessel of the Navy may be sold in any other manner than that provided by this section, or for less than its appraised value, unless the President so directs in writing.

§ 7306. Use for experimental purposes

(a) The Secretary of the Navy, with the approval of the President, may use for experimental purposes any vessel stricken from the Naval Vessel Register under section 7304 of this title, if he determines that it is in the best interest of the United States.

(b) The Secretary shall make an annual report to Congress of all vessels used for experimental purposes under this section.

§ 7307. Restriction on disposal

(a) Notwithstanding any other provision of law, no battleship, aircraft carrier, cruiser, destroyer, or submarine of the Navy may be

sold, transferred, or otherwise disposed of, unless the Chief of Naval Operations certifies that it is not essential to the defense of the United States.

(b) Without authority from Congress granted after March 10, 1951, no battleship, aircraft carrier, cruiser, destroyer, or submarine that has not been stricken from the Naval Vessel Register under section 7304 of this title, nor any interest of the United States in such a vessel, may be sold, transferred, or otherwise disposed of under any law.

§ 7308. Transfer or gift of obsolete, condemned, or captured vessels

(a) Subject to section 474 of title 40, the Secretary of the Navy may transfer by gift or otherwise, on terms prescribed by him, any obsolete or condemned vessel of the Navy or any captured vessel in the possession of the Department of the Navy to—

(1) any State, Territory, Commonwealth, or possession of the United States, or any municipal corporation or political subdivision thereof;

(2) the District of Columbia or the Canal Zone; or

(3) any corporation or association whose charter or articles of agreement denies it the right to operate for profit.

(b) Each agreement for the transfer of a vessel under this section shall include a stipulation that—

(1) the transferee will maintain the vessel in a condition satisfactory to the Department of the Navy; and

(2) no expense to the United States will result from the transfer.

(c) No transfer under this section takes effect unless—

(1) notice of the proposal to make the transfer is sent to Congress;

(2) 60 calendar days of continuous session of Congress have expired after the notice is sent to Congress; and

(3) during that 60-day period Congress does not pass a concurrent resolution stating in substance that it does not favor the proposed transfer.

CHAPTER 635.—NAVAL AIRCRAFT

Sec.

7341. Airplanes and lighter-than-air craft: authorized number.

7342. Percentage required to be constructed or manufactured in United States plants.

7343. Manufacture in United States plants under certain circumstances.

7344. Suspension of construction in case of treaty.

§ 7341. Airplanes and lighter-than-air craft: authorized number

(a) The President may acquire, construct, or manufacture naval airplanes, spare parts, and equipment necessary to provide and maintain 15,000 useful naval airplanes. However, if in the judgment of the Secretary of the Navy the number of airplanes authorized in this section is insufficient to meet the needs of the national defense, the Secretary may, with the approval of the President, make such plans for procurement as the situation demands.

(b) The President may acquire, construct, or manufacture lighter-than-air craft, spare parts, and equipment necessary to provide and maintain 200 useful lighter-than-air craft.

(c) In this section "useful naval airplanes" or "useful lighter-than-air craft" means those airplanes or lighter-than-air craft, as the case may be, on the Navy list that are, or after reasonable repair can be made, in all respects safe to fly and fitted to take part in active military operations in time of war. The terms exclude those airplanes or aircraft classified as experimental or, with the approval of the Secretary, declared obsolete.

§ 7342. Percentage required to be constructed or manufactured in United States plants

(a) At least 10 percent of the aircraft and aircraft engines procured for the naval service in any year shall be constructed or manufactured in plants owned and operated by the United States.

(b) In order not to curtail procurement of naval aircraft and engines, this section is inapplicable when the Secretary of the Navy determines that plants owned and operated by the United States are producing to the limit of their capacity.

§ 7343. Manufacture in United States plants under certain circumstances

The President may construct or manufacture at any plant owned and operated by the United States any naval aircraft, or the engines, spare parts, or equipment for any such aircraft, if it reasonably appears that the persons, firms, or corporations, or the agents thereof, who are bidding on the construction or manufacture of any of these items—

(1) have entered into a combination, agreement, or understanding, the effect or purpose of which is to deprive the United States of fair, open, and unrestricted competition in letting contracts for the construction or manufacture of any of the aircraft, engines, spare parts, or equipment; or

(2) being solely or peculiarly in position to construct, manufacture, or furnish the particular type or design of aircraft, engines, spare parts, or equipment required by the Department of the Navy, have named a price in excess of cost of production plus a reasonable profit as provided in section 2382 of this title.

§ 7344. Suspension of construction in case of treaty

In case of a treaty for the limitation of naval armament to which the United States is a signatory, the President may suspend so much of the authorized naval construction as is necessary to bring the naval aircraft of the United States within the limitations agreed upon. Such a suspension does not apply to aircraft under construction at the time the suspension is made.

CHAPTER 637.—SALVAGE FACILITIES

Sec.

7361. Naval salvage facilities: contracts for commercial facilities.

7362. Commercial use of naval facilities.

7363. Transfer of equipment: contract provisions.

7364. Advancement of funds for salvage operations.

7365. Settlement of claims.

7366. Limitation on appropriations.

7367. Disposition of receipts.

§ 7361. Naval salvage facilities: contracts for commercial facilities

(a) The Secretary of the Navy may provide, by contract or otherwise, necessary salvage facilities for public and private vessels upon such terms as he determines to be in the best interest of the United States.

(b) The Secretary shall submit to the Secretary of Commerce for recommendation and comment each proposed contract for salvage facilities that affects the interests of the Department of Commerce.

(c) Term contracts for salvage facilities may be made under this section only if—

(1) the Secretary of the Navy determines that available commercial salvage facilities are inadequate to meet the requirements of national defense; and

(2) public notice of the intention to enter into the contracts has been given in a manner and for a period that will, in the Secretary's judgment, provide the maximum competition for such contracts among commercial salvage organizations.

§ 7362. Commercial use of naval facilities

The Secretary of the Navy may acquire or transfer, by charter or otherwise, for operation by private salvage companies, such vessels and equipment as he considers necessary.

§ 7363. Transfer of equipment: contract provisions

Before any salvage vessel or salvage gear is sold, chartered, leased, lent, or otherwise transferred by the Department of the Navy to any private party, the transferee must agree in writing with the Department that the vessel or gear will be used to support organized offshore salvage facilities for a period of as many years as the Secretary considers appropriate. The agreement shall contain such other provisions as the Secretary considers appropriate to assure the fulfillment of the undertaking.

§ 7364. Advancement of funds for salvage operations

The Secretary of the Navy may advance to private salvage companies such funds as he considers necessary to provide for the immediate financing of salvage operations. These advances shall be made on terms that the Secretary considers adequate for the protection of the United States.

§ 7365. Settlement of claims

The Secretary of the Navy, or his designee, may consider, ascertain, adjust, determine, compromise, or settle and receive payment of any claim by the United States for salvage services rendered by the Department of the Navy to any vessel.

§ 7366. Limitation on appropriations

Not more than \$3,000,000 may be appropriated annually for the administration of this chapter.

§ 7367. Disposition of receipts

Money received under this chapter shall be credited to appropriations for maintaining salvage facilities by the Department of the Navy. However, if the amount received in any year exceeds the cost incurred by the Navy during that year in giving and maintaining salvage services, the excess shall be covered into the Treasury.

CHAPTER 639.—HYDROGRAPHIC OFFICE AND NAVAL OBSERVATORY

Sec.

7391. Hydrographic Office: establishment and duties.

7392. Hydrographic Office: maps, charts, and books.

7393. Hydrographic Office: pilot charts.

7394. Price of maps, charts, and nautical books.

7395. Naval Observatory: administration.

7396. Naval Observatory: exchange of information with foreign offices.

§ 7391. Hydrographic Office: establishment and duties

There is attached to the Office of the Chief of Naval Operations a Hydrographic Office. The Hydrographic Office shall improve means of navigating vessels of the Navy and the merchant marine by providing, under the authority of the Secretary of the Navy, accurate and inexpensive nautical charts, sailing directions, books on navigation, and manuals of instructions for the use of all vessels of the United States and of navigators generally.

§ 7392. Hydrographic Office: maps, charts, and books

The Secretary of the Navy, under such regulations as he prescribes, may—

- (1) have the Hydrographic Office prepare maps, charts, and nautical books required in navigation and have such materials published and furnished to navigators; and
- (2) buy the plates and copyrights of existing maps, charts, books on navigation, and sailing directions and instructions.

§ 7393. Hydrographic Office: pilot charts

(a) There shall be conspicuously printed on pilot charts prepared in the Hydrographic Office: "Prepared from data furnished by the Hydrographic Office of the Department of the Navy and by the Weather Bureau of the Department of Commerce, and published at the Hydrographic Office under the authority of the Secretary of the Navy".

(b) The Weather Bureau of the Department of Commerce shall furnish to the Hydrographic Office, as expeditiously as possible, all

meteorological information received by the Weather Bureau that is necessary for, and of the character used in, the preparation of pilot charts.

