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APPENDIXES AND REPEALS

TITLE 10 AND TITLE 32, UNITED STATES CODE

TITLE 10 AND TITLE 32,
UNITED STATES CODE

PUBLIC LAW 1028 - 84TH CONGRESS
CHAPTER 1041 - 2D SESSION
APPROVED AUGUST 10, 1956
H. R. 7049

Title 10 and Title 32, United States Code

ENACTED DURING THE
SECOND SESSION OF THE EIGHTY-FOURTH CONGRESS
OF THE UNITED STATES OF AMERICA

Begun and held at the City of Washington on Tuesday, January 3, 1956

An Act

To revise, codify, and enact into law, title 10 of the United States Code, entitled "Armed Forces", and title 32 of the United States Code, entitled "National Guard".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 10 of the United States Code, entitled "Armed Forces", is revised, codified, and enacted into law, and may be cited as "Title 10, United States Code, § —", as follows:

TITLE 10—ARMED FORCES

Subtitle		Sec.
A.	General Military Law	101
B.	Army	3001
C.	Navy and Marine Corps	5001
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Subtitle A—General Military Law

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CHAPTER 1.—DEFINITIONS

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§ 101. Definitions

In addition to the definitions in sections 1–5 of title 1, the following definitions apply in this title:

(1) "United States", in a geographic sense, means the States and the District of Columbia.

(2) "Territory" means Alaska, Hawaii, or any Territory organized after this title is enacted, so long as it remains a Territory.

(3) "Possessions" includes the Virgin Islands, the Canal Zone, Guam, American Samoa, and the guano islands, so long as they remain possessions, but does not include any Territory or Commonwealth.

(4) "Armed forces" means the Army, Navy, Air Force, Marine Corps, and Coast Guard.

(5) "Department", when used with respect to a military department, means the executive part of the department and all

field headquarters, forces, reserve components, installations, activities, and functions under the control or supervision of the Secretary of the department. When used with respect to the Department of Defense, it means the executive part of the department, including the executive parts of the military departments, and all field headquarters, forces, reserve components, installations, activities, and functions under the control or supervision of the Secretary of Defense, including those of the military departments.

(6) "Executive part of the department" means the executive part of the Department of Defense, Department of the Army, Department of the Navy, or Department of the Air Force, as the case may be, at the seat of government.

(7) "Military departments" means the Department of the Army, the Department of the Navy, and the Department of the Air Force.

(8) "Secretary concerned" means—

(A) the Secretary of the Army, with respect to matters concerning the Army;

(B) the Secretary of the Navy, with respect to matters concerning the Navy, the Marine Corps, and the Coast Guard when it is operating as a service in the Navy;

(C) the Secretary of the Air Force, with respect to matters concerning the Air Force; and

(D) the Secretary of the Treasury, with respect to matters concerning the Coast Guard when it is not operating as a service in the Navy.

(9) "National Guard" means the Army National Guard and the Air National Guard.

(10) "Army National Guard" means that part of the organized militia of the several States and Territories, Puerto Rico, the Canal Zone, and the District of Columbia, active and inactive, that—

(A) is a land force;

(B) is trained, and has its officers appointed, under the sixteenth clause of section 8, article I, of the Constitution;

(C) is organized, armed, and equipped wholly or partly at Federal expense; and

(D) is federally recognized.

(11) "Army National Guard of the United States" means the reserve component of the Army all of whose members are members of the Army National Guard.

(12) "Air National Guard" means that part of the organized militia of the several States and Territories, Puerto Rico, the Canal Zone, and the District of Columbia, active and inactive, that—

(A) is an air force;

(B) is trained, and has its officers appointed, under the sixteenth clause of section 8, article I, of the Constitution;

(C) is organized, armed, and equipped wholly or partly at Federal expense; and

(D) is federally recognized.

(13) "Air National Guard of the United States" means the reserve component of the Air Force all of whose members are members of the Air National Guard.

(14) "Officer" means commissioned or warrant officer.

(15) "Commissioned officer" includes a commissioned warrant officer.

(16) "Warrant officer" means a person who holds a commission or warrant in a warrant officer grade.

(17) "Enlisted member" means a person in an enlisted grade.

(18) "Grade" means a step or degree, in a graduated scale of office or military rank, that is established and designated as a grade by law or regulation.

(19) "Rank" means the order of precedence among members of the armed forces.

(20) "Rating" means the name (such as "boatswain's mate") prescribed for members of an armed force in an occupational field. "Rate" means the name (such as "chief boatswain's mate") prescribed for members in the same rating or other category who are in the same grade (such as chief petty officer or seaman apprentice).

(21) "Authorized strength" means the largest number of members authorized to be in an armed force, a component, a branch, a grade, or any other category of the armed forces.

(22) "Active duty" means full-time duty in the active military service of the United States. It includes duty on the active list, full-time training duty, annual training duty, and attendance, while in the active military service, at a school designated as a service school by law or by the Secretary of the military department concerned.

(23) "Active duty for a period of more than 30 days" means active duty under a call or order that does not specify a period of 30 days or less.

(24) "Active service" means service on active duty.

(26) "Supplies" includes material, equipment, and stores of all kinds.

(27) "Pay" includes basic pay, special pay, retainer pay, incentive pay, retired pay, and equivalent pay, but does not include allowances.

(28) "Shall" is used in an imperative sense.

(29) "May" is used in a permissive sense. The words "no person may . . ." mean that no person is required, authorized, or permitted to do the act prescribed.

(30) "Includes" means "includes but is not limited to".

(31) "Inactive-duty training" means—

(A) duty prescribed for Reserves by the Secretary concerned under section 301 of title 37 or any other provision of law; and

(B) special additional duties authorized for Reserves by an authority designated by the Secretary concerned and performed by them on a voluntary basis in connection with the prescribed training or maintenance activities of the units to which they are assigned.

It includes those duties when performed by Reserves in their status as members of the National Guard.

(32) "Spouse" means husband or wife, as the case may be.

(33) "Regular", with respect to an enlistment, appointment, grade, or office, means enlistment, appointment, grade, or office in a regular component of an armed force.

(34) "Reserve", with respect to an enlistment, appointment, grade, or office, means enlistment, appointment, grade, or office held as a Reserve of an armed force.

CHAPTER 3.—GENERAL POWERS

Sec.
121. Regulations.

§ 121. Regulations

The President may prescribe regulations to carry out his functions, powers, and duties under this title.

CHAPTER 5.—JOINT CHIEFS OF STAFF

Sec.
141. Composition; functions.
142. Chairman.
143. Joint Staff.

§ 141. Composition; functions

(a) There are in the Department of Defense the Joint Chiefs of Staff consisting of—

(1) a Chairman, who has no vote;

(2) the Chief of Staff of the Army;

(3) the Chief of Naval Operations; and

(4) the Chief of Staff of the Air Force.

(b) The Joint Chiefs of Staff are the principal military advisers to the President, the National Security Council, and the Secretary of Defense.

(c) The Commandant of the Marine Corps shall indicate to the Chairman any matter scheduled for consideration by the Joint Chiefs that directly concerns the Marine Corps. Unless, upon request of the Chairman for a determination, the Secretary of Defense determines that such a matter does not concern the Marine Corps, the Commandant shall meet with the Joint Chiefs of Staff when that matter is under consideration. While the matter is under consideration and with respect to it, the Commandant has co-equal status with the members of the Joint Chiefs of Staff.

(d) Subject to the authority and direction of the President and the Secretary of Defense, the Joint Chiefs of Staff shall—

(1) prepare strategic plans and provide for the strategic direction of the armed forces;

(2) prepare joint logistic plans and assign logistic responsibilities to the armed forces in accordance with those plans;

(3) establish unified commands in strategic areas;

(4) review the major material and personnel requirements of the armed forces in accordance with strategic and logistic plans;

(5) formulate policies for the joint training of the armed forces;

(6) formulate policies for coordinating the military education of members of the armed forces;

(7) provide for representation of the United States on the Military Staff Committee of the United Nations in accordance with the Charter of the United Nations; and

(8) perform such other duties as the President or the Secretary of Defense may prescribe.

§ 142. Chairman

(a) The Chairman of the Joint Chiefs of Staff shall be appointed by the President, by and with the advice and consent of the Senate, from the officers of the regular components of the armed forces. He serves at the pleasure of the President for a term of two years, and may be reappointed in the same manner for one additional term. However, in time of war declared by Congress there is no limit on the number of reappointments.

(b) In addition to his other duties as a member of the Joint Chiefs of Staff, the Chairman shall, subject to the authority and direction of the President and the Secretary of Defense—

(1) preside over the Joint Chiefs of Staff;

(2) provide agenda for the meetings of the Joint Chiefs of Staff and assist them in carrying on their business as promptly as practicable; and

(3) inform the Secretary of Defense, and, when the President or the Secretary of Defense considers it appropriate, the President, of those issues upon which the Joint Chiefs of Staff have not agreed.

(c) While holding office, the Chairman outranks all other officers of the armed forces. However, he may not exercise military command over the Joint Chiefs of Staff or any of the armed forces.

(d) The Chairman is entitled to the pay and allowances provided by law for the Chief of Staff of the Army.

§ 143. Joint Staff

(a) There is under the Joint Chiefs of Staff a Joint Staff consisting of not more than 210 officers selected by the Joint Chiefs of Staff with the approval of the Chairman. The Joint Staff shall be selected in approximately equal numbers from—

(1) the Army;

(2) the Navy and the Marine Corps; and

(3) the Air Force.

The tenure of the members of the Joint Staff is subject to the approval of the Chairman of the Joint Chiefs of Staff.

(b) The Joint Chiefs of Staff, with the approval of the Secretary of Defense, shall select the Director of the Joint Staff. The tenure of the Director is subject to the Secretary's approval. The Director must be an officer junior in grade to each member of the Joint Chiefs of Staff.

(c) The Joint Staff, operating under the Director, shall perform such duties as the Joint Chiefs of Staff direct. The Chairman of the Joint Chiefs of Staff manages the Joint Staff and its director.

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CHAPTER 7.—BOARDS, COUNCILS, AND COMMITTEES

Sec.
171. Armed Forces Policy Council.
172. Ammunition storage board.
173. Advisory personnel.
174. Advisory personnel: research and development.
175. Reserve Forces Policy Board.

§ 171. Armed Forces Policy Council

(a) There is in the Department of Defense an Armed Forces Policy Council consisting of—

(1) the Secretary of Defense, as Chairman, with the power of decision;
(2) the Deputy Secretary of Defense;
(3) the Secretary of the Army;
(4) the Secretary of the Navy;
(5) the Secretary of the Air Force;
(6) the Chairman of the Joint Chiefs of Staff;
(7) the Chief of Staff of the Army;
(8) the Chief of Naval Operations; and
(9) the Chief of Staff of the Air Force.

(b) The Armed Forces Policy Council shall advise the Secretary of Defense on matters of broad policy relating to the armed forces and shall consider and report on such other matters as the Secretary of Defense may direct.

§ 172. Ammunition storage board

(a) The Secretaries of the military departments, acting through a joint board of officers selected by them, shall keep informed on stored supplies of ammunition and components thereof for use of the Army, Navy, Air Force, and Marine Corps, with particular regard to keeping those supplies properly dispersed and stored and to preventing hazardous conditions from arising to endanger life and property inside or outside of storage reservations.

(b) The board shall confer with and advise the Secretaries of the military departments in carrying out the recommendations in House Document No. 199 of the Seventieth Congress.

§ 173. Advisory personnel

(a) The Secretary of Defense may establish such advisory committees and employ such part-time advisers as he considers necessary for the performance of his functions and those of the agencies under his control.

(b) A person who serves as a member of a committee may not be paid for that service while holding another position or office under the United States for which he receives compensation. Other members and part-time advisers may serve without compensation or may be paid not more than $50 for each day of service, as the Secretary determines.

(c) Sections 281, 283, and 284 of title 18 do not apply to a person because of his service on a committee, or as a part-time adviser, under subsection (a), unless he performs an act which is unlawful under one of those sections and which relates to a matter directly involving a

department or agency which he is advising or to a matter in which that department or agency is directly interested.

§ 174. Advisory personnel: research and development

(a) The Secretary of each military department may establish such advisory committees and panels as are necessary for the research and development activities of his department and may employ such part-time advisers as he considers necessary to carry out those activities.

(b) A person who serves as a member of such a committee or panel may not be paid for that service while holding another position or office under the United States for which he receives compensation. Other members and part-time advisers may serve without compensation or may be paid not more than $50 for each day of service, as the Secretary concerned determines.

(c) The Secretary concerned may delegate any authority under this section to—

(1) the Under Secretary of his department;

(2) an Assistant Secretary of his department; or

(3) the chief, and one assistant to the chief, of any technical service, bureau, or office.

§ 175. Reserve Forces Policy Board

(a) There is in the Office of the Secretary of Defense a Reserve Forces Policy Board consisting of—

(1) a civilian chairman appointed by the Secretary of Defense;

(2) the Secretary, the Under Secretary, or an Assistant Secretary designated under section 264 (b) of this title, of each of the military departments;

(3) an officer of the Regular Army designated by the Secretary of the Army;

(4) an officer of the Regular Navy or Regular Marine Corps designated by the Secretary of the Navy;

(5) an officer of the Regular Air Force designated by the Secretary of the Air Force;

(6) four reserve officers designated by the Secretary of Defense upon the recommendation of the Secretary of the Army, two of whom must be members of the Army National Guard of the United States, and two of whom must be members of the Army Reserve;

(7) four reserve officers designated by the Secretary of Defense upon the recommendation of the Secretary of the Navy, two of whom must be members of the Naval Reserve, and two of whom must be members of the Marine Corps Reserve;

(8) four reserve officers designated by the Secretary of Defense upon the recommendation of the Secretary of the Air Force, two of whom must be members of the Air National Guard of the United States, and two of whom must be members of the Air Force Reserve; and

(9) a reserve officer of the Army, Navy, Air Force, or Marine Corps who is a general officer or flag officer designated by the Chairman of the Board with the approval of the Secretary of Defense, and who serves without vote as military adviser to the Chairman and as executive officer of the Board.

(b) Whenever the Coast Guard is not operating as a service in the Navy, the Secretary of the Treasury may designate an officer of the Regular Coast Guard or the Coast Guard Reserve to serve without vote as a member of the Board.

(c) The Board, acting through the Assistant Secretary of Defense designated under section 264 (a) of this title, is the principal policy adviser to the Secretary of Defense on matters relating to the reserve components.

(d) This section does not affect the committees on reserve policies prescribed by section 3033 or 8033 of this title.

(e) A member of a committee under section 3033 or 8033 of this title may, if otherwise eligible, be a member of the Reserve Forces Policy Board.

CHAPTER 9.—REGULAR COMPONENTS

[No present sections]

CHAPTER 11.—RESERVE COMPONENTS

Sec.

261. Reserve components named.
262. Purpose.
263. Basic policy for order into Federal service.
264. Reserve affairs: responsibility for.
265. Policies and regulations: participation of reserve officers in preparation and administration.
266. Boards for appointment, promotion, and certain other purposes: composition.
267. Ready Reserve; Standby Reserve; Retired Reserve: placement and status of members.
268. Ready Reserve.
269. Ready Reserve: placement in; transfer from.
273. Standby Reserve: composition; inactive-status list.
274. Retired Reserve.
275. Personnel records.
276. Mobilization forces: maintenance.
277. Regular and reserve components: discrimination prohibited.
278. Dissemination of information.
280. Regulations.

§ 261. Reserve components named

(a) The reserve components of the armed forces are:
(1) The Army National Guard of the United States.
(2) The Army Reserve.
(3) The Naval Reserve.
(4) The Marine Corps Reserve.
(5) The Air National Guard of the United States.
(6) The Air Force Reserve.
(7) The Coast Guard Reserve.

(b) Except as otherwise provided in this title, no person may be a member of more than one reserve component at the same time.

§ 262. Purpose

The purpose of the reserve components is to provide trained units and qualified persons available for active duty in the armed forces, in time of war or national emergency and at such other times as the national security requires, to fill the needs of the armed forces whenever, during, and after the period needed to procure and train additional units and qualified persons to achieve the planned mobiliza-

tion, more units and persons are needed than are in the regular components.