§ 7394. Price of maps, charts, and nautical books

All maps, charts, and other publications issued by the Hydrographic Office, furnished to navigators, shall be paid for at the cost to the United States of the paper and printing. Money received from the sales shall be covered into the Treasury.

§ 7395. Naval Observatory: administration

(a) The Naval Observatory shall be attached to the Office of the Chief of Naval Operations.

(b) The Superintendent of the Naval Observatory shall be detailed from officers in the line of the Navy serving in the grade of captain or above.

(c) The Secretary of the Navy may detail any officer of the Navy, competent for that duty, to supervise the Nautical Almanac.

§ 7396. Naval Observatory: exchange of information with foreign offices

(a) The Secretary of the Navy may arrange to exchange data with foreign almanac offices to reduce the duplication of work in preparing the different national nautical and astronomical almanacs and make available for publication in the American Ephemeris and Nautical Almanac a larger amount of data useful to navigators and astronomers. Each such arrangement shall be made terminable on one year's notice.

(b) The work of the Nautical Almanac Office shall be so conducted that in an emergency the part of the work intended for the use of navigators may be computed by the force of the office without foreign cooperation.

CHAPTER 641.—NAVAL PETROLEUM RESERVES

Sec.

- 7421. Jurisdiction and control.
- 7422. Administration.
- 7423. Periodic re-examination of production requirements.
- 7424. Protection of oil reserves; contracts for conservation.
- 7425. Acquisition by condemnation and purchase.
- 7426. Cooperative or unit plans affecting naval petroleum reserve numbered 1.
- 7427. Cooperative or unit plans in the naval petroleum reserves.
- 7428. Agreement and leases: provision for change.
- 7429. Re-lease of certain lands: lessee's preferential right.
- 7430. Disposition of products.
- 7431. Requirements as to consultation and approval.
- 7432. Expenditures: appropriations chargeable.
- 7433. Disposition of royalties.
- 7434. Quarterly reports to Armed Services Committees.
- 7435. Foreign interest.
- 7436. Regulations.
- 7437. Violations by lessee.
- 7438. Exclusion of naval oil-shale reserves.

§ 7421. Jurisdiction and control

(a) The Secretary of the Navy shall take possession of all properties inside the naval petroleum reserves that are or may become subject to the control of and use by the United States for naval purposes.

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(b) The Secretary has exclusive jurisdiction and control over those lands inside naval petroleum reserves numbered 1 and 2 that are covered by leases granted under sections 181-184, 185-188, 189-194, 201, 202-209, 211-214, 223, 224-226, 226d, 226e, 227-229a, 241, 251 and 261-263 of title 30, and shall administer those leases.

§ 7422. Administration

(a) The Secretary of the Navy, directly or by contract, lease, or otherwise, shall explore, prospect, conserve, develop, use, and operate the naval petroleum reserves in his discretion, subject to approval by the President.

(b) The naval petroleum reserves and lands outside naval petroleum reserve numbered 1 covered by contracts under section 7426 of this title shall be used and operated for—

(1) the protection, conservation, maintenance, and testing of those reserves; or

(2) the production of petroleum whenever and to the extent that the Secretary, with the approval of the President, finds that it is needed for national defense and the production is authorized by a joint resolution of Congress.

§ 7423. Periodic re-examination of production requirements

The Secretary of the Navy shall from time to time re-examine the need for the production of petroleum for national defense when that production is authorized under section 7422 of this title. If he finds that the authorized quantity is no longer needed, he shall reduce production to the amount currently needed for national defense.

§ 7424. Protection of oil reserves; contracts for conservation

(a) To consolidate and protect the oil lands owned by the United States, the Secretary of the Navy may—

(1) contract with owners and lessees of land inside or adjoining naval petroleum reserves for—

(A) conservation in the ground of oil and gas; and

(B) compensation for estimated drainage in lieu of drilling or operating offset wells; and

(2) acquire privately owned lands or leases inside naval petroleum reserve numbered 1 by exchange of—

(A) lands of the United States inside naval petroleum reserve numbered 1;

(B) the right to royalty production from any of the naval petroleum reserves; and

(C) the right to any money due the United States as a result of the wrongful extraction of petroleum products from lands inside naval petroleum reserve numbered 1.

(b) The Secretary shall report annually to Congress all agreements under this section.

§ 7425. Acquisition by condemnation and purchase

(a) Whenever the Secretary of the Navy is unable to make arrangements he considers satisfactory for—

(1) exchanges of land or agreements for conservation authorized by section 7424 of this title; or

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(2) contracts for joint, unit, or other cooperative plans with respect to lands or leases authorized by section 7426 of this title; he may acquire, with the approval of the President, such privately owned lands and leases—

(1) by purchase, inside the naval petroleum reserves, or outside those reserves on the same geologic structure; and

(2) by condemnation, inside naval petroleum reserve numbered 1, or, if there is substantial drainage, outside that reserve on the same geologic structure.

(b) The Secretary shall report annually to Congress all proceedings for purchase and condemnation under this section.

§ 7426. Cooperative or unit plans affecting naval petroleum reserve numbered 1

(a) The Secretary of the Navy may contract for joint, unit, or other cooperative plans of exploration, prospecting, conservation, development, use, and operation of lands owned or controlled by the United States inside naval petroleum reserve numbered 1 and lands owned or leased by private interests—

(1) inside naval petroleum reserve numbered 1; or

(2) outside naval petroleum reserve numbered 1 on the same geologic structure.

(b) Each contract under this section shall require that the United States will be assured of receiving currently its share of the total production from each of the commercially productive zones underlying all lands covered by the contract, as determined from time to time on the basis of estimates of its original share of the quantities of recoverable oil, gas, natural gasoline, and associated hydrocarbons in those zones on the date fixed in the contract.

(c) Any party to such a contract, other than the United States, may be permitted by the contract to produce and to receive, and shall have charged to its share in the total production from any zone, petroleum in such quantities as are necessary to compensate that party—

(1) for its share of the current expenses of protecting, conserving, testing, and maintaining in good oil-field condition the lands, wells, and improvements thereon, and its real and personal taxes levied or assessed thereon; and

(2) for surrendering control of the rate of production from its lands.

The quantity of petroleum permitted to be produced as compensation for surrendering control of the rate of production may, in the discretion of the Secretary, be reduced or eliminated at any time on reasonable notice if the Secretary is not then having petroleum produced for national defense under section 7422 of this title.

(d) In no event may the quantity of petroleum produced under subsection (c) from any zone for any private contracting party exceed one-third of its share of the recoverable petroleum in that zone as estimated on the date fixed in the contract.

(e) No contract may be made under this section until the Committees on Armed Services of the Senate and the House of Representatives have been consulted as to all its details.

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§ 7427. Cooperative or unit plans in the naval petroleum reserves

The Secretary of the Navy, with the consent of the President, may make agreements, with respect to lands inside the naval petroleum reserves, of the same type as the Secretary of the Interior may make under section 226e of title 30. No such agreement made by the Secretary of the Navy may extend the term of any lease unless the agreement so provides.

§ 7428. Agreements and leases: provision for change

Every unit or cooperative plan of development and operation, except a plan authorized by section 7426 of this title, and every lease affecting lands owned by the United States within the naval petroleum reserves shall contain a provision authorizing the Secretary of the Navy, subject to approval by the President and to any limitation in the plan or lease, to change from time to time the rate of prospecting and development on, and the quantity and rate of production from, lands of the United States under the plan or lease, notwithstanding any other provision of law.

§ 7429. Re-lease of certain lands: lessee's preferential right

The Secretary of the Navy, on terms prescribed by him, may re-lease lands in the naval petroleum reserves that were covered by leases made before July 1, 1936, and terminated by law at the expiration of their initial twenty-year periods. If any such land is to be re-leased, the Secretary shall give to the former lessee preferential rights to the new lease.

§ 7430. Disposition of products

(a) The Secretary of the Navy in administering the naval petroleum reserves under this chapter shall use, store, sell, or exchange for other petroleum or refined products, the oil and gas products, including royalty products, from lands in the naval petroleum reserves and lands outside petroleum reserve numbered 1 covered by joint, unit, or other cooperative plans, for the benefit of the United States.

(b) Each sale of petroleum, gas, or other hydrocarbons under this section shall be made by the Secretary at public sale to the highest qualified bidder at such time, in such amounts, and after such advertising as the Secretary considers proper.

§ 7431. Requirements as to consultation and approval

The Committees on Armed Services of the Senate and the House of Representatives must be consulted and the President's approval must be obtained before any condemnation proceedings may be started under this chapter and before any of the following transactions authorized by this chapter may be effective:

- (1) A lease of any part of the naval petroleum reserves.
- (2) A contract to alienate from the United States the use, control, or possession of any part of the naval petroleum reserves.
- (3) A contract to sell the oil and gas products, other than royalty products, from any part of the naval petroleum reserves.
- (4) A contract for conservation or for compensation for estimated drainage.
- (5) An agreement to exchange land, the right to royalty production, or the right to any money due the United States.