§ 263. Basic policy for order into Federal service

Whenever Congress determines that more units and organizations are needed for the national security than are in the regular components of the ground and air forces, the Army National Guard of the United States and the Air National Guard of the United States, or such parts of them as are needed, together with units of other reserve components necessary for a balanced force, shall be ordered to active duty and retained as long as so needed.

§ 264. Reserve affairs: responsibility for

(a) The Secretary of Defense shall designate an Assistant Secretary of Defense to have, in addition to his other duties, principal responsibility for reserve affairs of the Department of Defense.

(b) In addition to his other duties, the Secretary concerned, or, as he may prescribe, the Under Secretary or an Assistant Secretary of his department, has the principal responsibility for supervising the activities of the reserve components under that department.

(c) The Secretary concerned shall designate a general or flag officer of each armed force under his jurisdiction to be directly responsible for reserve affairs to the Chief of Staff of the Army, the Chief of Naval Operations, the Chief of Staff of the Air Force, the Commandant of the Marine Corps, and the Commandant of the Coast Guard, as the case may be. This subsection does not affect the functions of the Chief of the National Guard Bureau.

§ 265. Policies and regulations: participation of reserve officers in preparation and administration

Within such numbers and in such grades and assignments as the Secretary concerned may prescribe, each armed force shall have officers of its reserve components on active duty (other than for training) at the seat of government, and at headquarters responsible for reserve affairs, to participate in preparing and administering the policies and regulations affecting those reserve components. While so serving, such an officer is an additional number of any staff with which he is serving.

§ 266. Boards for appointment, promotion, and certain other purposes: composition

(a) Each board convened for the appointment, promotion, demotion, involuntary release from active duty, discharge, or retirement of Reserves shall include an appropriate number of Reserves, as prescribed by the Secretary concerned under standards and policies prescribed by the Secretary of Defense.

(b) Each member of a board convened for the selection for promotion, or for the demotion or discharge, of Reserves must be senior in rank to the persons under consideration by that board. However, a member serving in a legal advisory capacity may be junior in rank to any person, other than a judge advocate or law specialist, being considered by that board; and a member serving in a medical advisory capacity may be junior in rank to any person, other than a medical officer, being considered by that board.

§ 267. Ready Reserve; Standby Reserve; Retired Reserve: placement and status of members

(a) There are in each armed force a Ready Reserve, a Standby Reserve, and a Retired Reserve. Each Reserve shall be placed in one of those categories.

(b) Reserves who are on the inactive status list of a reserve component, or who are assigned to the inactive Army National Guard or the inactive Air National Guard, are in an inactive status. Members in the Retired Reserve are in a retired status. All other Reserves are in an active status.

§ 268. Ready Reserve

The Ready Reserve consists of units or Reserves, or both, liable for active duty as provided in sections 672 and 673 of this title. The authorized strength of the Ready Reserve is 1,500,000.

§ 269. Ready Reserve: placement in; transfer from

(a) Each person required under law to serve in a reserve component shall, upon becoming a member, be placed in the Ready Reserve of his armed force for his prescribed term of service, unless he is eligible to transfer to the Standby Reserve under subsection (e).

(b) The units and members of the Army National Guard of the United States and of the Air National Guard of the United States are in the Ready Reserve of the Army and the Ready Reserve of the Air Force, respectively.

(c) All Reserves assigned to units organized to serve as units and designated as units in the Ready Reserve are in the Ready Reserve.

(d) Under such regulations as the Secretary concerned may prescribe, any qualified Reserve may, upon his request, be placed in the Ready Reserve.

(e) Except in time of war or of national emergency declared by Congress, a Reserve who is not on active duty, or who is on active duty for training, shall, upon his request, be transferred to the Standby Reserve for the rest of his term of service, if—

(1) he served on active duty (other than for training) in the armed forces for an aggregate of at least five years;

(2) he served on active duty (other than for training) in the armed forces for an aggregate of less than five years, but satisfactorily participated, as determined by the Secretary concerned, in an accredited training program in the Ready Reserve for a period which, when added to his period of active duty (other than for training), totals at least five years, or such shorter period as the Secretary concerned, with the approval of the Secretary of Defense in the case of a Secretary of a military department, may prescribe for satisfactory participation in an accredited training program designated by the Secretary concerned;

(3) he served on active duty (other than for training) in the armed forces for an aggregate of at least 12 months after December 6, 1941, and before September 3, 1945, and for an aggregate of at least 12 months after June 25, 1950; or

(4) he was a member of one or more reserve components for an aggregate of at least eight years after September 2, 1945.

This subsection does not apply to a member of the Ready Reserve while he is serving under an agreement to remain in the Ready Reserve for a stated period.

(f) Subject to subsection (g), a member in the Ready Reserve may be transferred to the Standby Reserve or, if he is qualified and so requests, to the Retired Reserve, under such regulations as the Secretary concerned, with the approval of the Secretary of Defense in the case of a Secretary of a military department, may prescribe.

(g) A member of the Army National Guard of the United States or the Air National Guard of the United States may be transferred to the Standby Reserve only with the consent of the governor or other appropriate authority of the State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia, whichever is concerned.

§ 273. Standby Reserve: composition; inactive status list

(a) The Standby Reserve consists of those units or members, or both, of the reserve components, other than those in the Ready Reserve or Retired Reserve, who are liable for active duty only as provided in sections 672 and 674 of this title.

(b) An inactive status list shall be maintained in the Standby Reserve. Whenever an authority designated by the Secretary concerned considers that it is in the best interest of the armed force concerned, a member in the Standby Reserve who is not required to remain a Reserve, and who cannot participate in prescribed training, may, if qualified, be transferred to the inactive status list under regulations to be prescribed by the Secretary concerned. These regulations shall fix the conditions under which such a member is entitled to be returned to an active status.

(c) While in an inactive status, a Reserve is not eligible for pay or promotion.

§ 274. Retired Reserve

The Retired Reserve consists of Reserves—

(1) who have been transferred to it upon their request;
(2) who retain their status as Reserves; and
(3) who are otherwise qualified.

§ 275. Personnel records

Each armed force shall maintain adequate and current personnel records of each member of its reserve components showing—

(1) his physical condition;
(2) his dependency status;
(3) his military qualifications;
(4) his civilian occupational skills;
(5) his availability for service; and
(6) such other information as the Secretary concerned may prescribe.

§ 276. Mobilization forces: maintenance

(a) Whenever units or members of the reserve components are ordered to active duty (other than for training) during a period of partial mobilization, the Secretary concerned shall continue to maintain mobilization forces by planning and budgeting for the continued

organization and training of the reserve components not mobilized, and make the fullest practicable use of the Federal facilities vacated by mobilized units, consistent with approved joint mobilization plans.

(b) In this section "partial mobilization" means the mobilization resulting from action by Congress or the President, under any law, to bring units of any reserve component, and members not assigned to units organized to serve as units, to active duty for a limited expansion of the active armed forces.

§ 277. Regular and reserve components: discrimination prohibited

Laws applying to both Regulars and Reserves shall be administered without discrimination—

(1) among Regulars;
(2) among Reserves; and
(3) between Regulars and Reserves.

§ 278. Dissemination of information

The Secretary of Defense shall require the complete and current dissemination, to all Reserves and to the public, of information of interest to the reserve components.

§ 280. Regulations

Subject to standards, policies, and procedures prescribed by the Secretary of Defense, the Secretary of each military department shall prescribe such regulations as he considers necessary to carry out chapters 11, 35, 39, and 59, and sections 715, 1003, 1004, 1032, 1376, 2001, 2511, 3077, 3079, 3221, 3224, 3259, 3260, 3261, 3351, 3352, 3353, 3495, 3498, 3685, 3686, 5251, 5252, 5456, 5597, 6150, 6327, 6483, 7225, 7226, 7854, 8077, 8079, 8221, 8224, 8259, 8260, 8261, 8351, 8352, 8353, 8495, 8498, 8685, and 8686 of this title. The Secretary of the Treasury, with the concurrence of the Secretary of the Navy, shall prescribe such regulations as he considers necessary to carry out chapters 11, 35, 39, and 59, and sections 513, 715, 742, 1003, 1004, 1032, 1376, 2001, and 2511 of this title, so far as they relate to the Coast Guard, except when the Coast Guard is operating as a service in the Navy. So far as practicable, regulations for all reserve components shall be uniform.

CHAPTER 13.—THE MILITIA

Sec.
311. Militia: composition and classes.
312. Militia duty: exemptions.

§ 311. Militia: composition and classes

(a) The militia of the United States consists of all able-bodied males at least 17 years of age and, except as provided in section 313 of title 32, under 45 years of age who are, or who have made a declaration of intention to become, citizens of the United States.

(b) The classes of the militia are—

(1) the organized militia, which consists of the National Guard and the Naval Militia; and

(2) the unorganized militia, which consists of the members of the militia who are not members of the National Guard or the Naval Militia.

§ 312. Militia duty: exemptions

(a) The following persons are exempt from militia duty:

(1) The Vice President.

(2) The judicial and executive officers of the United States, the several States and Territories, Puerto Rico, and the Canal Zone.

(3) Members of the armed forces, except members who are not on active duty.

(4) Customhouse clerks.

(5) Persons employed by the United States in the transmission of mail.

(6) Workmen employed in armories, arsenals, and naval shipyards of the United States.

(7) Pilots on navigable waters.

(8) Mariners in the sea service of a citizen of, or a merchant in, the United States.

(b) A person who claims exemption because of religious belief is exempt from militia duty in a combatant capacity, if the conscientious holding of that belief is established under such regulations as the President may prescribe. However, such a person is not exempt from militia duty that the President determines to be noncombatant.

CHAPTER 15.—INSURRECTION

Sec.

331. Federal aid for State governments.
332. Use of militia and armed forces to enforce Federal authority.
333. Interference with State and Federal law.
334. Proclamation to disperse.

§ 331. Federal aid for State governments

Whenever there is an insurrection in any State against its government, the President may, upon the request of its legislature or of its governor if the legislature cannot be convened, call into Federal service such of the militia of the other States, in the number requested by that State, and use such of the armed forces, as he considers necessary to suppress the insurrection.

§ 332. Use of militia and armed forces to enforce Federal authority

Whenever the President considers that unlawful obstructions, combinations, or assemblages, or rebellion against the authority of the United States, make it impracticable to enforce the laws of the United States in any State or Territory by the ordinary course of judicial proceedings, he may call into Federal service such of the militia of any State, and use such of the armed forces, as he considers necessary to enforce those laws or to suppress the rebellion.

§ 333. Interference with State and Federal law

The President, by using the militia or the armed forces, or both, or by any other means, shall take such measures as he considers necessary to suppress, in a State, any insurrection, domestic violence, unlawful combination, or conspiracy, if it—

(1) so hinders the execution of the laws of that State, and of the United States within the State, that any part or class of its

people is deprived of a right, privilege, immunity, or protection named in the Constitution and secured by law, and the constituted authorities of that State are unable, fail, or refuse to protect that right, privilege, or immunity, or to give that protection; or

(2) opposes or obstructs the execution of the laws of the United States or impedes the course of justice under those laws.

In any situation covered by clause (1), the State shall be considered to have denied the equal protection of the laws secured by the Constitution.

§ 334. Proclamation to disperse

Whenever the President considers it necessary to use the militia or the armed forces under this chapter, he shall, by proclamation, immediately order the insurgents to disperse and retire peaceably to their abodes within a limited time.

CHAPTER 17.—ARMING OF AMERICAN VESSELS

Sec.
351. During war or threat to national security.

§ 351. During war or threat to national security

(a) The President, through any agency of the Department of Defense designated by him, may arm, have armed, or allow to be armed, any watercraft or aircraft that is capable of being used as a means of transportation on, over, or under water, and is documented, registered, or licensed under the laws of the United States.

(b) This section applies during a war and at any other time when the President determines that the security of the United States is threatened by the application, or the imminent danger of application, of physical force by any foreign government or agency against the United States, its citizens, the property of its citizens, or their commercial interests.

(c) Section 463 of title 22 does not apply to vessels armed under this section.

PART II.—PERSONNEL

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CHAPTER 31.—ENLISTMENTS

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510. Reserve components: qualifications.
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512. Reserve components: transfers.
513. Reserve components: promotions.
514. Bounties prohibited; substitutes prohibited.
515. Reenlistment after discharge as warrant officer.

§ 501. Enlistment oath: who may administer

Each person enlisting in an armed force shall take the following oath:

> "I, _____, do solemnly swear (or affirm) that I will bear true faith and allegiance to the United States of America; that I will serve them honestly and faithfully against all their enemies whomsoever; and that I will obey the orders of the President of the United States and the orders of the officers appointed over me, according to regulations and the Uniform Code of Military Justice."

The oath may be taken before any commissioned officer of any armed force.

§ 510. Reserve components: qualifications

(a) To become an enlisted member of a reserve component a person must be enlisted as a Reserve of an armed force and subscribe to the oath prescribed by section 501 of this title, or be transferred to that component according to law. In addition, to become an enlisted member of the Army National Guard of the United States or the Air National Guard of the United States, he must meet the requirements of section 3261 or 8261 of this title.

(b) Except as otherwise provided by law, the Secretary concerned shall prescribe physical, mental, moral, professional, and age qualifications for the enlistment of persons as Reserves of the armed forces under his jurisdiction. However, no person may be enlisted as a Reserve unless—

(1) he is, or has made a declaration of intention to become, a citizen of the United States or of a possession thereof; or

(2) he has previously served in the armed forces or in the National Security Training Corps.

(c) Women may be enlisted as Reserves of the armed forces for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, and Coast Guard Reserve. Women are enlisted in the grades and ratings authorized for enlisted women of the regular component of the armed force concerned. Any female former enlisted member of an armed force may, if otherwise qualified, be enlisted as a Reserve of that armed force in the highest grade or rating in which she previously served satisfactorily on active duty (other than for training).

(d) A person who is otherwise qualified, but who has a physical defect that the Secretary concerned determines will not interfere with the performance of the duties to which that person may be assigned, may be enlisted as a Reserve of any armed force under the jurisdiction of that Secretary.

§ 511. Reserve components: terms

(a) Except as otherwise prescribed by law, enlistments as Reserves are for terms prescribed by the Secretary concerned. However, an enlistment that is in effect at the beginning of a war or of a national emergency declared by Congress, or entered into during such a war or emergency, and that would otherwise expire, continues in effect until the expiration of six months after the end of that war or emergency, whichever is later, unless sooner terminated by the Secretary concerned.

(b) In time of war or of national emergency declared by Congress the term of service of an enlisted member transferred to a reserve component according to law, that would otherwise expire, continues until the expiration of six months after the end of that war or emergency, whichever is later, unless sooner terminated by the Secretary concerned.

§ 512. Reserve components: transfers

(a) A person who would otherwise be required to be transferred to a reserve component under section 651 of this title or under sections 451–473 of title 50, appendix, is entitled, if he is qualified and accepted, to be enlisted in any armed force that he chooses and to participate in the programs authorized for that armed force. However, unless the two Secretaries concerned consent, he may not be enlisted as a Reserve of an armed force other than that from which he is transferred. All periods of his participation shall be credited against the total period of service required of him under section 651 of this title or under sections 451–473 of title 50, appendix. However, no period may be credited more than once.

(b) A person covered by subsection (a) shall perform the rest of his required term of service in the armed force in which he is so enlisted or in any other armed force in which he is later enlisted or appointed.

(c) This section does not change any term of service under an appointment, enlistment, or agreement, including an agreement made before or at the time when the member entered upon a program authorized by an armed force.

§ 513. Reserve components: promotions

The Secretary concerned shall establish an adequate and equitable system for promoting enlisted members of the reserve components under his jurisdiction who are in an active status. So far as practicable, each promotion system shall be similar to that for members of the regular component of the armed force concerned. Each promotion system shall provide for forced attrition to the extent necessary to maintain vigorous reserve forces, encourage necessary leadership, and provide a steady flow of promotions.

§ 514. Bounties prohibited; substitutes prohibited

(a) No bounty may be paid to induce any person to enlist in an armed force. A clothing allowance or enlistment bonus authorized by law is not a bounty for the purposes of this subsection.

(b) No person liable for active duty in an armed force under this subtitle may furnish a substitute for that active duty. No person may be enlisted or appointed in an armed force as a substitute for another person.

§ 515. Reenlistment after discharge as warrant officer

A person who has been discharged from a regular component of an armed force under section 1165 or 1166 of this title may, upon his request and in the discretion of the Secretary concerned, be enlisted in that armed force in the grade prescribed by the Secretary. However, a person discharged under section 1165 of this title may not be enlisted in a grade lower than the grade that he held immediately before appointment as a warrant officer.

CHAPTER 33.—APPOINTMENTS IN REGULAR COMPONENTS

Sec.

541. Graduates of the United States Military, Naval, and Air Force Academies.
555. Warrant officers: grades.
556. Warrant officers: original appointment: service credit.
557. Warrant officers: promotion; qualifications.
558. Warrant officers: promotion; selection boards.
559. Warrant officers: eligibility for promotion.
560. Warrant officers: promotion; selection procedure.
561. Warrant officers: effect of failure of selection for promotion.
562. Warrant officers: disapproval of promotion by Secretary concerned, President, or Senate.
563. Warrant officers: promotion; effective date.
564. Warrant officers: effect of second failure of promotion.
565. Warrant officers: suspension of laws for promotion or mandatory retirement or separation during war or emergency.

§ 541. Graduates of the United States Military, Naval, and Air Force Academies

(a) Notwithstanding any other provision of law, each cadet at the United States Military Academy or the United States Air Force Academy, and each midshipman at the United States Naval Academy, is entitled, before graduating from that Academy, to state his preference for appointment, upon graduation, as a commissioned officer in either the Army, Navy, Air Force, or Marine Corps.

(b) With the consent of the Secretary of the military department administering the Academy from which the cadet or midshipman is to be graduated, and of the Secretary of the military department having jurisdiction over the armed force for which that graduate stated his preference, the graduate is entitled to be accepted for appointment in that armed force. However, not more than 12½ percent of any graduating class at an Academy may be appointed in armed forces not under the jurisdiction of the military department administering that Academy.

(c) The Secretary of Defense shall, by regulation, provide for the equitable distribution of appointments in cases where more than 12½ percent of the graduating class of any Academy request appointment in armed forces not under the jurisdiction of the military department administering that Academy.

§ 555. Warrant officers: grades

(a) The regular warrant officer grades in each armed force corresponding to the pay grades prescribed for warrant officers by section 232 (a) of title 37 are as follows:

Warrant officer grade:	Pay Grade
Chief warrant officer, W–4	W–4
Chief warrant officer, W–3	W–3
Chief warrant officer, W–2	W–2
Warrant officer, W–1	W–1

(b) Appointments of regular chief warrant officers of the Army and the Air Force shall be made by warrant by the Secretary concerned. Permanent appointments of regular chief warrant officers of the Navy, Marine Corps, and Coast Guard shall be made by commission by the President, by and with the advice and consent of the Senate. Permanent appointments of regular warrant officers, W–1, shall be made by warrant by the Secretary concerned.

§ 556. Warrant officers: original appointment; service credit

For the purposes of promotion, persons originally appointed in regular warrant officer grades under section 555 of this title shall be credited with such service as the Secretary concerned may prescribe. However, such a person may not be credited with a period of service greater than the period of active service performed in the grade, or pay grade corresponding to the grade, in which so appointed, or in any higher grade or pay grade.

§ 557. Warrant officers: promotion; qualifications

(a) The promotion of permanent regular warrant officers to permanent regular warrant officer grades shall be governed by such regulations relating to physical, moral, and professional qualifications as the Secretary concerned may prescribe. However, the physical qualifications for promotion must be the same as those prescribed for retention on active duty.

(b) A regular warrant officer who is selected for promotion to the next higher regular warrant officer grade under this chapter, but who, within such time as may be prescribed by the Secretary concerned, fails to meet the moral and professional qualifications prescribed by the Secretary under subsection (a), shall be treated as if he had twice failed of selection for promotion.

§ 558. Warrant officers: promotion; selection boards

(a) Whenever the Secretary concerned determines that the needs of the service so require, but at least once a year, he shall appoint selection boards to consider permanent regular warrant officers for promotion to permanent regular warrant officer grades. Each board shall be composed of at least five officers of the armed force concerned who hold a permanent regular grade above major or lieutenant commander.

(b) No officer may serve on two consecutive boards under this section, if the second board considers any warrant officer who was considered by the first board.

(c) The Secretary concerned shall prescribe all other matters relating to the functions and duties of the boards, including the number of members constituting a quorum.

§ 559. Warrant officers: eligibility for promotion

Each permanent regular warrant officer shall be considered by a selection board for promotion to the next higher permanent regular warrant officer grade far enough in advance of the date upon which he will complete (1) three years of service in his permanent regular warrant officer grade, if he is in the grade of warrant officer, W–1, or (2) six years of service in his permanent regular warrant officer grade, if he is in the grade of chief warrant officer, W–2, or chief warrant officer, W–3, so that he may be promoted as of the day after the date on which he will complete that service.

§ 560. Warrant officers: promotion; selection procedure

(a) The Secretary concerned shall furnish each selection board a list of all permanent regular warrant officers, in order of seniority in permanent regular grade, who are eligible to be considered for promotion to the next higher permanent regular warrant officer grade.

(b) From the list of warrant officers, W–1, the selection board shall select those whom it considers fully qualified for promotion. It shall also report the names of those whom it recommends for termination under section 1164 of this title.

(c) The Secretary concerned shall prescribe the number of warrant officers who may be selected under this section for promotion to each of the grades of chief warrant officer, W–3, and chief warrant officer, W–4. The number so prescribed by him for a grade may not be less than 80 percent of the number of warrant officers who are being considered for the first time for promotion to that grade.

(d) From the list of chief warrant officers, W–2, and chief warrant officers, W–3, the selection board shall select for promotion to the next higher permanent regular warrant officer grade those whom it considers best qualified for promotion, but not more than the number specified by the Secretary.

(e) Under such regulations as the Secretary may prescribe, the selection board shall report the names of those chief warrant officers considered by it whose records and reports establish, in its opinion, their unfitness or unsatisfactory performance in their permanent regular grades. A warrant officer whose name is so reported shall be retired, enlisted, or separated under section 1165 or 1166 of this title.

(f) The names of warrant officers selected for promotion under this section shall be arranged in the board's report in order of seniority in permanent regular grade.

(g) The report of the selection board shall be submitted to the Secretary concerned. The Secretary may approve or disapprove all or part of the report.

§ 561. Warrant officers: effect of failure of selection for promotion

A regular warrant officer who has been considered by a selection board for promotion under section 559 of this title, but not selected, shall be considered for promotion by each later selection board that considers officers in his permanent regular grade, until he is retired, separated, or selected for promotion.

§ 562. Warrant officers: disapproval of promotion by Secretary concerned, President, or Senate

(a) If the Secretary concerned, the President, or the Senate disapproves the promotion of a permanent regular warrant officer before it takes effect, his name shall be removed from the list of those selected for the promotion and he continues to be eligible for consideration for promotion.

(b) If the next selection board selects that warrant officer for promotion, his name shall be replaced without prejudice on the list from which it was removed. If he is promoted, his date of appointment is the date it would have been had his name not been removed.

(c) If the next selection board does not select him for promotion, or if his name is again removed under subsection (a) from the list of officers selected by the next selection board, he shall be treated as if he had twice failed of selection for promotion.

§ 563. Warrant officers: promotion; effective date

(a) A permanent regular warrant officer who is selected for promotion to the next higher permanent regular warrant officer grade by the first selection board that considered him for promotion to that grade, and who is qualified under section 557 (a) of this title, shall be promoted to that grade. His date of appointment in that grade is the day after he completes the service prescribed in section 559 of this title.

(b) A permanent regular warrant officer who is selected for promotion to the next higher permanent regular warrant officer grade after having previously failed of selection for promotion to that grade, and who is qualified under section 557 (a) of this title, shall be promoted to that grade. His date of appointment in that grade is the earlier of the following dates:

(1) One year after the date upon which his promotion would have been effective had he been selected by the last selection board that failed to select him.

(2) The earliest date upon which any warrant officer who did not fail of selection, and whose name follows his on the list submitted to the Secretary under section 560 (g) of this title, is promoted to that grade.

§ 564. Warrant officers: effect of second failure of promotion

(a) Unless retired or separated under some other provision of law, a permanent regular warrant officer who has twice failed of selection for promotion to the next higher permanent regular warrant officer grade shall—

(1) if he has more than 20 years of active service that could be credited to him under section 311 of title 37 on (A) the date when the Secretary concerned approves the report of the board under section 560 (g) of this title, (B) the date when his name was removed from the recommended list under section 562 (a) of this title, or (C) the date prescribed by the Secretary concerned under section 557 (b) of this title, whichever applies, be retired 60 days after that date, except as provided by section 47a of title 5, with retired pay computed under section 1401 of this title;

(2) if he has at least 18 but not more than 20 years of such active service on (A) the date when the Secretary concerned approves the report of the board under section 560 (g) of this title, (B) the date when his name was removed from the recommended list under section 562 (a) of this title, or (C) the date prescribed by the Secretary concerned under section 557 (b) of this title, whichever applies, be retired 60 days after the date upon which he completes 20 years of active service, except as provided by section 47a of title 5, with retired pay computed under section 1401 of this title, unless he is selected for promotion to the next higher permanent regular grade before that date; or

(3) if he has less than 18 years of such active service on (A) the date when the Secretary concerned approves the report of the board under section 560 (g) of this title, (B) the date when his name was removed from the recommended list under section 562 (a) of this title, or (C) the date prescribed by the Secretary concerned under section 557 (b) of this title, whichever applies, be separated 60 days after that date with severance pay computed under section 1167 of this title, unless—

(A) upon his request and in the discretion of the Secretary concerned, he is enlisted in the grade prescribed by the Secretary; or

(B) he is serving on active duty in a grade above chief warrant officer, W–4, and elects, with the consent of the Secretary concerned, to remain on active duty in that status.

(b) The Secretary concerned may defer, for not more than four months, the retirement or separation under this section of any warrant officer if, because of unavoidable circumstances, evaluation of his physical condition and determination of his entitlement to retirement or separation for physical disability require hospitalization or medical observation that cannot be completed before the date when he would otherwise be required to retire or be separated under this section.

(c) The Secretary concerned may defer, until such date as he prescribes, the retirement under subsection (a) of a warrant officer who is serving on active duty as a commissioned officer and who elects to continue to so serve.

(d) If a warrant officer who also holds a grade above chief warrant officer, W–4, is retired or separated under subsection (a), his commission in the higher grade shall be terminated on the date when he is so retired or separated.

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§ 565. Warrant officers: suspension of laws for promotion or 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 promotion, or mandatory retirement or separation, of permanent regular warrant officers of any armed force.

CHAPTER 35.—APPOINTMENTS AS RESERVE OFFICERS

Sec.
591. Reserve components: qualifications.
593. Commissioned officers: appointment, how made; term.
594. Commissioned officers: original appointment; limitation.
595. Officers: appointment upon transfer.
596. Officers: promotion.
597. Warrant officers: grades; appointment, how made; term.
598. Warrant officers: promotion.
599. Warrant officers: suspension of laws for promotion or mandatory retirement or separation during war or emergency.
600. Officer candidates.

§ 591. Reserve components: qualifications

(a) To become an officer of a reserve component a person must be appointed as a Reserve of an armed force in a grade corresponding to a grade authorized for the regular component of the armed force concerned and subscribe to the oath prescribed by section 16 of title 5. In addition, to become an officer of the Army National Guard of the United States or the Air National Guard of the United States, he must first be appointed to, and be federally recognized in, the same grade in the Army National Guard or the Air National Guard, as the case may be.

(b) Except as otherwise provided by law, the Secretary concerned shall prescribe physical, mental, moral, professional, and age qualifications for the appointment of persons as Reserves of the armed forces under his jurisdiction. However, except as provided in section 454 (i) (7) of title 50, appendix, no person may be appointed as a Reserve unless he is at least 18 years of age and—

(1) he is, or has made a declaration of intention to become, a citizen of the United States or of a possession thereof; or

(2) he has previously served in the armed forces or in the National Security Training Corps.

(c) Women may be appointed as Reserves of the armed forces for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, and Coast Guard Reserve. Women are appointed in grades corresponding to the grades authorized for female officers of the regular component of the armed force concerned. Any female former officer of an armed force may, if otherwise qualified, be appointed as a Reserve of that armed force in the highest grade in which she previously served satisfactorily on active duty (other than for training).

(d) A person who is otherwise qualified, but who has a physical defect that the Secretary concerned determines will not interfere with the performance of the duties to which that person may be as-

signed, may be appointed as a Reserve of any armed force under the jurisdiction of that Secretary.

§ 593. Commissioned officers: appointment, how made; term

(a) Appointments of Reserves in commissioned grades below general officer and flag officer, except commissioned warrant officer, shall be made by the President alone. Appointments of Reserves as general and flag officers shall be made by the President, by and with the advice and consent of the Senate.

(b) Appointments of Reserves in commissioned grades are for an indefinite term and are held during the pleasure of the President.

§ 594. Commissioned officers: original appointment; limitation

(a) No person may be appointed as a Reserve in a commissioned grade above major or lieutenant commander, unless—

(1) he was formerly a commissioned officer of an armed force; or

(2) such an appointment is recommended by a board of officers convened by the Secretary concerned.

(b) This section does not apply to adjutants general and assistant adjutants general of the several States and Territories, Puerto Rico, the Canal Zone, and the District of Columbia.

§ 595. Officers: appointment upon transfer

(a) A person who would otherwise be required to be transferred to a reserve component under section 651 of this title or under sections 451–473 of title 50, appendix, is entitled, if he is qualified and accepted, to be appointed as an officer of any armed force that he chooses and to participate in the programs authorized for that armed force. However, unless the two Secretaries concerned consent, he may not be appointed as a Reserve of an armed force other than that from which he is transferred. All periods of his participation shall be credited against the total period of service required of him under section 651 of this title or under sections 451–473 of title 50, appendix. However, no period may be credited more than once.

(b) A person covered by subsection (a) shall perform the rest of his required term of service in the armed force in which he is so appointed or in any other armed force in which he is later appointed or enlisted.

(c) This section does not change any term of service under an appointment, enlistment, or agreement, including an agreement made before or at the time when the member entered upon a program authorized by an armed force.

§ 596. Officers: promotion

The Secretary concerned shall establish an adequate and equitable system for promoting officers of the reserve components under his jurisdiction who are in an active status. So far as practicable, each promotion system shall be similar to that for members of the regular component of the armed force concerned. It shall be based on the mobilization requirements of that armed force to provide qualified officers in each grade at ages suitable for their assignments and in the numbers needed for mobilization. Each promotion system shall provide for forced attrition to the extent necessary to maintain vigor-

ous reserve forces, encourage necessary leadership, and provide a steady flow of promotions.

§ 597. Warrant officers: grades; appointment, how made; term

(a) The permanent reserve warrant officer grades in each armed force are those prescribed for regular warrant officers by section 555 (a) of this title.

(b) Reserve chief warrant officers of the Army and the Air Force shall be appointed in those grades, by warrant, by the Secretary concerned. Permanent reserve chief warrant officers of the Navy, Marine Corps, and Coast Guard shall be appointed in those grades, by commission, by the Secretary concerned. Permanent reserve warrant officers, W–1, shall be appointed in those grades, by warrant, by the Secretary concerned.

(c) Appointments as Reserves in permanent warrant officer grades are for an indefinite term and are held during the pleasure of the Secretary concerned.

§ 598. Warrant officers: promotion

The promotion of permanent reserve warrant officers to permanent reserve warrant officer grades shall be governed by such regulations as the Secretary concerned may prescribe.

§ 599. Warrant officers: suspension of laws for promotion or 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 promotion, or mandatory retirement or separation, of permanent reserve warrant officers of any armed force.

§ 600. Officer candidates

(a) Within such numbers as the Secretary concerned may prescribe, enlisted Reserves may, with their consent, be selected for training as officer candidates. Enlisted Reserves so selected shall be designated as officer candidates during that training. However, no member of the Army National Guard of the United States or the Air National Guard of the United States may be so selected or designated unless—

(1) he is on active duty; or

(2) the governor or other appropriate authority of the jurisdiction concerned consents.

(b) The enlistment or term of service of a Reserve who is designated as an officer candidate under this section is extended to include any period, beyond its normal expiration date, during which he is an officer candidate.