§ 7432. Expenditures: appropriations chargeable

(a) Expenses incurred by the Secretary of the Navy in exploring, prospecting, conserving, developing, using, and operating lands owned or controlled by the United States in the naval petroleum reserves, and in producing petroleum, and the share of the United States of expenses incurred under any contract entered into under this chapter, shall be paid from appropriations made available for those purposes.

(b) Expenditures necessary to carry out this chapter shall be made under the direction of the President, who shall submit estimates for these expenditures as prescribed by law.

§ 7433. Disposition of royalties

(a) Any oil, gas, gasoline, or other hydrocarbon substance accruing to the United States as royalty from any lease under this chapter shall be delivered to the United States, or shall be paid for in money, as the Secretary of the Navy elects.

(b) Money paid to the United States for petroleum products under this chapter shall be covered into the Treasury.

§ 7434. Quarterly reports to Armed Services Committees

Within 30 days after the close of each quarter, the Secretary of the Navy shall report to the Committee on Armed Services of the Senate and the House of Representatives the production from the naval petroleum reserves during the preceding quarter.

§ 7435. Foreign interest

(a) If the laws, customs, or regulations of any foreign country deny the privilege of leasing public lands to citizens or corporations of the United States, citizens of that foreign country, or corporations controlled by citizens of that country, may not, by contract made after July 1, 1937, or by stock ownership, holding, or control, acquire or own any interest in, or right to any benefit from, any lease of land in the naval petroleum or other naval fuel reserves made under sections 181-184, 185-188, 189-194, 201, 202-209, 211-214, 223, 224-226, 226d, 226e, 227-229a, 241, 251 and 261-263 of title 30, or under this chapter.

(b) The Secretary of the Navy may cancel any lease for any violation of this section.

§ 7436. Regulations

(a) The Secretary of the Navy, subject to approval by the President, may prescribe regulations and take any proper action to accomplish the purposes of this chapter.

(b) All statements, reports, and representations required by the regulations shall be under oath, unless otherwise specified, and in such form as the Secretary requires.

§ 7437. Violations by lessee.

(a) If a lessee fails to comply with any provision of this chapter, of his lease, or of regulations issued under section 7436 of this title that are in force on the date of his lease, the lease may be forfeited and cancelled by an appropriate proceeding in the United States district court for the district in which any part of the property is located.

(b) The lease may provide appropriate methods for the settlement of disputes and remedies for breach of specified conditions.

§ 7438. Exclusion of naval oil-shale reserves

This chapter does not authorize the development or operation of the naval oil-shale reserves.

CHAPTER 643.—CIVILIAN EMPLOYEES

Sec.

7471. Appointments: professional and scientific services.

7472. Physical examination: employees engaged in hazardous occupations.

7473. Employment of aliens.

7474. Wage rates: establishment.

7475. Force at naval activities not to be increased before elections.

7476. Administration of oaths by clerks and employees.

7477. Transportation of dependents and household effects of civilian personnel stationed outside the United States: payment in lieu of transportation.

7478. Naval War College: employment of civilian professors; compensation.

§ 7471. Appointments: professional and scientific services

(a) The Secretary of the Navy may establish within the Department of the Navy not more than 13 civilian positions to carry out research and development relating to the national defense, military and naval medicine, and other activities of the Department of Defense that require the services of specially qualified scientific or professional personnel.

(b) Subject to the Civil Service Commission's approval as to rates, the Secretary may fix the compensation for positions established under subsection (a). However, the compensation may not be less than \$10,000 or more than \$15,000 a year.

(c) Positions established under subsection (a) are in the classified civil service of the United States. However, if the Civil Service Commission or a person designated by it approves a proposed appointee's qualifications, no competitive examination may be required.

§ 7472. Physical examination: employees engaged in hazardous occupations

(a) The Secretary of the Navy may provide for physical examination by civilians of employees engaged in hazardous occupations, where the professional services of the Medical Department are not available. The Secretary may compensate these civilians for their services, on a contract or fee basis, at the rates customary in the locality.

(b) The Secretary, to the extent he considers proper, may delegate the authority conferred by this section to any person in the Department of the Navy, with or without the authority to make successive redelegations.

§ 7473. Employment of aliens

Laws prohibiting payment of compensation to a person who is not a citizen of the United States do not apply to a person whose employment by the Department of the Navy is determined by the Secretary of the Navy to be necessary to obtain for the armed forces the benefits of the special technical or scientific knowledge or experience possessed by that person and not readily obtainable from a citizen.

§ 7474. Wage rates: establishment

The Secretary of the Navy shall establish rates of wages for employees of each naval activity where the rates are not established by other provisions of law to conform, as nearly as is consistent with the public interest, with those of private establishments in the immediate vicinity.

§ 7475. Force at naval activities not to be increased before elections

No increase in the force at a naval activity may be made within 60 days before an election for President or members of Congress unless the Secretary of the Navy certifies that the needs of the service require the increase at that time. Whenever the Secretary makes a certificate under this section, he shall publish it immediately.

§ 7476. Administration of oaths by clerks and employees

(a) Chief clerks and inspectors attached to any office of inspector of naval material, chief clerks attached to the field service of the Department of the Navy, to naval shipyards and stations, and to Marine Corps posts and stations, and such other clerks and employees attached to those activities as the Secretary of the Navy designates, may administer—

(1) oaths required by law or regulation relating to claims against, or applications to, the United States of officers and of employees of the Department; and

(2) oaths of office to officers and employees of the Department.

(b) There may be no compensation for the administration of oaths under this section.

§ 7477. Transportation of dependents and household effects of civilian personnel stationed outside the United States: payment in lieu of transportation

(a) When civilian employees of the Department of the Navy are located at duty stations outside the United States, the dependents and household effects of such personnel may be transported—

(1) from the locations outside the United States to locations designated by such personnel or their dependents; and

(2) from those designated locations to the duty stations to which the personnel are ordered.

The Secretary of the Navy may determine the civilian employees whose dependents and household effects may be transported under this section.

(b) Authority to transport household effects under this section includes authority to pack and unpack those effects.

(c) Transportation of dependents and household effects is authorized under this section either before or after orders are issued relieving the civilian concerned from the duty station outside the United States. The transportation may be by Government or commercial facilities.

(d) In place of the transportation in kind authorized for dependents, the Secretary may authorize the payment, after the travel has been completed, of an amount equal to the commercial transportation costs, including taxes if paid, of all parts of the travel for which transportation in kind was not furnished.

(e) Current appropriations available for travel and transportation may be used for expenditures under this section.

§ 7478. Naval War College: employment of civilian professors; compensation

(a) The Secretary of the Navy may employ as many civilians as professors, instructors, and lecturers at the Naval War College as he considers necessary.

(b) The compensation of persons employed under this section is as prescribed by the Secretary.

(c) The Secretary, to the extent he considers proper, may delegate the authority conferred by this section to any person in the Department of the Navy, with or without the authority to make successive redelegations.

CHAPTER 645.—PROCUREMENT OF SUPPLIES AND SERVICES

Sec.

7521. Progress payment for work done; lien based on payment.

7522. Contracts for research.

7523. Tolls and fares: payment or reimbursement.

§ 7521. Progress payment for work done; lien based on payment

The Secretary of the Navy may make partial payments during the progress of work done under a contract made by the Department of the Navy. Partial payments may not exceed the value of the work done and may be made only under contracts providing therefor and in accordance with the contract provisions. Each such contract shall provide that, when a partial payment is made, a lien on the thing contracted for accrues to the United States on account of the payments so made. This lien is paramount to all other liens.

§ 7522. Contracts for research

(a) The Secretary of the Navy and, by direction of the Secretary, the Chief of Naval Research and the chiefs of bureaus may, without advertising, make contracts or amendments or modifications of contracts for services and materials necessary to conduct research and to make or secure reports, tests, models, or apparatus. A contractor supplying such services or materials need not be required to furnish a bond.

(b) Section 529 of title 31 does not apply to advance, progress, or other payments made with respect to a contract under this section.

(c) This section does not authorize the use of the cost-plus-a-percentage-of-cost system of contracting.

§ 7523. Tolls and fares: payment or reimbursement

Naval appropriations chargeable for transportation or travel are available for the payment or reimbursement of ferry, bridge, and similar tolls and of streetcar, bus, and similar fares.

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CHAPTER 647.—DISPOSAL OF OBSOLETE OR SURPLUS MATERIAL

Sec.

7541. Obsolete and other material: gift or sale to Boy Scouts of America.
 7542. Excess clothing: sale for distribution to needy.
 7543. Useless ordnance material: disposition of proceeds on sale.
 7544. Devices and trophies: transfer to other agencies.
 7545. Obsolete material and articles of historical interest: loan or gift.
 7546. Loan or gift of articles to ships' sponsors and donors.
 7547. Equipment for instruction in seamanship: loan to military schools.

§ 7541. Obsolete and other material: gift or sale to Boy Scouts of America

Subject to regulations under section 486 of title 40, the Secretary of the Navy may—

- (1) give obsolete material not needed for naval purposes; and
- (2) sell other material that may be spared at a price representing its fair value;

to the Boy Scouts of America for the sea scouts. In either case the cost of transportation and delivery shall be charged to the Boy Scouts of America.