(c) While he is on active duty, other than active duty for training without pay, or performing authorized travel to and from that duty, an officer candidate designated under this section is entitled to the pay and allowances of his enlisted grade, but not less than those prescribed for pay grade E–2.

(d) An officer candidate designated under this section may not participate in the program of a reserve officer training corps of any armed force.

CHAPTER 37.—SERVICE REQUIREMENTS FOR RESERVES

Sec.
651. Members: required service.

§ 651. Members: required service

(a) Each male person who becomes a member of an armed force before his twenty-sixth birthday shall serve in the armed forces for a total of eight years, unless he is sooner discharged because of personal hardship under regulations prescribed by the Secretary of Defense or, if he is a member of the Coast Guard while it is operating under the Department of the Treasury, by the Secretary of the Treasury. For the purpose of computing service under this subsection, a member of an armed force may count service in the National Security Training Corps as if it were service in the armed forces.

(b) Each person covered by subsection (a) who is not a Reserve, and who is qualified, shall, upon his release from active duty, be transferred to a reserve component of his armed force to complete the service required by subsection (a).

(c) A member covered by subsection (a) who is released from active duty shall become a member of an organized unit of his reserve component or of an officers' training program of his armed force, if the Secretary concerned determines that there is a vacancy that can be filled by that member without undue personal hardship.

CHAPTER 39.—ACTIVE DUTY

Sec.
671. Members not to be assigned outside United States before completing training.
672. Reserve components generally.
673. Ready Reserve.
674. Standby Reserve.
675. Retired Reserve.
676. Retention after becoming qualified for retired pay.
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681. Reserves: release from active duty.
682. Reserves: kinds of duty.
683. Reserves: duty with or without pay.
686. Reports to Congress.

§ 671. Members not to be assigned outside United States before completing training

No member of an armed force may be assigned to active duty on land outside the United States and its Territories and possessions, until he has had four months of basic training or its equivalent.

§ 672. Reserve components generally

(a) In time of war or of national emergency declared by Congress, or when otherwise authorized by law, an authority designated by the Secretary concerned may, without the consent of the persons affected, order any unit, and any member not assigned to a unit organized to serve as a unit, of a reserve component under the jurisdiction of that Secretary to active duty for the duration of the war or emergency
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and for six months thereafter. However, a member on an inactive status list or in a retired status may not be ordered to active duty under this subsection unless the Secretary concerned, with the approval of the Secretary of Defense in the case of a Secretary of a military department, determines that there are not enough qualified Reserves in an active status or in the inactive Army National Guard or in the inactive Air National Guard in the required category who are readily available.

(b) At any time, an authority designated by the Secretary concerned may, without the consent of the persons affected, order any unit, and any member not assigned to a unit organized to serve as a unit, in an active status in a reserve component under the jurisdiction of that Secretary to active duty for not more than 15 days a year. However, units and members of the Army National Guard of the United States or the Air National Guard of the United States may not be ordered to active duty under this subsection without the consent of the governor of the State or Territory, Puerto Rico, or the Canal Zone, or the commanding general of the District of Columbia National Guard, as the case may be.

(c) So far as practicable, during any expansion of the active armed forces that requires that units and members of the reserve components be ordered to active duty, members of units organized and trained to serve as units who are ordered to that duty without their consent shall be so ordered with their units. However, members of those units may be reassigned after being ordered to active duty.

(d) At any time, an authority designated by the Secretary concerned may order a member of a reserve component under his jurisdiction to active duty, or retain him on active duty, with the consent of that member. However, a member of the Army National Guard of the United States or the Air National Guard of the United States may not be ordered to active duty under this subsection without the consent of the governor or other appropriate authority of the State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia, whichever is concerned.

(e) A reasonable time shall be allowed between the date when a Reserve ordered to active duty (other than for training) is alerted for that duty and the date when he is required to enter upon that duty. Unless the Secretary concerned determines that the military requirements do not allow it, this period shall be at least 30 days.

§ 673. Ready Reserve

(a) In time of national emergency declared by the President after January 1, 1953, or when otherwise authorized by law, an authority designated by the Secretary concerned may, without the consent of the persons concerned, order any unit, and any member not assigned to a unit organized to serve as a unit, in the Ready Reserve under the jurisdiction of that Secretary to active duty for not more than 24 consecutive months. This subsection does not apply unless Congress determines how many members of the reserve components are necessary, in the interest of national security, to be ordered to active duty hereunder.

(b) To achieve fair treatment as between members in the Ready Reserve who are being considered for recall to duty without their consent, consideration shall be given to—

(1) the length and nature of previous service, to assure such sharing of exposure to hazards as the national security and military requirements will reasonably allow;

(2) family responsibilities; and

(3) employment necessary to maintain the national health, safety, or interest.

The Secretary of Defense shall prescribe such policies and procedures as he considers necessary to carry out this subsection. He shall report on those policies and procedures at least once a year to the Committees on Armed Services of the Senate and the House of Representatives.

§ 674. Standby Reserve

(a) Units and members in the Standby Reserve may be ordered to active duty (other than for training) only in time of war, of national emergency declared by Congress, or when otherwise authorized by law.

(b) In time of emergency—

(1) no unit in the Standby Reserve organized to serve as a unit or any member thereof may be ordered to active duty (other than for training), unless the Secretary concerned, with the approval of the Secretary of Defense in the case of a Secretary of a military department, determines that there are not enough of the required kinds of units in the Ready Reserve that are readily available; and

(2) no other member in the Standby Reserve may be ordered to active duty (other than for training) as an individual without his consent, unless the Secretary concerned, with the approval of the Secretary of Defense in the case of a Secretary of a military department, determines that there are not enough qualified members in the Ready Reserve in the required category who are readily available.

§ 675. Retired Reserve

A member in the Retired Reserve may, if qualified, be ordered to active duty without his consent, but only as provided in section 672 (a) of this title.

§ 676. Retention after becoming qualified for retired pay

Any person who has qualified for retired pay under chapter 67 of this title may, with his consent and by order of the Secretary concerned, be retained on active duty, or in service in a reserve component other than that listed in section 1332 (b) of this title. A member so retained shall be credited with that service for all purposes.

§ 677. Reserve officers: use of in expansion of armed forces

When an expansion of the active armed forces requires that officers of the reserve components who are not members of units organized to serve as such be ordered as individuals to active duty (other than for training) without their consent, the services of qualified and available reserve officers in all grades shall be used, so far as practicable, according to the needs of the branches, grades, or specialties concerned.

§ 678. Reserves: for organizing, administering, etc., reserve components

(a) A Reserve ordered to active duty under section 672 (d) of this title in connection with organizing, administering, recruiting, instructing, or training the reserve components shall be ordered in his reserve grade. While so serving, he continues to be eligible for promotion as a Reserve, if he is otherwise qualified.

(b) To assure that a Reserve on duty under subsection (a) receives periodic refresher training in the categories for which he is qualified, the Secretary concerned may detail him to duty with any armed force, or otherwise as the Secretary sees fit.

§ 679. Active duty agreements

(a) To provide definite terms of active duty (other than for training) for Reserves with their consent, the Secretary concerned may make a standard written agreement with any member of a reserve component under his jurisdiction requiring the member to serve for a period of active duty (other than for training) of not more than five years. When such an agreement expires, a new one may be made. This subsection does not apply in time of war declared by Congress.

(b) An agreement may not be made under subsection (a) unless the specified period of duty is at least 12 months longer than any period of active duty that the member is otherwise required to perform.

(c) Agreements made under subsection (a) shall be uniform so far as practicable, and are subject to such standards and policies as may be prescribed by the Secretary of Defense for the armed forces under his jurisdiction or by the Secretary of the Treasury for the Coast Guard when the Coast Guard is not operating as a service in the Navy.

(d) If an agreement made under subsection (a) expires during a war or during a national emergency declared by Congress or the President after January 1, 1953, the Reserve concerned may be kept on active duty, without his consent, as otherwise prescribed by law.

§ 680. Active duty agreements: release from duty

(a) Each agreement made under section 679 (a) of this title shall provide that the member may not be released from active duty without his consent during the period of the agreement—

(1) because of a reduction in the actual personnel strength of the armed force concerned, unless the release is in accordance with the recommendation of a board of officers appointed by an authority designated by the Secretary concerned to determine the members to be released from active duty under regulations prescribed by the Secretary; or

(2) for any other reason, without an opportunity to be heard by a board of officers before the release, unless he is (A) dismissed or discharged under the sentence of a court-martial, (B) released because of an unexplained absence without leave for at least three months, or (C) released because he is convicted and sentenced to confinement in a Federal or State penitentiary or correctional institution and the sentence has become final.

(b) A member who is released from active duty without his consent before the end of his agreement made under section 679 (a) of

this title is entitled to an amount computed by multiplying the number of years and fractions of a year of his unexpired period of service under the agreement by the sum of one month's basic pay, special pay, and allowances to which he is entitled on the day of his release. The amount to which a member is entitled under this subsection is in addition to any pay and allowances to which he is otherwise entitled. For the purposes of this subsection, a fraction of a month of 15 days or more is counted as a whole month, and a fraction of a month of less than 15 days is disregarded. This subsection does not apply to a member if he is—

(1) released for a reason described in subsection (a) (2) (A)–(C);

(2) released because of a physical disability resulting from his intentional misconduct or wilful neglect;

(3) eligible for retired pay or severance pay under another provision of law;

(4) placed on a temporary disability retired list; or

(5) released to accept an appointment, or to be enlisted, in a regular component of an armed force.

§ 681. Reserves: release from active duty

(a) Except as otherwise provided in this title, the Secretary concerned may at any time release a Reserve under his jurisdiction from active duty.

(b) In time of war or of national emergency declared by Congress or the President after January 1, 1953, a member of a reserve component may be released from active duty (other than for training) only if—

(1) a board of officers convened at his request by an authority designated by the Secretary concerned 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 to an armed force during a period of demobilization or reduction in strength of that armed force.

§ 682. Reserves: kinds of duty

Notwithstanding any other provision of law, a member of a reserve component who is on active duty other than for training may, under regulations prescribed by the Secretary concerned, be detailed or assigned to any duty authorized by law for members of the regular component of the armed force concerned.

§ 683. Reserves: duty with or without pay

(a) Subject to other provisions of this title, any Reserve may be ordered to active duty or other duty—

(1) with the pay and allowances provided by law; or

(2) with his consent, without pay.

Duty without pay shall be considered for all purposes as if it were duty with pay.

(b) A Reserve who is kept on active duty after his term of service expires is entitled to pay and allowances while on that duty, except as they may be forfeited under the approved sentence of a court-martial

or by non-judicial punishment by a commanding officer or when he is otherwise in a non-pay status.

§ 686. Reports to Congress

The Secretary of each military department shall report to the Committees on Armed Services of the Senate and the House of Representatives, not later than January 30 of each year—

(1) the estimated requirements of the armed forces under the jurisdiction of his department in members on active duty during the next fiscal year;

(2) the estimated number of commissioned officers in each grade on active duty and to be promoted during the next fiscal year; and

(3) an analysis of the distribution by grade of commissioned officers on active duty at that time.

CHAPTER 41.—SPECIAL APPOINTMENTS, ASSIGNMENTS, DETAILS, AND DUTIES

Sec.

711. Senior members of Military Staff Committee of United Nations: appointment.
712. Foreign governments: detail to assist.
713. State Department: assignment or detail as couriers and building inspectors.
714. Reports to Congress on length of tours of duty outside United States by members of Army and Air Force.
715. Reserve components: detail of members of regular and reserve components to assist.

§ 711. Senior members of Military Staff Committee of United Nations: appointment

The President, by and with the advice and consent of the Senate, may appoint an officer of the Army, an officer of the Navy or the Marine Corps, and an officer of the Air Force, as senior members of the Military Staff Committee of the United Nations. An officer so appointed has the grade of lieutenant general or vice admiral, as the case may be, while serving under that appointment.

§ 712. Foreign governments: detail to assist

(a) Upon the application of the country concerned, the President, whenever he considers it in the public interest, may detail members of the Army, Navy, Air Force, and Marine Corps to assist in military matters—

(1) any republic in North America, Central America, or South America;

(2) the Republic of Cuba, Haiti, or Santo Domingo; and

(3) during a war or a declared national emergency, any other country that he considers it advisable to assist in the interest of national defense.

(b) Subject to the prior approval of the Secretary of the military department concerned, and in addition to receiving his pay and allowances as a member of the armed forces, a member detailed under this section may accept from the country to which he is detailed any office and any compensation or emoluments thereof. He is entitled to credit for all service while so detailed, as if serving with the armed forces of the United States.

§ 713. State Department: assignment or detail as couriers and building inspectors

(a) Upon the request of the Secretary of State, the Secretary of a military department may assign or detail members of the armed forces under his jurisdiction for duty—

(1) as inspectors of buildings owned or occupied abroad by the United States;

(2) as inspectors or supervisors of buildings under construction or repair abroad by or for the United States; and

(3) as couriers of the Department of State.

(b) The Secretary concerned may assign or detail a member for duty under subsection (a) with or without reimbursement from the Department of State. However, a member so assigned or detailed may be paid the traveling expenses authorized for officers of the Foreign Service of the United States. These expenses shall be paid from appropriations of the Department of State.

§ 714. Reports to Congress on length of tours of duty outside United States by members of Army and Air Force

The Secretary of Defense shall advise the Committees on Armed Services of the Senate and the House of Representatives, on April 1 and October 1 of each year, of the regulations governing the length of tours of duty outside the United States by members of the Army and the Air Force, including any changes in those regulations.

§ 715. Reserve components: detail of members of regular and reserve components to assist

The Secretary concerned shall detail such members of the regular and reserve components under his jurisdiction as are necessary to effectively develop, train, instruct, and administer those reserve components.

CHAPTER 43.—RANK AND COMMAND

Sec.

741. Rank: commissioned officers of Army, Navy, Air Force, and Marine Corps.
742. Rank: officers of regular and reserve components.
743. Rank: Chief of Staff of the Army; Chief of Naval Operations; Chief of Staff of the Air Force.
744. Physician to White House: assignment; grade.
745. Warrant officers: rank.

§ 741. Rank: commissioned officers of Army, Navy, Air Force, and Marine Corps

(a) The commissioned officers listed below rank among themselves as follows:

Army, Air Force, and Marine Corps	Navy and Coast Guard
Lieutenant general	Vice admiral.
Major general	Rear admiral entitled to pay of upper half.
Brigadier general	Rear admiral entitled to pay of lower half.
Colonel	Captain.
Lieutenant colonel	Commander.
Major	Lieutenant commander.
Captain	Lieutenant.
First lieutenant	Lieutenant (junior grade).
Second lieutenant	Ensign.

(b) The rank, within each grade, among major generals of the Army, rear admirals entitled to the pay of the upper half of that grade in the Navy, major generals of the Air Force, and major generals of the Marine Corps, and among brigadier generals of the Army, rear admirals entitled to the pay of the lower half of that grade in the Navy, brigadier generals of the Air Force, and brigadier generals of the Marine Corps, is determined by their dates of rank.

(c) A commissioned officer of the Army or the Air Force who is senior in rank to a commissioned officer of the Regular Army or the Regular Air Force, as the case may be, is senior to a commissioned officer of the Navy or Marine Corps who is junior to that officer.

§ 742. Rank: officers of regular and reserve components

A regular officer and a reserve officer rank as between themselves according to their dates of rank in grade.

§ 743. Rank: Chief of Staff of the Army; Chief of Naval Operations; Chief of Staff of the Air Force

The Chief of Staff of the Army, the Chief of Naval Operations, and the Chief of Staff of the Air Force rank among themselves according to dates of appointment to those offices, and rank above all other officers on the active list of the Army, Navy, Air Force, and Marine Corps, except the Chairman of the Joint Chiefs of Staff.

§ 744. Physician to White House: assignment; grade

An officer of the Medical Corps of the Army, or a medical officer of the Air Force, who is below the grade of colonel and who is assigned to duty as physician to the White House has the rank, pay, and allowances of colonel while so serving. An officer of the Medical Corps of the Navy who is below the grade of captain and who is assigned to that duty has the rank, pay, and allowances of captain while so serving.

§ 745. Warrant officers: rank

A person serving in a warrant officer grade outranks all warrant officers in warrant officer grades of lower numerical designation.

CHAPTER 45.—THE UNIFORM

Sec.

771. Unauthorized wearing prohibited.
772. When wearing by persons not on active duty authorized.
773. When distinctive insignia required.
774. Applicability of chapter.

§ 771. Unauthorized wearing prohibited

Except as otherwise provided by law, no person except a member of the Army, Navy, Air Force, or Marine Corps, as the case may be, may wear—

(1) the uniform, or a distinctive part of the uniform, of the Army, Navy, Air Force, or Marine Corps; or

(2) a uniform any part of which is similar to a distinctive part of the uniform of the Army, Navy, Air Force, or Marine Corps.

§ 772. When wearing by persons not on active duty authorized

(a) A member of the Army National Guard or the Air National Guard may wear the uniform prescribed for the Army National Guard or the Air National Guard, as the case may be.

(b) A member of the Naval Militia may wear the uniform prescribed for the Naval Militia.

(c) A retired officer of the Army, Navy, Air Force, or Marine Corps may bear the title and wear the uniform of his retired grade. However, a retired officer of the Navy Nurse Corps may wear the uniform of her retired grade under such conditions as the Secretary of the Navy may prescribe.

(d) A person who is discharged honorably or under honorable conditions from the Army, Navy, Air Force, or Marine Corps may wear his uniform while going from the place of discharge to his home, within three months after his discharge.

(e) A person not on active duty who served honorably in time of war in the Army, Navy, Air Force, or Marine Corps may bear the title, and, when authorized by regulations prescribed by the President, wear the uniform, of the highest grade held by him during that war.

(f) While portraying a member of the Army, Navy, Air Force, or Marine Corps, an actor in a theatrical or motion-picture production may wear the uniform of that armed force if the portrayal does not tend to discredit that armed force.

(g) An officer or resident of a veterans' home administered by the Veterans' Administration may wear such uniform as the Secretary of the military department concerned may prescribe.

(h) While attending a course of military instruction conducted by the Army, Navy, Air Force, or Marine Corps, a civilian may wear the uniform prescribed by that armed force.

(i) Under such regulations as the Secretary of the Air Force may prescribe, a citizen of a foreign country who graduates from an Air Force school may wear the appropriate aviation badges of the Air Force.

(j) A person in any of the following categories may wear the uniform prescribed for that category:

(1) Members of the Boy Scouts of America.

(2) Members of any other organization designated by the Secretary of a military department.

§ 773. When distinctive insignia required

(a) A person for whom one of the following uniforms is prescribed may wear it, if it includes distinctive insignia prescribed by the Secretary of the military department concerned to distinguish it from the uniform of the Army, Navy, Air Force, or Marine Corps, as the case may be:

(1) The uniform prescribed by the university, college, or school for an instructor or member of the organized cadet corps of—

(A) a State university or college, or a public high school, having a regular course of military instruction; or

(B) an educational institution having a regular course of military instruction, and having a member of the Army, Navy, Air Force, or Marine Corps as instructor in military science and tactics.

(2) The uniform prescribed by a military society composed of persons discharged honorably or under honorable conditions from the Army, Navy, Air Force, or Marine Corps to be worn by a member of that society when authorized by regulations prescribed by the President.

(b) A uniform prescribed under subsection (a) may not include insignia of grade the same as, or similar to, those prescribed for officers of the Army, Navy, Air Force, or Marine Corps.

§ 774. Applicability of chapter

This chapter applies in the United States, the Territories, Commonwealths, and possessions, and all other places under its jurisdiction.

CHAPTER 47.—UNIFORM CODE OF MILITARY JUSTICE

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SUBCHAPTER I.—GENERAL PROVISIONS

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803.	3.	Jurisdiction to try certain personnel.
804.	4.	Dismissed officer's right to trial by court-martial.
805.	5.	Territorial applicability of this chapter.
806.	6.	Judge advocates and legal officers.

§ 801. Article 1. Definitions

In this chapter:

(1) "Judge Advocate General" means, severally, the Judge Advocates General of the Army, Navy, and Air Force and, except when the Coast Guard is operating as a service in the Navy, the General Counsel of the Department of the Treasury.

(2) The Navy, the Marine Corps, and the Coast Guard when it is operating as a service in the Navy, shall be considered as one armed force.

(3) "Commanding officer" includes only commissioned officers.

(4) "Officer in charge" means a member of the Navy, the Marine Corps, or the Coast Guard designated as such by appropriate authority.

(5) "Superior commissioned officer" means a commissioned officer superior in rank or command.

(6) "Cadet" means a cadet of the United States Military Academy, the United States Air Force Academy, or the United States Coast Guard Academy.

(7) "Midshipman" means a midshipman of the United States Naval Academy and any other midshipman on active duty in the naval service.

(8) "Military" refers to any or all of the armed forces.

(9) "Accuser" means a person who signs and swears to charges, any person who directs that charges nominally be signed and sworn to by another, and any other person who has an interest other than an official interest in the prosecution of the accused.

(10) "Law officer" means an official of a general court-martial detailed in accordance with section 826 of this title (article 26).

(11) "Law specialist" means a commissioned officer of the Navy or Coast Guard designated for special duty (law).

(12) "Legal officer" means any commissioned officer of the Navy, Marine Corps, or Coast Guard designated to perform legal duties for a command.

§ 802. Art. 2. Persons subject to this chapter

The following persons are subject to this chapter:

(1) Members of a regular component of the armed forces, including those awaiting discharge after expiration of their terms of enlistment; volunteers from the time of their muster or acceptance into the armed forces; inductees from the time of their actual induction into the armed forces; and other persons lawfully called or ordered into, or to duty in or for training in, the armed forces, from the dates when they are required by the terms of the call or order to obey it.

(2) Cadets, aviation cadets, and midshipmen.

(3) Members of a reserve component while they are on inactive duty training authorized by written orders which are voluntarily accepted by them and which specify that they are subject to this chapter.

(4) Retired members of a regular component of the armed forces who are entitled to pay.

(5) Retired members of a reserve component who are receiving hospitalization from an armed force.

(6) Members of the Fleet Reserve and Fleet Marine Corps Reserve.

(7) Persons in custody of the armed forces serving a sentence imposed by a court-martial.

(8) Members of the Coast and Geodetic Survey, Public Health Service, and other organizations, when assigned to and serving with the armed forces.

(9) Prisoners of war in custody of the armed forces.

(10) In time of war, persons serving with or accompanying an armed force in the field.

(11) Subject to any treaty or agreement to which the United States is or may be a party or to any accepted rule of international law, persons serving with, employed by, or accompanying the armed forces outside the United States and outside the fol-

lowing: that part of Alaska east of longitude 172 degrees west, the Canal Zone, the main group of the Hawaiian Islands, Puerto Rico, and the Virgin Islands.

(12) Subject to any treaty or agreement to which the United States is or may be a party or to any accepted rule of international law, persons within an area leased by or otherwise reserved or acquired for the use of the United States which is under the control of the Secretary concerned and which is outside the United States and outside the following: that part of Alaska east of longitude 172 degrees west, the Canal Zone, the main group of the Hawaiian Islands, Puerto Rico, and the Virgin Islands.

§ 803. Art. 3. Jurisdiction to try certain personnel

(a) Subject to section 843 of this title (article 43), no person charged with having committed, while in a status in which he was subject to this chapter, an offense against this chapter, punishable by confinement for five years or more and for which the person cannot be tried in the courts of the United States or of a State, a Territory, or the District of Columbia, may be relieved from amenability to trial by court-martial by reason of the termination of that status.

(b) Each person discharged from the armed forces who is later charged with having fraudulently obtained his discharge is, subject to section 843 of this title (article 43), subject to trial by court-martial on that charge and is after apprehension subject to this chapter while in the custody of the armed forces for that trial. Upon conviction of that charge he is subject to trial by court-martial for all offenses under this chapter committed before the fraudulent discharge.

(c) No person who has deserted from the armed forces may be relieved from amenability to the jurisdiction of this chapter by virtue of a separation from any later period of service.

§ 804. Art. 4. Dismissed officer's right to trial by court-martial

(a) If any commissioned officer, dismissed by order of the President, makes a written application for trial by court-martial, setting forth, under oath, that he has been wrongfully dismissed, the President, as soon as practicable, shall convene a general court-martial to try that officer on the charges on which he was dismissed. A court-martial so convened has jurisdiction to try the dismissed officer on those charges, and he shall be considered to have waived the right to plead any statute of limitations applicable to any offense with which he is charged. The court-martial may, as part of its sentence, adjudge the affirmance of the dismissal, but if the court-martial acquits the accused or if the sentence adjudged, as finally approved or affirmed, does not include dismissal or death, the Secretary concerned shall substitute for the dismissal ordered by the President a form of discharge authorized for administrative issue.

(b) If the President fails to convene a general court-martial within six months from the presentation of an application for trial under this article, the Secretary concerned shall substitute for the dismissal ordered by the President a form of discharge authorized for administrative issue.

(c) If a discharge is substituted for a dismissal under this article, the President alone may reappoint the officer to such commissioned

grade and with such rank as, in the opinion of the President, that former officer would have attained had he not been dismissed. The reappointment of such a former officer shall be without regard to the existence of a vacancy and shall affect the promotion status of other officers only insofar as the President may direct. All time between the dismissal and the reappointment shall be considered as actual service for all purposes, including the right to pay and allowances.

(d) If an officer is discharged from any armed force by administrative action or is dropped from the rolls by order of the President, he has no right to trial under this article.

§ 805. Art. 5. Territorial applicability of this chapter

This chapter applies in all places.

§ 806. Art. 6. Judge advocates and legal officers

(a) The assignment for duty of all judge advocates of the Army and Air Force and law specialists of the Navy and Coast Guard shall be made upon the recommendation of the Judge Advocate General of the armed force of which they are members. The Judge Advocate General or senior members of his staff shall make frequent inspections in the field in supervision of the administration of military justice.

(b) Convening authorities shall at all times communicate directly with their staff judge advocates or legal officers in matters relating to the administration of military justice; and the staff judge advocate or legal officer of any command is entitled to communicate directly with the staff judge advocate or legal officer of a superior or subordinate command, or with the Judge Advocate General.

(c) No person who has acted as member, law officer, trial counsel, assistant trial counsel, defense counsel, assistant defense counsel, or investigating officer in any case may later act as a staff judge advocate or legal officer to any reviewing authority upon the same case.

SUBCHAPTER II.—APPREHENSION AND RESTRAINT

Sec. Art.
807. 7. Apprehension.
808. 8. Apprehension of deserters.
809. 9. Imposition of restraint.
810. 10. Restraint of persons charged with offenses.
811. 11. Reports and receiving of prisoners.
812. 12. Confinement with enemy prisoners prohibited.
813. 13. Punishment prohibited before trial.
814. 14. Delivery of offenders to civil authorities.

§ 807. Art. 7. Apprehension

(a) Apprehension is the taking of a person into custody.

(b) Any person authorized under regulations governing the armed forces to apprehend persons subject to this chapter or to trial thereunder may do so upon reasonable belief that an offense has been committed and that the person apprehended committed it.

(c) Commissioned officers, warrant officers, petty officers, and noncommissioned officers have authority to quell quarrels, frays, and disorders among persons subject to this chapter and to apprehend persons subject to this chapter who take part therein.

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§ 808. Art. 8. Apprehension of deserters

Any civil officer having authority to apprehend offenders under the laws of the United States or of a State, Territory, Commonwealth, or possession, or the District of Columbia may summarily apprehend a deserter from the armed forces and deliver him into the custody of those forces.

§ 809. Art. 9. Imposition of restraint

(a) Arrest is the restraint of a person by an order, not imposed as a punishment for an offense, directing him to remain within certain specified limits. Confinement is the physical restraint of a person.

(b) An enlisted member may be ordered into arrest or confinement by any commissioned officer by an order, oral or written, delivered in person or through other persons subject to this chapter. A commanding officer may authorize warrant officers, petty officers, or noncommissioned officers to order enlisted members of his command or subject to his authority into arrest or confinement.

(c) A commissioned officer, a warrant officer, or a civilian subject to this chapter or to trial thereunder may be ordered into arrest or confinement only by a commanding officer to whose authority he is subject, by an order, oral or written, delivered in person or by another commissioned officer. The authority to order such persons into arrest or confinement may not be delegated.

(d) No person may be ordered into arrest or confinement except for probable cause.

(e) Nothing in this article limits the authority of persons authorized to apprehend offenders to secure the custody of an alleged offender until proper authority may be notified.

§ 810. Art. 10. Restraint of persons charged with offenses

Any person subject to this chapter charged with an offense under this chapter shall be ordered into arrest or confinement, as circumstances may require; but when charged only with an offense normally tried by a summary court-martial, he shall not ordinarily be placed in confinement. When any person subject to this chapter is placed in arrest or confinement prior to trial, immediate steps shall be taken to inform him of the specific wrong of which he is accused and to try him or to dismiss the charges and release him.

§ 811. Art. 11. Reports and receiving of prisoners

(a) No provost marshal, commander of a guard, or master at arms may refuse to receive or keep any prisoner committed to his charge by a commissioned officer of the armed forces, when the committing officer furnishes a statement, signed by him, of the offense charged against the prisoner.

(b) Every commander of a guard or master at arms to whose charge a prisoner is committed shall, within twenty-four hours after that commitment or as soon as he is relieved from guard, report to the commanding officer the name of the prisoner, the offense charged against him, and the name of the person who ordered or authorized the commitment.

§ 812. Art. 12. Confinement with enemy prisoners prohibited

No member of the armed forces may be placed in confinement in immediate association with enemy prisoners or other foreign nationals not members of the armed forces.

§ 813. Art. 13. Punishment prohibited before trial

Subject to section 857 of this title (article 57), no person, while being held for trial or the result of trial, may be subjected to punishment or penalty other than arrest or confinement upon the charges pending against him, nor shall the arrest or confinement imposed upon him be any more rigorous than the circumstances require to insure his presence, but he may be subjected to minor punishment during that period for infractions of discipline.

§ 814. Art. 14. Delivery of offenders to civil authorities

(a) Under such regulations as the Secretary concerned may prescribe, a member of the armed forces accused of an offense against civil authority may be delivered, upon request, to the civil authority for trial.

(b) When delivery under this article is made to any civil authority of a person undergoing sentence of a court-martial, the delivery, if followed by conviction in a civil tribunal, interrupts the execution of the sentence of the court-martial, and the offender after having answered to the civil authorities for his offense shall, upon the request of competent military authority, be returned to military custody for the completion of his sentence.

SUBCHAPTER III.—NON-JUDICIAL PUNISHMENT

Sec. Art.
815. 15. Commanding officer's non-judicial punishment.

§ 815. Art. 15. Commanding officer's non-judicial punishment

(a) Under such regulations as the President may prescribe, any commanding officer may, in addition to or in lieu of admonition or reprimand, impose one of the following disciplinary punishments for minor offenses without the intervention of a court-martial—

(1) upon officers of his command—

(A) withholding of privileges for not more than two consecutive weeks;

(B) restriction to certain specified limits, with or without suspension from duty, for not more than two consecutive weeks; or

(C) if imposed by an officer exercising general court-martial jurisdiction, forfeiture of not more than one-half of one month's pay; and

(2) upon other military personnel of his command—

(A) withholding of privileges for not more than two consecutive weeks;

(B) restriction to certain specified limits, with or without suspension from duty, for not more than two consecutive weeks;

(C) extra duties for not more than two consecutive weeks, and not more than two hours per day, holidays included;

(D) reduction to next inferior grade, if the grade from which demoted was established by the command or an equivalent or lower command;

(E) if imposed upon a person attached to or embarked in a vessel, confinement for not more than seven consecutive days; or

(F) if imposed upon a person attached to or embarked in a vessel, confinement on bread and water or diminished rations for not more than three consecutive days.

(b) The Secretary concerned may, by regulation, place limitations on the powers granted by this article with respect to the kind and amount of punishment authorized, the categories of commanding officers authorized to exercise those powers, and the applicability of this article to an accused who demands trial by court-martial.

(c) An officer in charge may, for minor offenses, impose on enlisted members assigned to the unit of which he is in charge, such of the punishments authorized to be imposed by commanding officers as the Secretary concerned may by regulation specifically prescribe, as provided in subsections (a) and (b).