§ 7542. Excess clothing: sale for distribution to needy

(a) Subject to regulations under section 486 of title 40, the Secretary of the Navy, under regulations prescribed by him, may sell, at nominal prices, to recognized charitable organizations, to States and subdivisions thereof, and to municipalities nonregulation and excess clothing that may be available for distribution to the needy. The clothing may be sold only if the purchaser agrees not to resell it but to give it to the needy.

(b) A fair proportionate allotment of clothing to be sold under this section shall be set aside for distribution in each State and the District of Columbia. An allotment so set aside may not be sold for other distribution until at least 30 days after the allotment was made.

§ 7543. Useless ordnance material: disposition of proceeds on sale

The net proceeds of sales of useless ordnance material by the Department of the Navy shall be covered into the Treasury.

§ 7544. Devices and trophies: transfer to other agencies

(a) The Secretary of the Navy may, without reimbursement, transfer to the Secretary of the Treasury devices and trophies for the promotion of the sale of war bonds or victory bonds. The Secretary of the Treasury may sell or donate the devices and trophies for the promotion of the sale of such bonds.

(b) The Secretary of the Navy may, without reimbursement, transfer to any agency of the United States devices and trophies for scientific, experimental, monumental, or display purposes.

§ 7545. Obsolete material and articles of historical interest: loan or gift

(a) Subject to regulations under section 486 of title 40, the Secretary of the Navy, under regulations prescribed by him, may lend or give, without expense to the United States, captured, condemned, or obsolete ordnance material, books, manuscripts, works of art, drawings, plans, and models, other condemned or obsolete material, trophies, and flags, and other material of historic interest not needed by the Department of the Navy, to—

(1) a State, Territory, Commonwealth, or possession of the United States, or political subdivision or municipal corporation thereof;

(2) the District of Columbia;

(3) a library;

(4) a historical society;

(5) an educational institution whose graduates or students fought in World War I or World War II;

(6) a soldiers' monument association;

(7) a State museum;

(8) a museum operated and maintained for educational purposes only, whose charter denies it the right to operate for profit;

(9) a post of the Veterans of Foreign Wars of the United States;

(10) a post of the American Legion;

(11) any other recognized war veterans' association; or

(12) a post of the Sons of Veterans Reserve.

(b) Records of the Government as defined in section 366 of title 44 may not be disposed of under this section.

(c) No loan or gift under this section may be made unless—

(1) notice of the proposal to make the loan or gift is sent to Congress;

(2) 30 calendar days of continuous session of Congress have expired after the notice was sent to Congress; and

(3) during that 30-day period Congress does not pass a concurrent resolution stating in substance that it does not favor the proposed loan or gift.

(d) If any disposition is authorized by this section and section 2572 of this title, the Secretary may make the gift or loan under either section.

§ 7546. Loan or gift of articles to ships' sponsors and donors

The Secretary of the Navy, under regulations prescribed by him and without expense to the United States, may lend or give—

(1) to the sponsor of a vessel the name plate or any small article of negligible or sentimental value from that vessel; and

(2) to any State, group, or organization named in section 7545 of this title any article, material, or equipment, including silver service, given by it.

§ 7547. Equipment for instruction in seamanship: loan to military schools

(a) Upon the application of the governor of any State having a seacoast or bordering on any of the Great Lakes, the President may direct the Secretary of the Navy to lend to one well-established mili-

tary school in that State that desires to instruct its cadets in elementary seamanship one fully equipped cutter for every 25 cadets attending the school, and such other equipment adequate for instruction in elementary seamanship as may be spared.

(b) To be eligible for a loan under this section a school must—

- (1) have adequate facilities for cutter drill;
- (2) have at least 75 cadets—
 - (A) at least 15 years of age;
 - (B) in uniform;
 - (C) receiving military instruction; and
 - (D) quartered in barracks under military regulations; and
- (3) have the capacity to quarter and educate 150 cadets at one time.

(c) Whenever a loan is made under this section, the Secretary shall require a bond in double the value of the property for its care and return when required.

CHAPTER 649.—QUARTERS, UTILITIES, AND RELATED SERVICES

Sec.

7571. Quarters or other accommodations: to whom furnished.
 7572. Quarters: accommodations in place of for members on sea duty.
 7573. Quarters: temporary: transient members.
 7574. Quarters: limitations on size.
 7575. Quarters: exemptions from cost limitations.
 7576. Quarters: extension telephones.
 7577. Quarters: Nurse Corps Officers; assignment in hospitals.
 7578. Tableware and kitchen utensils: limitations on furnishing.
 7579. Officers' messes and quarters: limitations on employment of enlisted members.
 7580. Heat and light for Young Men's Christian Association buildings.
 7581. Marine Corps post laundries: disposition of receipts.

§ 7571. Quarters or other accommodations: to whom furnished

(a) Under such regulations as the Secretary of the Navy prescribes, public quarters including heat, light, water, and refrigeration may be furnished for personnel in the following categories who are on active duty:

- (1) Members of the naval service.
- (2) Members of the Coast Guard when it is operating as a service in the Navy.
- (3) Members of the Coast and Geodetic Survey serving with the Navy.

If public quarters are not available for any such member, the Secretary may provide lodging accommodations for him. Lodging accommodations so provided may not be occupied by the member's dependents.

(b) The Secretary may determine in any case whether public quarters are available within the meaning of any provision of law relating to the assignment of or commutation for public quarters.

(c) The Secretary, to the extent he considers proper, may delegate the authority conferred by subsection (a), except the authority to prescribe regulations, to any person in the Department of the Navy, with or without authority to make successive redelegations.

§ 7572. Quarters: accommodations in place of for members on sea duty

(a) If public quarters are not available, the Secretary of the Navy may provide lodging accommodations for any—

- (1) member of the naval service;
- (2) member of the Coast Guard when it is operating as a service in the Navy; or
- (3) member of the Coast and Geodetic Survey serving with the Navy;

on sea duty who is deprived of his quarters on board ship because of repairs or because of other conditions that make his quarters uninhabitable. Lodging accommodations so provided may not be occupied by the member's dependents.

(b) Under such regulations as the Secretary prescribes, any officer of the naval service on sea duty who is deprived of his quarters on board ship because of repairs or because of other conditions that make his quarters uninhabitable, and who is not entitled to basic allowance for quarters, may be reimbursed for expenses incurred in obtaining quarters, in an amount not more than the basic allowance for quarters of an officer of his grade, if it is impracticable to furnish accommodations under subsection (a).

(c) The Secretary, to the extent he considers proper, may delegate the authority conferred by subsection (a) to any person in the Department of the Navy, with or without the authority to make successive redelegations.

§ 7573. Quarters: temporary; transient members

Temporary quarters may be furnished on a rental basis to transient members of the naval service with their dependents, for periods not exceeding 60 days, without loss of entitlement to basic allowance for quarters.

§ 7574. Quarters: limitations on size

(a) In the construction of family quarters for members of the naval service, the following are the maximum limitations on net floor area for each unit:

- (1) For flag officers in the Navy and general officers in the Marine Corps—2,100 square feet.
- (2) For captains in the Navy and colonels in the Marine Corps—1,670 square feet.
- (3) For commanders and lieutenant commanders in the Navy and lieutenant colonels and majors in the Marine Corps—1,400 square feet.
- (4) For officers of the naval service below the grade of lieutenant commander or major—1,250 square feet.
- (5) For enlisted members of the naval service—1,080 square feet.

In this section "net floor area" means all floor space inside the exterior walls, excluding basement, service space instead of basement, attic, garage, and porches.

(b) The maximum limitations prescribed by subsection (a) are increased—

- (1) 10 percent for quarters outside the United States; and

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(2) 10 percent for quarters of the commanding officer of any station or installation, based on the grade authorized for that position.

(c) The maximum limitations for family quarters for civilians are the same as those for members of the naval service of comparable responsibility, grade, and pay, as determined by the Secretary of the Navy.

§ 7575. Quarters: exemptions from cost limitations

A limitation upon the cost of quarters built for members of the naval service does not apply to expenditures for work and equipment outside those quarters, including expenditures for—

- (1) the furnishing of electricity, gas, water, and sewage disposal;
- (2) roads and walks; or
- (3) grading and drainage.

§ 7576. Quarters: extension telephones

(a) Under regulations prescribed by the Secretary of the Navy appropriated funds may be used to pay the cost of installation and use, other than for personal long distance calls, of extension telephones connecting public quarters occupied by personnel in the following categories with the switchboards of their official stations:

- (1) Members of the naval service.
- (2) Members of the Coast Guard when it is operating as a service in the Navy.
- (3) Members of the Coast and Geodetic Survey serving with the Navy.

(b) The Secretary, to the extent he considers proper, may delegate the authority conferred by this section, except the authority to prescribe regulations, to any person in the Department of the Navy, with or without the authority to make successive redelegations.

§ 7577. Quarters: Nurse Corps officers; assignment in hospitals

Under such regulations as the Secretary of the Navy prescribes, officers in the Nurse Corps may be assigned quarters in naval hospitals.

§ 7578. Tableware and kitchen utensils: limitations on furnishing

(a) Table linen, dishes, glassware, silver, and kitchen utensils may be furnished for use in messes temporarily set up on shore for bachelor officers and officers attached to—

- (1) seagoing vessels or district defense vessels;
- (2) aviation units based on seagoing vessels;
- (3) fleet air bases;
- (4) submarine bases; and
- (5) landing forces and expeditions.

(b) Except as provided in subsection (a), no table linen, dishes, glassware, silver, or kitchen utensils may be furnished for use in residences or quarters occupied by officers on shore.

(c) The Secretary of the Navy, to the extent he considers proper, may delegate the authority conferred by this section to any person in the Department of the Navy, with or without the authority to make successive redelegations.

§ 7579. Officers' messes and quarters: limitations on employment of enlisted members

(a) Under such regulations as the Secretary of the Navy prescribes, enlisted members of the naval service and enlisted members of the Coast Guard when it is operating as a service in the Navy may be assigned to duty in a service capacity in officers' messes and public quarters where the Secretary finds that this use of the members is desirable for military reasons.

(b) Notwithstanding any other provision of law, retired enlisted members of the naval service and members of the Fleet Reserve and the Fleet Marine Corps Reserve may, when not on active duty, be voluntarily employed in any service capacity in officers' messes and public quarters without additional expense to the United States.

(c) The Secretary, to the extent he considers proper, may delegate the authority conferred by this section, except the authority to prescribe regulations, to any person in the Department of the Navy, with or without the authority to make successive redelegations.

§ 7580. Heat and light for Young Men's Christian Association buildings

The Secretary of the Navy may furnish, without charge, heat and light to any building of the Young Men's Christian Association located at a naval activity.

§ 7581. Marine Corps post laundries: disposition of receipts

(a) Money received for laundry work performed by Marine Corps post laundries shall be used to pay the cost of maintenance and operation of those laundries. Any amount remaining at the end of the fiscal year after the cost has been so paid shall be deposited in the Treasury to the credit of the appropriation from which the cost of operating the laundries is paid.

(b) The receipts and expenditures of Marine Corps post laundries shall be accounted for as public funds.

CHAPTER 651.—SHIPS' STORES AND COMMISSARY STORES

Sec.

7601. Sales: members of naval service and Coast Guard; widows; civilian employees and other persons.

7602. Sales: members of Army and Air Force; prices.

7603. Sales: veterans under treatment.

7604. Profits: ships' stores.

7605. Acceptance of Government checks outside the United States.

§ 7601. Sales: members of naval service and Coast Guard; widows; civilian employees and other persons

(a) Such stores as the Secretary of the Navy designates may be procured and sold to members of the naval service, members of the Coast Guard, and widows of such members.

(b) The Secretary may, by regulation, provide for the procurement and sale of stores designated by him to such civilian officers and employees of the United States, and such other persons, as he considers proper—

(1) at military installations outside the United States; and

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(2) at military installations inside the United States where he determines that it is impracticable for those civilian officers, employees, and persons to obtain those stores from private agencies without impairing the efficient operation of naval activities.

However, sales to civilian officers and employees inside the United States may be made only to those residing within military installations.

§ 7602. Sales: members of Army and Air Force; prices

The Navy and the Marine Corps shall sell subsistence supplies to any member of the Army or the Air Force at prices charged members of the naval service.

§ 7603. Sales: veterans under treatment.

A person who has been separated honorably or under honorable conditions from the Army, the Navy, the Air Force, or the Marine Corps and who is receiving care and medical treatment from the Public Health Service or the Veterans' Administration may buy subsistence supplies and other supplies, except articles of uniform, from the Navy and the Marine Corps at prices charged members of the naval service.

§ 7604. Profit: ships' stores

(a) A profit of not more than 15 percent may be charged on sales from ships' stores. Under regulations prescribed by the Secretary of the Navy, the profit shall be used for the purposes stated in subsection (b) and shall be accounted for to the Bureau of Supplies and Accounts.

(b) On vessels of the Navy and at naval activities outside the United States, other than an activity designated by the Secretary as a permanent shore establishment, ships' stores profits shall be used equitably for the welfare of officers and enlisted members of the naval service. At other naval activities, the profits shall be used for the amusement, comfort, and contentment of enlisted members only.

§ 7605. Acceptance of Government checks outside the United States

Notwithstanding sections 521 and 543 of title 31, the Secretary of the Navy may authorize the officer in charge of any commissary store or ship's store ashore located outside the United States to—

(1) accept any Government check tendered by a retired member of the Navy or the Marine Corps, a member of the Naval Reserve or the Marine Corps Reserve, or a member of the Fleet Reserve or the Fleet Marine Corps Reserve, if the member is the payee of the check and the check is tendered in payment of amounts due from the member to the store; and

(2) refund in cash any difference between the amount due and the amount of the tendered check.

CHAPTER 653.—CLAIMS

Sec.

7621. Definitions.

7622. Admiralty claims against the United States.

7623. Admiralty claims by the United States.

7624. Reports to Congress.

7625. Claims against the United States: private property; loss or damage

§ 7621. Definitions

- (a) In this chapter "vessel in the naval service" means—
- (1) any vessel of the Navy, manned by the Navy, or chartered on bareboat charter to the Navy; or
 - (2) when the Coast Guard is operating as a service in the Navy, any vessel of the Coast Guard, manned by the Coast Guard, or chartered on bareboat charter to the Coast Guard.
- (b) In this chapter "settle" means consider, ascertain, adjust, determine, and dispose of a claim, whether by full or partial allowance or by disallowance.

§ 7622. Admiralty claims against the United States

- (a) The Secretary of the Navy may settle, or compromise, and pay in an amount not more than \$1,000,000, a claim against the United States for—
- (1) damage caused by a vessel in the naval service; or
 - (2) compensation for towage and salvage service, including contract salvage, rendered to a vessel in the naval service.
- (b) If a claim under this section is settled or compromised for more than \$1,000,000, the Secretary shall certify it to Congress.
- (c) In any case where the amount to be paid is not more than \$1,000, the Secretary may delegate his authority under this section to any person designated by him.
- (d) Upon acceptance of payment by the claimant, the settlement or compromise of a claim under this section is final and conclusive notwithstanding any other provision of law.

§ 7623. Admiralty claims by the United States

- (a) The Secretary of the Navy may settle, or compromise, and receive payment of a claim by the United States for damage to property under the jurisdiction of the Department of the Navy or property for which the Department has assumed an obligation to respond for damage, if—
- (1) the claim is—
 - (A) of a kind that is within the admiralty jurisdiction of a district court of the United States; or
 - (B) for damage caused by a vessel or floating object; and
 - (2) the net amount to be received by the United States is not more than \$1,000,000.
- (b) In exchange for payment of an amount found to be due the United States under this section, the Secretary may execute a release of the claim on behalf of the United States. Amounts received under this section shall be covered into the Treasury.
- (c) In any case where the amount to be received by the United States is not more than \$1,000, the Secretary may delegate his authority under this section to any person designated by him.
- (d) Upon acceptance of payment by the Secretary, the settlement or compromise of a claim under this section is final and conclusive notwithstanding any other provision of law.
- (e) This section does not apply to any claim while there is pending as to that claim a suit filed by or against the United States.

§ 7624. Reports to Congress

(a) The Secretary of the Navy shall report to the Committees on Armed Services of the Senate and the House of Representatives within 20 days after an amount over \$3,000 is paid by him under section 7622 of this title or is received by him under section 7623. The report shall include a description of the claim, the names of the vessels involved, a statement of the amount paid or received, the basis of the determination, and other pertinent information.

(b) The Secretary shall report to Congress at each session all claims that have been paid under section 7622 of this title during the period covered by the report.

(c) During a war the Secretary may omit from a report under this section any information the disclosure of which he believes would prejudice the national security.

§ 7625. Claims against the United States: private property; loss or damage

(a) The Secretary of the Navy may settle and pay in an amount not more than \$500 a claim against the United States for damage to or loss of privately owned property caused by a member of the naval service.

(b) This section does not apply to claims for damage caused by a vessel in the naval service or caused by the negligent or wrongful act or omission of a member of the naval service acting within the scope of his office or employment.

CHAPTER 655.—PRIZE

Sec.

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§ 7651. Scope of chapter

(a) This chapter applies to all captures of vessels as prize during war by authority of the United States or adopted and ratified by the President. However, this chapter does not affect the right of the Army or the Air Force, while engaged in hostilities, to capture wherever found and without prize procedure—

(1) enemy property; or

(2) neutral property used or transported in violation of the obligations of neutrals under international law.

(b) As used in this chapter—

(1) "vessel" includes aircraft; and

(2) "master" includes the pilot or other person in command of an aircraft.

(c) Property seized or taken upon the inland waters of the United States by its naval forces is not maritime prize. All such property shall be delivered promptly to the proper officers of the courts.

(d) Nothing in this chapter may be construed as contravening any treaty of the United States.