(d) A person punished under this article who considers his punishment unjust or disproportionate to the offense may, through the proper channel, appeal to the next superior authority. The appeal shall be promptly forwarded and decided, but the person punished may in the meantime be required to undergo the punishment adjudged. The officer who imposes the punishment, his successor in command, and superior authority may suspend, set aside, or remit any part or amount of the punishment and restore all rights, privileges, and property affected.

(e) The imposition and enforcement of disciplinary punishment under this article for any act or omission is not a bar to trial by court-martial for a serious crime or offense growing out of the same act or omission, and not properly punishable under this article; but the fact that a disciplinary punishment has been enforced may be shown by the accused upon trial, and when so shown shall be considered in determining the measure of punishment to be adjudged in the event of a finding of guilty.

SUBCHAPTER IV.—COURT-MARTIAL JURISDICTION

Sec. Art.
816. 16. Courts-martial classified.
817. 17. Jurisdiction of courts-martial in general.
818. 18. Jurisdiction of general courts-martial.
819. 19. Jurisdiction of special courts-martial.
820. 20. Jurisdiction of summary courts-martial.
821. 21. Jurisdiction of courts-martial not exclusive.

§ 816. Art. 16. Courts-martial classified

The three kinds of courts-martial in each of the armed forces are—

(1) general courts-martial, consisting of a law officer and not less than five members;

(2) special courts-martial, consisting of not less than three members; and

(3) summary courts-martial, consisting of one commissioned officer.

§ 817. Art. 17. Jurisdiction of courts-martial in general

(a) Each armed force has court-martial jurisdiction over all persons subject to this chapter. The exercise of jurisdiction by one armed force over personnel of another armed force shall be in accordance with regulations prescribed by the President.

(b) In all cases, departmental review after that by the officer with authority to convene a general court-martial for the command which held the trial, where that review is required under this chapter, shall be carried out by the department that includes the armed force of which the accused is a member.

§ 818. Art. 18. Jurisdiction of general courts-martial

Subject to section 817 of this title (article 17), general courts-martial have jurisdiction to try persons subject to this chapter for any offense made punishable by this chapter and may, under such limitations as the President may prescribe, adjudge any punishment not forbidden by this chapter, including the penalty of death when specifically authorized by this chapter. General courts-martial also have jurisdiction to try any person who by the law of war is subject to trial by a military tribunal and may adjudge any punishment permitted by the law of war.

§ 819. Art. 19. Jurisdiction of special courts-martial

Subject to section 817 of this title (article 17), special courts-martial have jurisdiction to try persons subject to this chapter for any noncapital offense made punishable by this chapter and, under such regulations as the President may prescribe, for capital offenses. Special courts-martial may, under such limitations as the President may prescribe, adjudge any punishment not forbidden by this chapter except death, dishonorable discharge, dismissal, confinement for more than six months, hard labor without confinement for more than three months, forfeiture of pay exceeding two-thirds pay per month, or forfeiture of pay for more than six months. A bad-conduct discharge may not be adjudged unless a complete record of the proceedings and testimony before the court has been made.

§ 820. Art. 20. Jurisdiction of summary courts-martial

Subject to section 817 of this title (article 17), summary courts-martial have jurisdiction to try persons subject to this chapter, except officers, cadets, aviation cadets, and midshipmen, for any noncapital offense made punishable by this chapter. No person with respect to whom summary courts-martial have jurisdiction may be brought to trial before a summary court-martial if he objects thereto, unless under section 815 of this title (article 15) he has been permitted and has elected to refuse punishment under that article. If objection to trial by summary court-martial is made by an accused who has not been permitted to refuse punishment under section 815 of this title (article 15), trial shall be ordered by special or general court-martial, as may be appropriate. Summary courts-martial may, under such limitations as the President may prescribe, adjudge any punishment not forbidden by this chapter except death, dismissal, dishonorable or bad-conduct discharge, confinement for more than one month, hard labor without confinement for more than 45 days, restriction to specified limits for

more than two months, or forfeiture of more than two-thirds of one month's pay.

§ 821. Art. 21. Jurisdiction of courts-martial not exclusive

The provisions of this chapter conferring jurisdiction upon courts-martial do not deprive military commissions, provost courts, or other military tribunals of concurrent jurisdiction with respect to offenders or offenses that by statute or by the law of war may be tried by military commissions, provost courts, or other military tribunals.

SUBCHAPTER V.—COMPOSITION OF COURTS-MARTIAL

Sec. Art.
822. 22. Who may convene general courts-martial.
823. 23. Who may convene special courts-martial.
824. 24. Who may convene summary courts-martial.
825. 25. Who may serve on courts-martial.
826. 26. Law officer of a general court-martial.
827. 27. Detail of trial counsel and defense counsel.
828. 28. Detail or employment of reporters and interpreters.
829. 29. Absent and additional members.

§ 822. Art. 22. Who may convene general courts-martial

(a) General courts-martial may be convened by—

(1) the President of the United States;

(2) the Secretary concerned;

(3) the commanding officer of a Territorial Department, an Army Group, an Army, an Army Corps, a division, a separate brigade, or a corresponding unit of the Army or Marine Corps;

(4) the commander in chief of a fleet; the commanding officer of a naval station or larger shore activity of the Navy beyond the United States;

(5) the commanding officer of an air command, an air force, an air division, or a separate wing of the Air Force or Marine Corps;

(6) any other commanding officer designated by the Secretary concerned; or

(7) any other commanding officer in any of the armed forces when empowered by the President.

(b) If any such commanding officer is an accuser, the court shall be convened by superior competent authority, and may in any case be convened by such authority if considered desirable by him.

§ 823. Art. 23. Who may convene special courts-martial

(a) Special courts-martial may be convened by—

(1) any person who may convene a general court-martial;

(2) the commanding officer of a district, garrison, fort, camp, station, Air Force base, auxiliary air field, or other place where members of the Army or the Air Force are on duty;

(3) the commanding officer of a brigade, regiment, detached battalion, or corresponding unit of the Army;

(4) the commanding officer of a wing, group, or separate squadron of the Air Force;

(5) the commanding officer of any naval or Coast Guard vessel, shipyard, base, or station; the commanding officer of any Marine

brigade, regiment, detached battalion, or corresponding unit; the commanding officer of any Marine barracks, wing, group, separate squadron, station, base, auxiliary air field, or other place where members of the Marine Corps are on duty;

(6) the commanding officer of any separate or detached command or group of detached units of any of the armed forces placed under a single commander for this purpose; or

(7) the commanding officer or officer in charge of any other command when empowered by the Secretary concerned.

(b) If any such officer is an accuser, the court shall be convened by superior competent authority, and may in any case be convened by such authority if considered advisable by him.

§ 824. Art. 24. Who may convene summary courts-martial

(a) Summary courts-martial may be convened by—

(1) any person who may convene a general or special court-martial;

(2) the commanding officer of a detached company, or other detachment of the Army;

(3) the commanding officer of a detached squadron or other detachment of the Air Force; or

(4) the commanding officer or officer in charge of any other command when empowered by the Secretary concerned.

(b) When only one commissioned officer is present with a command or detachment he shall be the summary court-martial of that command or detachment and shall hear and determine all summary court-martial cases brought before him. Summary courts-martial may, however, be convened in any case by superior competent authority when considered desirable by him.

§ 825. Art. 25. Who may serve on courts-martial

(a) Any commissioned officer on active duty is eligible to serve on all courts-martial for the trial of any person who may lawfully be brought before such courts for trial.

(b) Any warrant officer on active duty is eligible to serve on general and special courts-martial for the trial of any person, other than a commissioned officer, who may lawfully be brought before such courts for trial.

(c) (1) Any enlisted member of an armed force on active duty who is not a member of the same unit as the accused is eligible to serve on general and special courts-martial for the trial of any enlisted member of an armed force who may lawfully be brought before such courts for trial, but he shall serve as a member of a court only if, before the convening of the court, the accused personally has requested in writing that enlisted members serve on it. After such a request, the accused may not be tried by a general or special court-martial the membership of which does not include enlisted members in a number comprising at least one-third of the total membership of the court, unless eligible enlisted members cannot be obtained on account of physical conditions or military exigencies. If such members cannot be obtained, the court may be convened and the trial held without them, but the convening authority shall make a detailed written statement, to be appended to the record, stating why they could not be obtained.

(2) In this article, the word "unit" means any regularly organized body as defined by the Secretary concerned, but in no case may it be a body larger than a company, squadron, ship's crew, or body corresponding to one of them.

(d) (1) When it can be avoided, no member of an armed force may be tried by a court-martial any member of which is junior to him in rank or grade.

(2) When convening a court-martial, the convening authority shall detail as members thereof such members of the armed forces as, in his opinion, are best qualified for the duty by reason of age, education, training, experience, length of service, and judicial temperament. No member of an armed force is eligible to serve as a member of a general or special court-martial when he is the accuser or a witness for the prosecution or has acted as investigating officer or as counsel in the same case.

§ 826. Art. 26. Law officer of a general court-martial

(a) The authority convening a general court-martial shall detail as law officer thereof a commissioned officer who is a member of the bar of a Federal court or of the highest court of a State and who is certified to be qualified for such duty by the Judge Advocate General of the armed force of which he is a member. No person is eligible to act as law officer in a case if he is the accuser or a witness for the prosecution or has acted as investigating officer or as counsel in the same case.

(b) The law officer may not consult with the members of the court, other than on the form of the findings as provided in section 839 of this title (article 39), except in the presence of the accused, trial counsel, and defense counsel, nor may he vote with the members of the court.

§ 827. Art. 27. Detail of trial counsel and defense counsel

(a) For each general and special court-martial the authority convening the court shall detail trial counsel and defense counsel, and such assistants as he considers appropriate. No person who has acted as investigating officer, law officer, or court member in any case may act later as trial counsel, assistant trial counsel, or, unless expressly requested by the accused, as defense counsel or assistant defense counsel in the same case. No person who has acted for the prosecution may act later in the same case for the defense, nor may any person who has acted for the defense act later in the same case for the prosecution.

(b) Trial counsel or defense counsel detailed for a general court-martial—

(1) must be a judge advocate of the Army or the Air Force, or a law specialist of the Navy or Coast Guard, who is a graduate of an accredited law school or is a member of the bar of a Federal court or of the highest court of a State; or must be a member of the bar of a Federal court or of the highest court of a State; and

(2) must be certified as competent to perform such duties by the Judge Advocate General of the armed force of which he is a member.

(c) In the case of a special court-martial—

(1) if the trial counsel is qualified to act as counsel before a general court-martial, the defense counsel detailed by the convening authority must be a person similarly qualified; and

(2) if the trial counsel is a judge advocate, or a law specialist, or a member of the bar of a Federal court or the highest court of a State, the defense counsel detailed by the convening authority must be one of the foregoing.

§ 828. Art. 28. Detail or employment of reporters and interpreters

Under such regulations as the Secretary concerned may prescribe, the convening authority of a court-martial, military commission, or court of inquiry shall detail or employ qualified court reporters, who shall record the proceedings of and testimony taken before that court or commission. Under like regulations the convening authority of a court-martial, military commission, or court of inquiry may detail or employ interpreters who shall interpret for the court or commission.

§ 829. Art. 29. Absent and additional members

(a) No member of a general or special court-martial may be absent or excused after the accused has been arraigned except for physical disability or as a result of a challenge or by order of the convening authority for good cause.

(b) Whenever a general court-martial is reduced below five members, the trial may not proceed unless the convening authority details new members sufficient in number to provide not less than five members. When the new members have been sworn, the trial may proceed after the recorded testimony of each witness previously examined has been read to the court in the presence of the law officer, the accused, and counsel.

(c) Whenever a special court-martial is reduced below three members, the trial may not proceed unless the convening authority details new members sufficient in number to provide not less than three members. When the new members have been sworn, the trial shall proceed as if no evidence had previously been introduced, unless a verbatim record of the testimony of previously examined witnesses or a stipulation thereof is read to the court in the presence of the accused and counsel.

SUBCHAPTER VI.—PRE-TRIAL PROCEDURE

Sec. Art.
830. 30. Charges and specifications.
831. 31. Compulsory self-incrimination prohibited.
832. 32. Investigation.
833. 33. Forwarding of charges.
834. 34. Advice of staff judge advocate and reference for trial.
835. 35. Service of charges.

§ 830. Art. 30. Charges and specifications

(a) Charges and specifications shall be signed by a person subject to this chapter under oath before a commissioned officer of the armed forces authorized to administer oaths and shall state—

(1) that the signer has personal knowledge of, or has investigated, the matters set forth therein; and

(2) that they are true in fact to the best of his knowledge and belief.

(b) Upon the preferring of charges, the proper authority shall take immediate steps to determine what disposition should be made thereof in the interest of justice and discipline, and the person accused shall be informed of the charges against him as soon as practicable.

§ 831. Art. 31. Compulsory self-incrimination prohibited

(a) No person subject to this chapter may compel any person to incriminate himself or to answer any question the answer to which may tend to incriminate him.

(b) No person subject to this chapter may interrogate, or request any statement from, an accused or a person suspected of an offense without first informing him of the nature of the accusation and advising him that he does not have to make any statement regarding the offense of which he is accused or suspected and that any statement made by him may be used as evidence against him in a trial by court-martial.

(c) No person subject to this chapter may compel any person to make a statement or produce evidence before any military tribunal if the statement or evidence is not material to the issue and may tend to degrade him.

(d) No statement obtained from any person in violation of this article, or through the use of coercion, unlawful influence, or unlawful inducement may be received in evidence against him in a trial by court-martial.

§ 832. Art. 32. Investigation

(a) No charge or specification may be referred to a general court-martial for trial until a thorough and impartial investigation of all the matters set forth therein has been made. This investigation shall include inquiry as to the truth of the matter set forth in the charges, consideration of the form of charges, and a recommendation as to the disposition which should be made of the case in the interest of justice and discipline.

(b) The accused shall be advised of the charges against him and of his right to be represented at that investigation by counsel. Upon his own request he shall be represented by civilian counsel if provided by him, or military counsel of his own selection if such counsel is reasonably available, or by counsel detailed by the officer exercising general court-martial jurisdiction over the command. At that investigation full opportunity shall be given to the accused to cross-examine witnesses against him if they are available and to present anything he may desire in his own behalf, either in defense or mitigation, and the investigating officer shall examine available witnesses requested by the accused. If the charges are forwarded after the investigation, they shall be accompanied by a statement of the substance of the testimony taken on both sides and a copy thereof shall be given to the accused.

(c) If an investigation of the subject matter of an offense has been conducted before the accused is charged with the offense, and if the accused was present at the investigation and afforded the opportunities for representation, cross-examination, and presentation prescribed in subsection (b), no further investigation of that charge is necessary

under this article unless it is demanded by the accused after he is informed of the charge. A demand for further investigation entitles the accused to recall witnesses for further cross-examination and to offer any new evidence in his own behalf.

(d) The requirements of this article are binding on all persons administering this chapter but failure to follow them does not constitute jurisdictional error.

§ 833. Art. 33. Forwarding of charges

When a person is held for trial by general court-martial the commanding officer shall, within eight days after the accused is ordered into arrest or confinement, if practicable, forward the charges, together with the investigation and allied papers, to the officer exercising general court-martial jurisdiction. If that is not practicable, he shall report in writing to that officer the reasons for delay.

§ 834. Art. 34. Advice of staff judge advocate and reference for trial

(a) Before directing the trial of any charge by general court-martial, the convening authority shall refer it to his staff judge advocate or legal officer for consideration and advice. The convening authority may not refer a charge to a general court-martial for trial unless he has found that the charge alleges an offense under this chapter and is warranted by evidence indicated in the report of investigation.

(b) If the charges or specifications are not formally correct or do not conform to the substance of the evidence contained in the report of the investigating officer, formal corrections, and such changes in the charges and specifications as are needed to make them conform to the evidence, may be made.

§ 835. Art. 35. Service of charges

The trial counsel to whom court-martial charges are referred for trial shall cause to be served upon the accused a copy of the charges upon which trial is to be had. In time of peace no person may, against his objection, be brought to trial before a general court-martial within a period of five days after the service of the charges upon him, or before a special court-martial within a period of three days after the service of the charges upon him.