§ 7652. Jurisdiction

(a) The United States district courts have original jurisdiction, exclusive of the courts of the States, of each prize and each proceeding for the condemnation of property taken as prize, if the prize is—

(1) brought into the United States, or the Territories, Commonwealths, or possessions;

(2) brought into the territorial waters of a cobelligerent;

(3) brought into a locality in the temporary or permanent possession of, or occupied by, the armed forces of the United States; or

(4) appropriated for the use of the United States.

(b) The United States district courts, exclusive of the courts of the States, also have original jurisdiction of a prize cause in which the prize property—

(1) is lost or entirely destroyed; or

(2) cannot be brought in for adjudication because of its condition.

(c) The jurisdiction conferred by this section of prizes brought into the territorial waters of a cobelligerent may not be exercised, nor may prizes be appropriated for the use of the United States within those territorial waters, unless the government having jurisdiction over those waters consents to the exercise of the jurisdiction or to the appropriation.

§ 7653. Court in which proceedings brought

(a) If a prize is brought into a port of the United States, or the Territories, Commonwealths, or possessions, proceedings for the adjudication of the prize cause shall be brought in the district in which the port is located.

(b) If a prize is brought into the territorial waters of a cobelligerent, or is brought into a locality in the temporary or permanent possession of, or occupied by, the armed forces of the United States, or is appropriated for the use of the United States before proceedings are started, the venue of the proceedings for adjudication of the cause

shall be in the judicial district selected by the Attorney General, or his designee, for the convenience of the United States.

(c) If the prize property is lost or entirely destroyed or if, because of its condition, no part of it has been or can be sent in for adjudication, proceedings for adjudication of the cause may be brought in any district designated by the Secretary of the Navy. In such cases the proceeds of anything sold shall be deposited with the Treasurer of the United States or public depository in or nearest the district designated by the Secretary, subject to the orders of the court for that district.

§ 7654. Effect of failure to start proceedings

If a vessel is captured as prize and no proceedings for adjudication are started within a reasonable time, any party claiming the captured property may, in any district court as a court of prize—

- (1) move for a monition to show cause why such proceedings shall not be started; or
- (2) bring an original suit for restitution.

The monition issued in either case shall be served on the United States Attorney for the district, on the Secretary of the Navy, and on such other persons as are designated by order of the court.

§ 7655. Appointment of prize commissioners and special prize commissioners

(a) In each judicial district there may be not more than three prize commissioners, one of whom is the naval prize commissioner. They shall be appointed by the district court for service in connection with any prize cause in which proceedings are brought under section 7653 (a) or (c) of this title. The naval prize commissioner must be an officer of the Navy whose appointment is approved by the Secretary of the Navy. The naval prize commissioner shall protect the interests of the Department of the Navy in the prize property. At least one of the other commissioners must be a member of the bar of the court, of not less than three years' standing, who is experienced in taking depositions.

(b) A district court may appoint special prize commissioners to perform abroad, in connection with any prize cause in which proceedings are brought under section 7653 (b) of this title, the duties prescribed for prize commissioners, and, in connection with those causes, to exercise anywhere such additional powers and perform such additional duties as the court considers proper, including the duties prescribed by this chapter for United States marshals. The court may determine the number and qualifications of the special prize commissioners it appoints, except that for each cause there shall be at least one naval special prize commissioner. The naval special prize commissioner must be an officer of the Navy whose appointment is approved by the Secretary. The naval special prize commissioner shall protect the interests of the Department of the Navy in the prize property.

§ 7656. Duties of United States attorney

(a) The interests of the United States in a prize cause shall be represented by the United States attorney for the judicial district in which the prize cause is adjudicated. The United States attorney shall protect the interests of the United States and shall examine all fees, costs, and expenses sought to be charged against the prize fund.

(b) In a judicial district where one or more prize causes are pending the United States attorney shall send to the Secretary of the Navy, at least once every three months, a statement of all such causes in the form and covering the particulars required by the Secretary.

§ 7657. Duties of commanding officer of capturing vessel

(a) The commanding officer of a vessel making a capture shall—

(1) secure the documents of the captured vessel, including the log, and the documents of cargo, together with all other documents and papers, including letters, found on board;

(2) inventory and seal all the documents and papers;

(3) send the inventory and documents and papers to the court in which proceedings are to be had, with a written statement—

(A) that the documents and papers sent are all the papers found, or explaining the reasons why any are missing; and

(B) that the documents and papers sent are in the same condition as found, or explaining the reasons why any are in different condition;

(4) send as witnesses to the prize court the master, one or more of the other officers, the supercargo, purser, or agent of the prize, and any other person found on board whom he believes to be interested in or to know the title, national character, or destination of the prize, and if any of the usual witnesses cannot be sent, send the reasons therefor to the court; and

(5) place a competent prize master and a prize crew on board the prize and send the prize, the witnesses, and all documents and papers, under charge of the prize master, into port for adjudication.

(b) In the absence of instructions from higher authority as to the port to which the prize shall be sent for adjudication, the commanding officer of the capturing vessel shall select the port that he considers most convenient in view of the interests of probable claimants.

(c) If the captured vessel, or any part of the captured property, is not in condition to be sent in for adjudication, the commanding officer of the capturing vessel shall have a survey and an appraisal made by competent and impartial persons. The reports of the survey and the appraisal shall be sent to the court in which proceedings are to be had. Property so surveyed and appraised, unless appropriated for the use of the United States, shall be sold under authority of the commanding officer present. Proceeds of the sale shall be deposited with the Treasurer of the United States or in the public depository most accessible to the court in which proceedings are to be had and subject to its order in the cause.

§ 7658. Duties of prize master

The prize master shall take the captured vessel to the selected port. On arrival he shall—

(1) deliver immediately to a prize commissioner the documents and papers and the inventory thereof;

(2) make affidavit that the documents and papers and the inventory thereof and the prize property are the same and are in the same condition as delivered to him, or explaining any loss or absence or change in their condition;

- (3) report all information respecting the prize and her capture to the United States attorney;
- (4) deliver the persons sent as witnesses to the custody of the United States marshal; and
- (5) retain the prize in his custody until it is taken therefrom by process from the prize court.

§ 7659. Libel and proceedings by United States attorney

(a) Upon receiving the report of the prize master directed by section 7658 of this title, the United States attorney for the district shall promptly—

- (1) file a libel against the prize property;
- (2) obtain a warrant from the court directing the marshal to take custody of the prize property; and
- (3) proceed to obtain a condemnation of the property.

(b) In connection with the condemnation proceedings the United States attorney shall insure that the prize commissioners—

- (1) take proper preparatory evidence; and
- (2) take depositions de bene esse of the prize crew and of other transient persons who know any facts bearing on condemnation.

§ 7660. Duties of prize commissioners

One or more of the prize commissioners shall—

- (1) receive from the prize master the documents and papers of the captured vessel and the inventory thereof;
- (2) take the affidavit of the prize master required by section 7658 of this title;
- (3) take promptly, in the manner prescribed by section 7661 of this title, the testimony of the witnesses sent in;
- (4) take, at the request of the United States attorney, on interrogatories prescribed by the court, the depositions de bene esse of the prize crew and others;
- (5) examine and inventory the prize property;
- (6) apply to the court for an order to the marshal to unload the cargo, if this is necessary to that examination and inventory;
- (7) report to the court, and notify the United States attorney, whether any of the prize property requires immediate sale in the interest of all parties;
- (8) report to the court, from time to time, any matter relating to the condition, custody, or disposal of the prize property requiring action by the court;
- (9) return to the court sealed and secured from inspection—
 - (A) the documents and papers received, duly scheduled and numbered;
 - (B) the preparatory evidence;
 - (C) the evidence taken de bene esse; and
 - (D) their inventory of the prize property; and
- (10) report to the Secretary of the Navy, if, in their judgment, any of the prize property is useful to the United States in the prosecution of war.

§ 7661. Interrogation of witnesses by prize commissioners

Witnesses before the prize commissioners shall be questioned separately, on interrogatories prescribed by the court, in the manner

usual in prize courts. Without special authority from the court, the witnesses may not see the interrogatories, documents, or papers, or consult with counsel or with other persons interested in the cause. Witnesses who have the rights of neutrals shall be discharged as soon as practicable.

§ 7662. Duties of marshal

The marshal shall—

- (1) keep in his custody all persons found on board a prize and sent in as witnesses, until they are released by the prize commissioners or the court;
- (2) keep safely in his custody all prize property under warrant from the court;
- (3) report to the court any cargo or other property that he thinks should be unloaded and stored or sold;
- (4) insure the prize property, if in his judgment it is in the interest of all concerned;
- (5) have charge of the sale of the property, if a sale is ordered, and be responsible for the conduct of the sale in the manner required by the court, for the collection of the gross proceeds, and for their immediate deposit with the Treasurer of the United States or public depository nearest the place of sale, subject to the order of the court in the cause; and
- (6) submit to the Secretary of the Navy, at such times as the Secretary designates, a full statement of the condition of the prize and of the disposal made thereof.