SUBCHAPTER VII.—TRIAL PROCEDURE

Sec. Art.
836. 36. President may prescribe rules.
837. 37. Unlawfully influencing action of court.
838. 38. Duties of trial counsel and defense counsel.
839. 39. Sessions.
840. 40. Continuances.
841. 41. Challenges.
842. 42. Oaths.
843. 43. Statute of limitations.
844. 44. Former jeopardy.
845. 45. Pleas of the accused.
846. 46. Opportunity to obtain witnesses and other evidence.
847. 47. Refusal to appear or testify.
848. 48. Contempts.
849. 49. Depositions.

Sec. Art.
850. 50. Admissibility of records of courts of inquiry.
851. 51. Voting and rulings.
852. 52. Number of votes required.
853. 53. Court to announce action.
854. 54. Record of trial.

§ 836. Art. 36. President may prescribe rules

(a) The procedure, including modes of proof, in cases before courts-martial, courts of inquiry, military commissions, and other military tribunals may be prescribed by the President by regulations which shall, so far as he considers practicable, apply the principles of law and the rules of evidence generally recognized in the trial of criminal cases in the United States district courts, but which may not be contrary to or inconsistent with this chapter.

(b) All rules and regulations made under this article shall be uniform insofar as practicable and shall be reported to Congress.

§ 837. Art. 37. Unlawfully influencing action of court

No authority convening a general, special, or summary court-martial, nor any other commanding officer, may censure, reprimand, or admonish the court or any member, law officer, or counsel thereof, with respect to the findings or sentence adjudged by the court, or with respect to any other exercise of its or his functions in the conduct of the proceeding. No person subject to this chapter may attempt to coerce or, by any unauthorized means, influence the action of a court-martial or any other military tribunal or any member thereof, in reaching the findings or sentence in any case, or the action of any convening, approving, or reviewing authority with respect to his judicial acts.

§ 838. Art. 38. Duties of trial counsel and defense counsel

(a) The trial counsel of a general or special court-martial shall prosecute in the name of the United States, and shall, under the direction of the court, prepare the record of the proceedings.

(b) The accused has the right to be represented in his defense before a general or special court-martial by civilian counsel if provided by him, or by military counsel of his own selection if reasonably available, or by the defense counsel detailed under section 827 of this title (article 27). Should the accused have counsel of his own selection, the defense counsel, and assistant defense counsel, if any, who were detailed, shall, if the accused so desires, act as his associate counsel; otherwise they shall be excused by the president of the court.

(c) In every court-martial proceeding, the defense counsel may, in the event of conviction, forward for attachment to the record of proceedings a brief of such matters as he feels should be considered in behalf of the accused on review, including any objection to the contents of the record which he considers appropriate.

(d) An assistant trial counsel of a general court-martial may, under the direction of the trial counsel or when he is qualified to be a trial counsel as required by section 827 of this title (article 27), perform any duty imposed by law, regulation, or the custom of the service upon the trial counsel of the court. An assistant trial counsel of a special court-martial may perform any duty of the trial counsel.

(e) An assistant defense counsel of a general or special court-martial may, under the direction of the defense counsel or when he is qualified to be the defense counsel as required by section 827 of this title (article 27), perform any duty imposed by law, regulation, or the custom of the service upon counsel for the accused.

§ 839. Art. 39. Sessions

When a general or special court-martial deliberates or votes, only the members of the court may be present. After a general court-martial has finally voted on the findings, the court may request the law officer and the reporter to appear before the court to put the findings in proper form, and those proceedings shall be on the record. All other proceedings, including any other consultation of the court with counsel or the law officer, shall be made a part of the record and shall be in the presence of the accused, the defense counsel, the trial counsel, and in general court-martial cases, the law officer.

§ 840. Art. 40. Continuances

A court-martial may, for reasonable cause, grant a continuance to any party for such time, and as often, as may appear to be just.

§ 841. Art. 41. Challenges

(a) Members of a general or special court-martial and the law officer of a general court-martial may be challenged by the accused or the trial counsel for cause stated to the court. The court shall determine the relevancy and validity of challenges for cause, and may not receive a challenge to more than one person at a time. Challenges by the trial counsel shall ordinarily be presented and decided before those by the accused are offered.

(b) Each accused and the trial counsel is entitled to one peremptory challenge, but the law officer may not be challenged except for cause.

§ 842. Art. 42. Oaths

(a) The law officer, interpreters, and, in general and special courts-martial, members, trial counsel, assistant trial counsel, defense counsel, assistant defense counsel, and reporters shall take an oath in the presence of the accused to perform their duties faithfully.

(b) Each witness before a court-martial shall be examined on oath.

§ 843. Art. 43. Statute of limitations

(a) A person charged with desertion or absence without leave in time of war, or with aiding the enemy, mutiny, or murder, may be tried and punished at any time without limitation.

(b) Except as otherwise provided in this article, a person charged with desertion in time of peace or any of the offenses punishable under sections 919–932 of this title (articles 119–132) is not liable to be tried by court-martial if the offense was committed more than three years before the receipt of sworn charges and specifications by an officer exercising summary court-martial jurisdiction over the command.

(c) Except as otherwise provided in this article, a person charged with any offense is not liable to be tried by court-martial or punished under section 815 of this title (article 15) if the offense was committed more than two years before the receipt of sworn charges and speci-

fications by an officer exercising summary court-martial jurisdiction over the command or before the imposition of punishment under section 815 of this title (article 15).

(d) Periods in which the accused was absent from territory in which the United States has the authority to apprehend him, or in the custody of civil authorities, or in the hands of the enemy, shall be excluded in computing the period of limitation prescribed in this article.

(e) For an offense the trial of which in time of war is certified to the President by the Secretary concerned to be detrimental to the prosecution of the war or inimical to the national security, the period of limitation prescribed in this article is extended to six months after the termination of hostilities as proclaimed by the President or by a joint resolution of Congress.

(f) When the United States is at war, the running of any statute of limitations applicable to any offense under this chapter—

(1) involving fraud or attempted fraud against the United States or any agency thereof in any manner, whether by conspiracy or not;

(2) committed in connection with the acquisition, care, handling, custody, control, or disposition of any real or personal property of the United States; or

(3) committed in connection with the negotiation, procurement, award, performance, payment, interim financing, cancellation, or other termination or settlement, of any contract, subcontract, or purchase order which is connected with or related to the prosecution of the war, or with any disposition of termination inventory by any war contractor or Government agency;

is suspended until three years after the termination of hostilities as proclaimed by the President or by a joint resolution of Congress.

§ 844. Art. 44. Former jeopardy

(a) No person may, without his consent, be tried a second time for the same offense.

(b) No proceeding in which an accused has been found guilty by a court-martial upon any charge or specification is a trial in the sense of this article until the finding of guilty has become final after review of the case has been fully completed.

(c) A proceeding which, after the introduction of evidence but before a finding, is dismissed or terminated by the convening authority or on motion of the prosecution for failure of available evidence or witnesses without any fault of the accused is a trial in the sense of this article.

§ 845. Art. 45. Pleas of the accused

(a) If an accused arraigned before a court-martial makes an irregular pleading, or after a plea of guilty sets up matter inconsistent with the plea, or if it appears that he has entered the plea of guilty improvidently or through lack of understanding of its meaning and effect, or if he fails or refuses to plead, a plea of not guilty shall be entered in the record, and the court shall proceed as though he had pleaded not guilty.

(b) A plea of guilty by the accused may not be received to any charge or specification alleging an offense for which the death penalty may be adjudged.

§ 846. Art. 46. Opportunity to obtain witnesses and other evidence

The trial counsel, the defense counsel, and the court-martial shall have equal opportunity to obtain witnesses and other evidence in accordance with such regulations as the President may prescribe. Process issued in court-martial cases to compel witnesses to appear and testify and to compel the production of other evidence shall be similar to that which courts of the United States having criminal jurisdiction may lawfully issue and shall run to any part of the United States, or the Territories, Commonwealths, and possessions.

§ 847. Art. 47. Refusal to appear or testify

(a) Any person not subject to this chapter who—

(1) has been duly subpenaed to appear as a witness before a court-martial, military commission, court of inquiry, or any other military court or board, or before any military or civil officer designated to take a deposition to be read in evidence before such a court, commission, or board;

(2) has been duly paid or tendered the fees and mileage of a witness at the rates allowed to witnesses attending the courts of the United States; and

(3) willfully neglects or refuses to appear, or refuses to qualify as a witness or to testify or to produce any evidence which that person may have been legally subpenaed to produce;

is guilty of an offense against the United States.

(b) Any person who commits an offense named in subsection (a) shall be tried on information in a United States district court or in a court of original criminal jurisdiction in any of the Territories, Commonwealths, or possessions of the United States, and jurisdiction is conferred upon those courts for that purpose. Upon conviction, such a person shall be punished by a fine of not more than $500, or imprisonment for not more than six months, or both.

(c) The United States attorney or the officer prosecuting for the United States in any such court of original criminal jurisdiction shall, upon the certification of the facts to him by the military court, commission, court of inquiry, or board, file an information against and prosecute any person violating this article.

(d) The fees and mileage of witnesses shall be advanced or paid out of the appropriations for the compensation of witnesses.

§ 848. Art. 48. Contempts

A court-martial, provost court, or military commission may punish for contempt any person who uses any menacing word, sign, or gesture in its presence, or who disturbs its proceedings by any riot or disorder. The punishment may not exceed confinement for 30 days or a fine of $100, or both.

§ 849. Art. 49. Depositions

(a) At any time after charges have been signed as provided in section 830 of this title (article 30), any party may take oral or written depositions unless an authority competent to convene a court-martial for the trial of those charges forbids it for good cause. If a deposition is to be taken before charges are referred for trial, such an

authority may designate commissioned officers to represent the prosecution and the defense and may authorize those officers to take the deposition of any witness.

(b) The party at whose instance a deposition is to be taken shall give to every other party reasonable written notice of the time and place for taking the deposition.

(c) Depositions may be taken before and authenticated by any military or civil officer authorized by the laws of the United States or by the laws of the place where the deposition is taken to administer oaths.

(d) A duly authenticated deposition taken upon reasonable notice to the other parties, so far as otherwise admissible under the rules of evidence, may be read in evidence before any military court or commission in any case not capital, or in any proceeding before a court of inquiry or military board, if it appears—

(1) that the witness resides or is beyond the State, Territory, Commonwealth, or District of Columbia in which the court, commission, or board is ordered to sit, or beyond 100 miles from the place of trial or hearing;

(2) that the witness by reason of death, age, sickness, bodily infirmity, imprisonment, military necessity, nonamenability to process, or other reasonable cause, is unable or refuses to appear and testify in person at the place of trial or hearing; or

(3) that the present whereabouts of the witness is unknown.

(e) Subject to subsection (d), testimony by deposition may be presented by the defense in capital cases.

(f) Subject to subsection (d), a deposition may be read in evidence in any case in which the death penalty is authorized but is not mandatory, whenever the convening authority directs that the case be treated as not capital, and in such a case a sentence of death may not be adjudged by the court-martial.

§ 850. Art. 50. Admissibility of records of courts of inquiry

(a) In any case not capital and not extending to the dismissal of a commissioned officer, the sworn testimony, contained in the duly authenticated record of proceedings of a court of inquiry, of a person whose oral testimony cannot be obtained, may, if otherwise admissible under the rules of evidence, be read in evidence by any party before a court-martial or military commission if the accused was a party before the court of inquiry and if the same issue was involved or if the accused consents to the introduction of such evidence.

(b) Such testimony may be read in evidence only by the defense in capital cases or cases extending to the dismissal of a commissioned officer.

(c) Such testimony may also be read in evidence before a court of inquiry or a military board.

§ 851. Art. 51. Voting and rulings

(a) Voting by members of a general or special court-martial upon questions of challenge, on the findings, and on the sentence shall be by secret written ballot. The junior member of the court shall count the votes. The count shall be checked by the president, who shall forthwith announce the result of the ballot to the members of the court.

(b) The law officer of a general court-martial and the president of a special court-martial shall rule upon interlocutory questions, other than challenge, arising during the proceedings. Any such ruling made by the law officer of a general court-martial upon any interlocutory question other than a motion for a finding of not guilty, or the question of accused's sanity, is final and constitutes the ruling of the court. However, the law officer may change his ruling at any time during the trial. Unless the ruling is final, if any member objects thereto, the court shall be cleared and closed and the question decided by a voice vote as provided in section 852 of this title (article 52), beginning with the junior in rank.

(c) Before a vote is taken on the findings, the law officer of a general court-martial and the president of a special court-martial shall, in the presence of the accused and counsel, instruct the court as to the elements of the offense and charge the court—

(1) that the accused must be presumed to be innocent until his guilt is established by legal and competent evidence beyond reasonable doubt;

(2) that in the case being considered, if there is a reasonable doubt as to the guilt of the accused, the doubt must be resolved in favor of the accused and he must be acquitted;

(3) that, if there is a reasonable doubt as to the degree of guilt, the finding must be in a lower degree as to which there is no reasonable doubt; and

(4) that the burden of proof to establish the guilt of the accused beyond reasonable doubt is upon the United States.

§ 852. Art. 52. Number of votes required

(a) (1) No person may be convicted of an offense for which the death penalty is made mandatory by law, except by the concurrence of all the members of the court-martial present at the time the vote is taken.

(2) No person may be convicted of any other offense, except by the concurrence of two-thirds of the members present at the time the vote is taken.

(b) (1) No person may be sentenced to suffer death, except by the concurrence of all the members of the court-martial present at the time the vote is taken and for an offense in this chapter expressly made punishable by death.

(2) No person may be sentenced to life imprisonment or to confinement for more than ten years, except by the concurrence of three-fourths of the members present at the time the vote is taken.

(3) All other sentences shall be determined by the concurrence of two-thirds of the members present at the time the vote is taken.

(c) All other questions to be decided by the members of a general or special court-martial shall be determined by a majority vote. A tie vote on a challenge disqualifies the member challenged. A tie vote on a motion for a finding of not guilty or on a motion relating to the question of the accused's sanity is a determination against the accused. A tie vote on any other question is a determination in favor of the accused.

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§ 853. Art. 53. Court to announce action

A court-martial shall announce its findings and sentence to the parties as soon as determined.

§ 854. Art. 54. Record of trial

(a) Each general court-martial shall keep a separate record of the proceedings of the trial of each case brought before it, and the record shall be authenticated by the signatures of the president and the law officer. If the record cannot be authenticated by either the president or the law officer, by reason of his death, disability, or absence, it shall be signed by a member in lieu of him. If both the president and the law officer are unavailable for any of those reasons, the record shall be authenticated by two members.

(b) Each special and summary court-martial shall keep a separate record of the proceedings in each case, and the record shall contain the matter and shall be authenticated in the manner required by such regulations as the President may prescribe.

(c) A copy of the record of the proceedings of each general and special court-martial shall be given to the accused as soon as it is authenticated.

SUBCHAPTER VIII.—SENTENCES

Sec. Art.
855. 55. Cruel and unusual punishments prohibited.
856. 56. Maximum limits.
857. 57. Effective date of sentences.
858. 58. Execution of confinement.

§ 855. Art. 55. Cruel and unusual punishments prohibited

Punishment by flogging, or by branding, marking, or tattooing on the body, or any other cruel or unusual punishment, may not be adjudged by any court-martial or inflicted upon any person subject to this chapter. The use of irons, single or double, except for the purpose of safe custody, is prohibited.

§ 856. Art. 56. Maximum limits

The punishment which a court-martial may direct for an offense may not exceed such limits as the President may prescribe for that offense.

§ 857. Art. 57. Effective date of sentences

(a) Whenever a sentence of a court-martial as lawfully adjudged and approved includes a forfeiture of pay or allowances in addition to confinement not suspended, the forfeiture may apply to pay or allowances becoming due on or after the date the sentence is approved by the convening authority. No forfeiture may extend to any pay or allowances accrued before that date.

(b) Any period of confinement included in a sentence of a court-martial begins to run from the date the sentence is adjudged by the court-martial, but periods during which the sentence to confinement is suspended shall be excluded in computing the service of the term of confinement.

(c) All other sentences of courts-martial are effective on the date ordered executed.

§ 858. Art. 58. Execution of confinement

(a) Under such instructions as the Secretary concerned may prescribe, a sentence of confinement adjudged by a court-martial or other military tribunal, whether or not the sentence includes discharge or dismissal, and whether or not the discharge or dismissal has been executed, may be carried into execution by confinement in any place of confinement under the control of any of the armed forces or in any penal or correctional institution under the control of the United States, or which the United States may be allowed to use. Persons so confined in a penal or correctional institution not under the control of one of the armed forces are subject to the same discipline and treatment as persons confined or committed by the courts of the United States or of the State, Territory, District of Columbia, or place in which the institution is situated.