§ 7663. Prize property appropriated for the use of the United States

(a) Any officer or agency designated by the President may appropriate for the use of the United States any captured vessel, arms, munitions, or other material taken as prize. The department or agency for whose use the prize property is appropriated shall deposit the value of the property with the Treasurer of the United States or with the public depository nearest to the court in which the proceedings are to be had, subject to the orders of the court.

(b) Whenever any captured vessel, arms, munitions, or other material taken as prize is appropriated for the use of the United States before that property comes into the custody of the prize court, it shall be surveyed, appraised, and inventoried by persons as competent and impartial as can be obtained, and the survey, appraisal, and inventory sent to the court in which the proceedings are to be had. If the property is appropriated after it comes into the custody of the court, sufficient notice shall be given to enable the court to have the property appraised for the protection of the rights of the claimants.

(c) Notwithstanding subsections (a) and (b), in any case where prize property is appropriated for the use of the United States, a prize court may adjudicate the cause on the basis of an inventory and survey and an appropriate undertaking by the United States to respond for the value of the property, without either an appraisal or a deposit of the value of the prize with the Treasurer of the United States or a public depository.

§ 7664. Delivery of property on stipulation

(a) Prize property may be delivered to a claimant on stipulation, deposit, or other security, if—

(1) the claimant satisfies the court that the property has a peculiar and intrinsic value to him, independent of its market value;

(2) the court is satisfied that the rights and interests of the United States or of other claimants will not be prejudiced;

(3) an opportunity is given to the United States attorney and the naval prize commissioner or the naval special prize commissioner to be heard as to the appointment of appraisers; and

(4) a satisfactory appraisal is made.

(b) Money collected on a stipulation, or deposited instead of it, that does not represent costs shall be deposited with the Treasurer of the United States or a public depository in the same manner as proceeds of a sale.

§ 7665. Sale of prize

(a) The court shall order a sale of prize property if—

(1) the property has been condemned;

(2) the court finds, at any stage of the proceedings, that the property is perishable, liable to deteriorate, or liable to depreciate in value; or

(3) the cost of keeping the property is disproportionate to its value.

(b) The court may order a sale of the prize property if, after the return-day on the libel, all the parties in interest who have appeared in the cause agree to it.

(c) An appeal does not prevent the order of a sale under this section or the execution of such an order.

§ 7666. Mode of making sale

(a) If a sale of prize property is ordered by the court, the marshal shall—

(1) prepare and circulate full catalogues and schedules of the property to be sold and return a copy of each to the court;

(2) advertise the sale fully and conspicuously by posters and in newspapers ordered by the court;

(3) give notice to the naval prize commissioner at least five days before the sale; and

(4) keep the goods open for inspection for at least three days before the sale.

(b) An auctioneer of known skill in the business to which the sale pertains shall be employed by the Secretary of the Navy to make the sale. The auctioneer, or his agent, shall collect and deposit the gross proceeds of the sale. The auctioneer and his agent are responsible to the marshal for the conduct of the sale and the collection and deposit of the gross proceeds.

§ 7667. Transfer of prize property to another district for sale

(a) In the case of any prize property ordered to be sold, if the court believes that it will be in the interest of all parties to have the property

sold in a judicial district other than the one in which the proceedings are pending, the court may direct the marshal to transfer the property to the district selected by the court for the sale, and to insure it. In such a case the court shall give the marshal proper orders as to the time and manner of conducting the sale.

(b) When so ordered the marshal shall transfer the property and keep it safely. He is responsible for its sale in the same manner as if the property were in his own district and for the deposit of the gross proceeds with the Treasurer of the United States or public depository nearest to the place of sale, subject to the order of the court for the district where the adjudication is pending.

(c) The necessary expenses of insuring, transferring, receiving, keeping, and selling the property are a charge upon it and upon the proceeds. Whenever any such expense is paid in advance by the marshal, any amount not repaid to him from the proceeds shall be allowed to him as in the case of expenses incurred in suits in which the United States is a party.

(d) If the Secretary of the Navy believes that it will be in the interest of all parties to have the property sold in a judicial district other than the one in which the proceedings are pending, he may, either by a general regulation or by a special direction in the cause, require the marshal to transfer the property from the district in which the judicial proceedings are pending to any other district for sale. In such a case proceedings shall be had as if the transfer had been made by order of the court.

§ 7668. Disposition of prize money

The net proceeds of all property condemned as prize shall be decreed to the United States and shall be ordered by the court to be paid into the Treasury.

§ 7669. Security for costs

The court may require any party to give security for costs at any stage of the cause and upon filing an appeal.

§ 7670. Costs and expenses a charge on prize property

(a) Costs and expenses allowed by the court incident to the bringing in, custody, preservation, insurance, and sale or other disposal of prize property are a charge upon the property and shall be paid from the proceeds thereof, unless the court decrees restitution free from such a charge.

(b) Charges for work and labor, materials furnished, or money paid must be supported by affidavit or vouchers.

§ 7671. Payment of costs and expenses from prize fund

(a) Payment may not be made from a prize fund except upon the order of the court. The court may, at any time, order the payment, from the deposit made with the Treasurer or public depository in the cause, of costs or charges accrued and allowed.

(b) When the cause is finally disposed of, the court shall order the Treasurer or public depository to pay the costs and charges allowed and unpaid. If the final decree is for restitution, or if there is no money subject to the order of the court in the cause, costs or charges allowed by the court and not paid by the claimants shall be paid out

of the fund for paying the expenses of suits in which the United States is a party or is interested.

§ 7672. Recaptures: award of salvage, costs, and expenses

(a) If a vessel or other property that has been captured by a force hostile to the United States is recaptured, and the court believes that the property had not been condemned as prize by competent authority before its recapture, the court shall award an appropriate sum as salvage.

(b) If the recaptured property belonged to the United States, it shall be restored to the United States, and costs and expenses ordered to be paid by the court shall be paid from the Treasury.

(c) If the recaptured property belonged to any person residing within or under the protection of the United States, the court shall restore the property to its owner upon his claim and on payment of such sum as the court may award as salvage, costs, and expenses.

(d) If the recaptured property belonged to any person permanently residing within the territory and under the protection of any foreign government in amity with the United States, and, by the law or usage of that government, the property of a citizen of the United States would be restored under like circumstances of recapture, the court shall, upon the owner's claim, restore the property to him under such terms as the law or usage of that government would require of a citizen of the United States under like circumstances. If no such law or usage is known, the property shall be restored upon the payment of such salvage, costs, and expenses as the court orders.

(e) Amounts awarded as salvage under this section shall be paid to the United States.

§ 7673. Allowance of expenses to marshals

The marshal shall be allowed his actual and necessary expenses for the custody, care, preservation, insurance, and sale or other disposal of the prize property, and for executing any order of the court in the prize cause. Charges of the marshal for expenses or disbursements shall be allowed only upon his oath that they have been necessarily incurred for the purpose stated.

§ 7674. Payment of witness fees

If the court allows fees to any witness in a prize cause, or fees for taking evidence out of the district in which the court sits, and there is no money subject to its order in the cause, the marshal shall pay the fees. He shall be repaid from any money deposited to the order of the court in the cause. Any amount not so repaid to the marshal shall be allowed him as witness fees paid by him in cases in which the United States is a party.

§ 7675. Commissions of auctioneers

(a) The Secretary of the Navy may establish a scale of commissions to be paid to auctioneers employed to make sales of prize property. These commissions are in full satisfaction of expenses as well as services. The scale may in no case allow a commission in excess of—

(1) $\frac{1}{2}$ of 1 percent on any amount exceeding \$10,000 on the sale of a vessel; and

(2) 1 percent on any amount exceeding \$10,000 on the sale of other prize property.

(b) If no such scale is established, auctioneers in prize causes shall be paid such compensation as the court considers just under the circumstances of each case.

§ 7676. Compensation of prize commissioners and special prize commissioners

(a) Naval prize commissioners and naval special prize commissioners may not receive compensation for their services in prize causes other than that to which they are entitled as officers of the Navy.

(b) Prize commissioners and special prize commissioners, except naval prize commissioners and naval special prize commissioners, are entitled to just and suitable compensation for their services in prize causes. The amount of compensation in each cause shall be determined by the court and allowed as costs.

(c) Annually, on the anniversary of his appointment, each prize commissioner and special prize commissioner, except a naval prize commissioner or a naval special prize commissioner, shall submit to the Attorney General an account of all amounts received for his services in prize causes within the previous year. Of the amounts reported, each such commissioner may retain not more than \$3,000, which is in full satisfaction for all his services in prize causes for that year. He shall pay any excess over that amount into the Treasury.

§ 7677. Accounts of clerks of district courts

(a) The clerk of each district court, for the purpose of the final decree in each prize cause, shall keep account of—

(1) the amount deposited with the Treasurer or public depository, subject to the order of the court in the cause; and

(2) the amounts ordered to be paid therefrom as costs and charges.

(b) The clerk shall draw the orders of the court for the payment of costs and allowances and for the disposition of the residue of the prize fund in each cause.

(c) The clerk shall send to the Secretary of the Treasury and the Secretary of the Navy—

(1) copies of final decrees in prize causes; and

(2) a semi-annual statement of the amounts allowed by the court, and ordered to be paid, within the preceding six months to the prize commissioners and special prize commissioners for their services.

§ 7678. Interfering with delivery, custody, or sale of prize property

Whoever willfully does, or aids or advises in the doing of, any act relating to the bringing in, custody, preservation, sale, or other disposition of any property captured as prize, or relating to any documents or papers connected with the property or to any deposition or other document or paper connected with the proceedings, with intent to defraud, delay, or injure the United States or any claimant of that property, shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

§ 7679. Powers of district court over prize property notwithstanding appeal

Notwithstanding an appeal, the district court may make and execute all necessary orders for the custody and disposal of prize property.

§ 7680. Appeals and amendments in prize causes

(a) A United States Court of Appeals may allow an appeal in a prize cause if it appears that a notice of appeal was filed with the clerk of the district court within thirty days after the final decree in that cause.

(b) A United States Court of Appeals, if in its opinion justice requires it, may allow amendments in form or substance of any appeal in a prize cause.

§ 7681. Reciprocal privileges to cobelligerent

(a) A cobelligerent of the United States that consents to the exercise of jurisdiction conferred by section 7652 (a) of this title with respect to any prize of the United States brought into the territorial waters of the cobelligerent or appropriated for the use of the United States within those territorial waters shall be given, upon proclamation by the President of the United States, like privileges with respect to any prize captured under the authority of that cobelligerent and brought into the territorial waters of the United States or appropriated for the use of the cobelligerent within the territorial waters of the United States.

(b) Reciprocal recognition shall be given to the jurisdiction acquired by courts of a cobelligerent under this section and full faith and credit shall be given to all proceedings had or judgments rendered in the exercise of that jurisdiction.

CHAPTER 657.—STAY OF JUDICIAL PROCEEDINGS

Sec.

7721. Scope of chapter.

7722. Stay of suit.

7723. Stay of proceedings for preserving evidence after stay of suit.

7724. Stay of proceedings for taking evidence before suit is filed.

7725. Stay extended or shortened.

7726. Reconsideration of stay.

7727. Duration of stay.

7728. Restricted certificate.

7729. Investigation before issue of certificate.

7730. Evidence admissible when witness is not available.

§ 7721. Scope of chapter

(a) This chapter applies to any suit against the United States under sections 781-790 of title 46 for—

(1) damage caused by a vessel in the naval service; or

(2) compensation for towage or salvage services, including contract salvage, rendered to a vessel in the naval service.

(b) In this chapter "vessel in the naval service" means—

(1) any vessel of the Navy, manned by the Navy, or chartered on bareboat charter to the Navy; or

(2) when the Coast Guard is operating as a service in the Navy, any vessel of the Coast Guard, manned by the Coast Guard, or chartered on bareboat charter to the Coast Guard.

§ 7722. Stay of suit

(a) Whenever in time of war the Secretary of the Navy certifies to a court, or to a judge of a court, in which a suit described in section 7721 of this title is pending, that the prosecution of the suit would tend to endanger the security of naval operations in the war, or would tend to interfere with those operations, all further proceedings in the suit shall be stayed.

(b) A stay under this section does not suspend the issue of process to take or preserve evidence to be used in the trial or prevent the completion of action under similar process issued before the stay.

§ 7723. Stay of proceedings for preserving evidence after stay of suit

If, at the time of certification under section 7722 of this title, or at any time before the termination of the stay based on the certificate, the Secretary of the Navy files with the court an additional certificate to the effect that the issue of any process to preserve evidence or the completion of action on process previously issued would tend to endanger the security of the United States or of any of its naval or military operations in the war, or would tend to interfere with those operations, then all proceedings for the taking or preserving of evidence to be used by either party in the trial shall be stayed.

§ 7724. Stay of proceedings for taking evidence before suit is filed

(a) If in time of war, with respect to any claim against the United States on which a suit described in section 7721 of this title would lie, the Secretary of the Navy certifies to the court, or to a judge of the court, in which proceedings are pending for—

- (1) the granting of a *dedimus potestatem* to take depositions;
- (2) a direction to take depositions in *perpetuam rei memoriam*;

or

- (3) the taking of depositions or production of evidence pursuant to such *dedimus potestatem* or direction, or pursuant to any other proceedings for the purpose;

that the proceedings would tend to endanger the security of the United States or any of its naval or military operations in the war, or would tend to interfere with those operations, then the proceedings may not be started or, if they have been started, they shall, when the certificate is filed, be stayed.

(b) The time during which a claimant may file suit of the type described in section 7721 of this title is computed by excluding the time during which a stay under this section or any extension of such a stay is in effect.

§ 7725. Stay extended or shortened

The Secretary of the Navy, when a stay under this chapter is in effect, may file with the court, or a judge of the court, a certificate extending or shortening the time stated in the prior certificate. The filing of such a new certificate extends or shortens the stay to the period specified in the new certificate or terminates the stay if the new certificate so states.

§ 7726. Reconsideration of stay

(a) A claimant or party who considers himself adversely affected by a stay under this chapter may serve a written notice on the Secretary of the Navy at Washington, D. C., requesting him to reconsider the stay previously issued and to issue a new certificate. The notice shall identify the stay by means of an attached copy of the certificate of the Secretary or a sufficient description of the stay. The notice may not contain any recital of the facts or circumstances involved.

(b) Within ten days after receiving notice under this section, the Secretary or his designee shall hold a secret meeting at which the claimant or party, or his representative, may present any facts and arguments he thinks material.

(c) Within ten days after a hearing under this section, the Secretary shall file with the court that ordered the stay a new certificate stating whether the stay is then to be terminated or for what period the stay is to continue in effect. If the Secretary fails to file a new certificate, the court, upon application by the claimant or party, shall issue an order directing the Secretary to file a new certificate within a specified time.

§ 7727. Duration of stay

A stay of proceedings under this chapter remains in effect for the period specified in the certificate upon which it was based unless the Secretary of the Navy issues a new certificate under section 7725 or 7726 of this title changing the termination date. However, a stay under this chapter may not remain in force longer than six months after the cessation of hostilities.

§ 7728. Restricted certificate

The Secretary of the Navy may restrict a certificate issued under this chapter so that it stays only the taking of testimony of certain witnesses or the production of evidence on certain subjects. The proceedings not stayed may continue.

§ 7729. Investigation before issue of certificate

The Secretary of the Navy may not issue a certificate under this chapter until he satisfies himself by investigation that it is necessary.

§ 7730. Evidence admissible when witness is not available

Whenever the court is satisfied by appropriate evidence or by agreement of counsel that the United States or the claimant is unable after reasonable efforts to secure the testimony of a witness and—

(1) the United States or the claimant has been prevented by a stay under this chapter from examining the witness; or

(2) the United States establishes that it has refrained from bringing a suit or from taking the testimony of the witness in a pending suit to avoid endangering the security of naval operations or interfering with such operations;

the court shall receive in evidence in place of the testimony of the witness—

(1) the affidavit of the witness duly sworn to before a notary public or other authorized officer; or

(2) the statement or testimony of the witness before a court-martial, a court of inquiry, or an investigation; but the use of such statement or testimony does not, in any litigation, make the remainder of the record admissible or compel the United States to produce the remainder of the record.

The court shall give such weight to the affidavit, statement, or testimony as it considers proper under the circumstances.

CHAPTER 659.—NAVAL MILITIA

Sec.

7851. Composition.

7852. Appointment and enlistment in reserve components.

7853. Release from Militia duty upon order to active duty in reserve components.

7854. Availability of material for Naval Militia.

§ 7851. Composition

The Naval Militia consists of the Naval Militia of the States, the Territories, and the District of Columbia.

§ 7852. Appointment and enlistment in reserve components

In the discretion of the Secretary of the Navy, any member of the Naval Militia may be appointed or enlisted in the Naval Reserve or the Marine Corps Reserve in the grade for which he is qualified.

§ 7853. Release from Militia duty upon order to active duty in reserve components

When ordered to active duty, a member of the Naval Reserve or the Marine Corps Reserve who is a member of the Naval Militia is relieved from all service and duty in the Naval Militia from the date of active duty specified in his orders until he is released from active duty.

§ 7854. Availability of material for Naval Militia

Under regulations prescribed by the Secretary of the Navy, vessels, material, armament, equipment, and other facilities of the Navy and the Marine Corps available to the Naval Reserve and the Marine Corps Reserve may also be made available for issue or loan to any State, any Territory, or the District of Columbia for the use of its Naval Militia if—

(1) at least 95 percent of the members of the portion or unit of the Naval Militia to which the facilities would be made available are members of the Naval Reserve or the Marine Corps Reserve; and

(2) the organization, administration, and training of the Naval Militia conform to standards prescribed by the Secretary.

Subtitle D—Air Force

PART I. ORGANIZATION

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801.	Definitions. [No present sections]	
803.	Department of the Air Force.....	8011
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