(b) The omission of the words "hard labor" from any sentence of a court-martial adjudging confinement does not deprive the authority executing that sentence of the power to require hard labor as a part of the punishment.

SUBCHAPTER IX.—REVIEW OF COURTS-MARTIAL

Sec. Art.
859. 59. Error of law; lesser included offense.
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873. 73. Petition for a new trial.
874. 74. Remission and suspension.
875. 75. Restoration.
876. 76. Finality of proceedings, findings, and sentences.

§ 859. Art. 59. Error of law; lesser included offense

(a) A finding or sentence of a court-martial may not be held incorrect on the ground of an error of law unless the error materially prejudices the substantial rights of the accused.

(b) Any reviewing authority with the power to approve or affirm a finding of guilty may approve or affirm, instead, so much of the finding as includes a lesser included offense.

§ 860. Art. 60. Initial action on the record

After a trial by court-martial the record shall be forwarded to the convening authority, and action thereon may be taken by the person who convened the court, a commissioned officer commanding for the time being, a successor in command, or any officer exercising general court-martial jurisdiction.

§ 861. Art. 61. Same—General court-martial records

The convening authority shall refer the record of each general court-martial to his staff judge advocate or legal officer, who shall submit his written opinion thereon to the convening authority. If the final action of the court has resulted in an acquittal of all charges and specifications, the opinion shall be limited to questions of jurisdiction and shall be forwarded with the record to the Judge Advocate General of the armed force of which the accused is a member.

§ 862. Art. 62. Reconsideration and revision

(a) If a specification before a court-martial has been dismissed on motion and the ruling does not amount to a finding of not guilty, the convening authority may return the record to the court for reconsideration of the ruling and any further appropriate action.

(b) Where there is an apparent error or omission in the record or where the record shows improper or inconsistent action by a court-martial with respect to a finding or sentence which can be rectified without material prejudice to the substantial rights of the accused, the convening authority may return the record to the court for appropriate action. In no case, however, may the record be returned—

(1) for reconsideration of a finding of not guilty of any specification, or a ruling which amounts to a finding of not guilty;

(2) for reconsideration of a finding of not guilty of any charge, unless the record shows a finding of guilty under a specification laid under that charge, which sufficiently alleges a violation of some article of this chapter; or

(3) for increasing the severity of the sentence unless the sentence prescribed for the offense is mandatory.

§ 863. Art. 63. Rehearings

(a) If the convening authority disapproves the findings and sentence of a court-martial he may, except where there is lack of sufficient evidence in the record to support the findings, order a rehearing. In such a case he shall state the reasons for disapproval. If he disapproves the findings and sentence and does not order a rehearing, he shall dismiss the charges.

(b) Each rehearing shall take place before a court-martial composed of members not members of the court-martial which first heard the case. Upon a rehearing the accused may not be tried for any offense of which he was found not guilty by the first court-martial, and no sentence in excess of or more severe than the original sentence may be imposed, unless the sentence is based upon a finding of guilty of an offense not considered upon the merits in the original proceedings, or unless the sentence prescribed for the offense is mandatory.

§ 864. Art. 64. Approval by the convening authority

In acting on the findings and sentence of a court-martial, the convening authority may approve only such findings of guilty, and the sentence or such part or amount of the sentence, as he finds correct in law and fact and as he in his discretion determines should be approved. Unless he indicates otherwise, approval of the sentence is approval of the findings and sentence.

§ 865. Art. 65. Disposition of records after review by the convening authority

(a) When the convening authority has taken final action in a general court-martial case, he shall send the entire record, including his action thereon and the opinion or opinions of the staff judge advocate or legal officer, to the appropriate Judge Advocate General.

(b) If the sentence of a special court-martial as approved by the convening authority includes a bad-conduct discharge, whether or not suspended, the record shall be sent to the officer exercising general court-martial jurisdiction over the command to be reviewed in the same manner as a record of trial by general court-martial or directly to the appropriate Judge Advocate General to be reviewed by a board of review. If the sentence as approved by an officer exercising general court-martial jurisdiction includes a bad-conduct discharge, whether or not suspended, the record shall be sent to the appropriate Judge Advocate General to be reviewed by a board of review.

(c) All other special and summary court-martial records shall be reviewed by a judge advocate of the Army or the Air Force, a law specialist of the Navy, or a law specialist or lawyer of the Coast Guard or Department of the Treasury, and shall be transmitted and disposed of as the Secretary concerned may prescribe by regulation.

§ 866. Art. 66. Review by board of review

(a) Each Judge Advocate General shall constitute in his office one or more boards of review, each composed of not less than three commissioned officers or civilians, each of whom must be a member of the bar of a Federal court or of the highest court of a State.

(b) The Judge Advocate General shall refer to a board of review the record in every case of trial by court-martial in which the sentence, as approved, affects a general or flag officer or extends to death, dismissal of a commissioned officer, cadet, or midshipman, dishonorable or bad-conduct discharge, or confinement for one year or more.

(c) In a case referred to it, the board of review may act only with respect to the findings and sentence as approved by the convening authority. It may affirm only such findings of guilty, and the sentence or such part or amount of the sentence, as it finds correct in law and fact and determines, on the basis of the entire record, should be approved. In considering the record, it may weigh the evidence, judge the credibility of witnesses, and determine controverted questions of fact, recognizing that the trial court saw and heard the witnesses.

(d) If the board of review sets aside the findings and sentence, it may, except where the setting aside is based on lack of sufficient evidence in the record to support the findings, order a rehearing. If it sets aside the findings and sentence and does not order a rehearing, it shall order that the charges be dismissed.

(e) The Judge Advocate General shall, unless there is to be further action by the President, the Secretary concerned, or the Court of Military Appeals, instruct the convening authority to take action in accordance with the decision of the board of review. If the board of review has ordered a rehearing but the convening authority finds a rehearing impracticable, he may dismiss the charges.

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(f) The Judge Advocates General shall prescribe uniform rules of procedure for boards of review and shall meet periodically to formulate policies and procedure in regard to review of court-martial cases in the offices of the Judge Advocates General and by boards of review.

§ 867. Art. 67. Review by the Court of Military Appeals

(a) (1) There is a Court of Military Appeals, located for administrative purposes in the Department of Defense. The Court of Military Appeals consists of three judges appointed from civil life by the President, by and with the advice and consent of the Senate, for a term of fifteen years. Not more than two of the judges of that court may be appointed from the same political party, nor is any person eligible for appointment to the court who is not a member of the bar of a Federal court or of the highest court of a State. Each judge is entitled to a salary of $25,500 a year and is eligible for reappointment. The President shall designate from time to time one of the judges to act as Chief Judge. The Court of Military Appeals may prescribe its own rules of procedure and determine the number of judges required to constitute a quorum. A vacancy in the court does not impair the right of the remaining judges to exercise the powers of the court. Upon his certificate, each judge is entitled to be paid by the Secretary of Defense (1) all necessary traveling expenses, and (2) his reasonable maintenance expenses, but not more than $15 a day, incurred while attending court or transacting official business outside the District of Columbia.

(2) The terms of office of the three judges first taking office after February 28, 1951, expire, as designated by the President at the time of nomination, one on May 1, 1956, one on May 1, 1961, and one on May 1, 1966. The terms of office of all successors expire 15 years after the expiration of the terms for which their predecessors were appointed, but any judge appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed may be appointed only for the unexpired term of his predecessor.

(3) Judges of the Court of Military Appeals may be removed by the President, upon notice and hearing, for neglect of duty or malfeasance in office, or for mental or physical disability, but for no other cause.

(4) If a Judge of the Court of Military Appeals is temporarily unable to perform his duties because of illness or other disability, the President may designate a judge of a United States Court of Appeals to fill the office for the period of disability.

(b) The Court of Military Appeals shall review the record in—

(1) all cases in which the sentence, as affirmed by a board of review, affects a general or flag officer or extends to death;

(2) all cases reviewed by a board of review which the Judge Advocate General orders sent to the Court of Military Appeals for review; and

(3) all cases reviewed by a board of review in which, upon petition of the accused and on good cause shown, the Court of Military Appeals has granted a review.

(c) The accused has 30 days from the time when he is notified of the decision of a board of review to petition the Court of Military Appeals for review. The court shall act upon such a petition within 30 days of the receipt thereof.

(d) In any case reviewed by it, the Court of Military Appeals may act only with respect to the findings and sentence as approved by the convening authority and as affirmed or set aside as incorrect in law by the board of review. In a case which the Judge Advocate General orders sent to the Court of Military Appeals, that action need be taken only with respect to the issues raised by him. In a case reviewed upon petition of the accused, that action need be taken only with respect to issues specified in the grant of review. The Court of Military Appeals shall take action only with respect to matters of law.

(e) If the Court of Military Appeals sets aside the findings and sentence, it may, except where the setting aside is based on lack of sufficient evidence in the record to support the findings, order a rehearing. If it sets aside the findings and sentence and does not order a rehearing, it shall order that the charges be dismissed.

(f) After it has acted on a case, the Court of Military Appeals may direct the Judge Advocate General to return the record to the board of review for further review in accordance with the decision of the court. Otherwise, unless there is to be further action by the President or the Secretary concerned, the Judge Advocate General shall instruct the convening authority to take action in accordance with that decision. If the court has ordered a rehearing, but the convening authority finds a rehearing impracticable, he may dismiss the charges.

(g) The Court of Military Appeals and the Judge Advocates General shall meet annually to make a comprehensive survey of the operation of this chapter and report to the Committees on Armed Services of the Senate and of the House of Representatives and to the Secretary of Defense, the Secretaries of the military departments, and the Secretary of the Treasury, the number and status of pending cases and any recommendations relating to uniformity of policies as to sentences, amendments to this chapter, and any other matters considered appropriate.

§ 868. Art. 68. Branch offices

Whenever the President considers such action necessary, he may direct the Judge Advocate General to establish a branch office, under an Assistant Judge Advocate General, with any distant command, and to establish in that branch office one or more boards of review. That Assistant Judge Advocate General and any such board of review may perform for that command, under the general supervision of the Judge Advocate General, the respective duties which the Judge Advocate General and a board of review in his office would otherwise be required to perform in respect of all cases involving sentences not requiring approval by the President.

§ 869. Art. 69. Review in the office of the Judge Advocate General

Every record of trial by general court-martial, in which there has been a finding of guilty and a sentence, the appellate review of which is not otherwise provided for by section 866 of this title (article 66), shall be examined in the office of the Judge Advocate General. If any part of the findings or sentence is found unsupported in law, or if the Judge Advocate General so directs, the record shall be reviewed by a board of review in accordance with section 866 of this title (article 66), but in that event there may be no further review by the

Court of Military Appeals except under section 867 (b) (2) of this title (article 67 (b) (2)).

§ 870. Art. 70. Appellate counsel

(a) The Judge Advocate General shall detail in his office one or more commissioned officers as appellate Government counsel, and one or more commissioned officers as appellate defense counsel, who are qualified under section 827 (b) (1) of this title (article 27 (b) (1)).

(b) Appellate Government counsel shall represent the United States before the board of review or the Court of Military Appeals when directed to do so by the Judge Advocate General.

(c) Appellate defense counsel shall represent the accused before the board of review or the Court of Military Appeals—

(1) when he is requested to do so by the accused;

(2) when the United States is represented by counsel; or

(3) when the Judge Advocate General has sent a case to the Court of Military Appeals.

(d) The accused has the right to be represented before the Court of Military Appeals or the board of review by civilian counsel if provided by him.

(e) Military appellate counsel shall also perform such other functions in connection with the review of court martial cases as the Judge Advocate General directs.

§ 871. Art. 71. Execution of sentence; suspension of sentence

(a) No court-martial sentence extending to death or involving a general or flag officer may be executed until approved by the President. He shall approve the sentence or such part, amount, or commuted form of the sentence as he sees fit, and may suspend the execution of the sentence or any part of the sentence, as approved by him, except a death sentence.

(b) No sentence extending to the dismissal of a commissioned officer (other than a general or flag officer), cadet, or midshipman may be executed until approved by the Secretary concerned, or such Under Secretary or Assistant Secretary as may be designated by him. He shall approve the sentence or such part, amount, or commuted form of the sentence as he sees fit, and may suspend the execution of any part of the sentence as approved by him. In time of war or national emergency he may commute a sentence of dismissal to reduction to any enlisted grade. A person so reduced may be required to serve for the duration of the war or emergency and six months thereafter.

(c) No sentence which includes, unsuspended, a dishonorable or bad-conduct discharge, or confinement for one year or more, may be executed until affirmed by a board of review and, in cases reviewed by it, the Court of Military Appeals.

(d) All other court-martial sentences, unless suspended, may be ordered executed by the convening authority when approved by him. The convening authority may suspend the execution of any sentence, except a death sentence.

§ 872. Art. 72. Vacation of suspension

(a) Before the vacation of the suspension of a special court-martial sentence which as approved includes a bad-conduct discharge, or of any general court-martial sentence, the officer having special court-martial jurisdiction over the probationer shall hold a hearing on the alleged violation of probation. The probationer shall be represented at the hearing by counsel if he so desires.

(b) The record of the hearing and the recommendation of the officer having special court-martial jurisdiction shall be sent for action to the officer exercising general court-martial jurisdiction over the probationer. If he vacates the suspension, any unexecuted part of the sentence, except a dismissal, shall be executed, subject to applicable restrictions in section 871 (c) of this title (article 71 (c)). The vacation of the suspension of a dismissal is not effective until approved by the Secretary concerned.

(c) The suspension of any other sentence may be vacated by any authority competent to convene, for the command in which the accused is serving or assigned, a court of the kind that imposed the sentence.

§ 873. Art. 73. Petition for a new trial

At any time within one year after approval by the convening authority of a court-martial sentence which extends to death, dismissal, dishonorable or bad-conduct discharge, or confinement for one year or more, the accused may petition the Judge Advocate General for a new trial on the ground of newly discovered evidence or fraud on the court. If the accused's case is pending before the board of review or before the Court of Military Appeals, the Judge Advocate General shall refer the petition to the board or court, as the case may be, for action. Otherwise the Judge Advocate General shall act upon the petition.

§ 874. Art. 74. Remission and suspension

(a) The Secretary concerned and, when designated by him, any Under Secretary, Assistant Secretary, Judge Advocate General, or commanding officer may remit or suspend any part or amount of the unexecuted part of any sentence, including all uncollected forfeitures other than a sentence approved by the President.

(b) The Secretary concerned may, for good cause, substitute an administrative form of discharge for a discharge or dismissal executed in accordance with the sentence of a court-martial.

§ 875. Art. 75. Restoration

(a) Under such regulations as the President may prescribe, all rights, privileges, and property affected by an executed part of a court-martial sentence which has been set aside or disapproved, except an executed dismissal or discharge, shall be restored unless a new trial or rehearing is ordered and such executed part is included in a sentence imposed upon the new trial or rehearing.

(b) If a previously executed sentence of dishonorable or bad-conduct discharge is not imposed on a new trial, the Secretary concerned shall substitute therefor a form of discharge authorized for administrative issuance unless the accused is to serve out the remainder of his enlistment.

(c) If a previously executed sentence of dismissal is not imposed on a new trial, the Secretary concerned shall substitute therefor a form of discharge authorized for administrative issue, and the commissioned officer dismissed by that sentence may be reappointed by the President alone to such commissioned grade and with such rank as in the opinion of the President that former officer would have attained had he not been dismissed. The reappointment of such a former officer shall be without regard to the existence of a vacancy and shall affect the promotion status of other officers only insofar as the President may direct. All time between the dismissal and the reappointment shall be considered as actual service for all purposes, including the right to pay and allowances.

§ 876. Art. 76. Finality of proceedings, findings, and sentences

The appellate review of records of trial provided by this chapter, the proceedings, findings, and sentences of courts-martial as approved, reviewed, or affirmed as required by this chapter, and all dismissals and discharges carried into execution under sentences by courts-martial following approval, review, or affirmation as required by this chapter, are final and conclusive. Orders publishing the proceedings of courts-martial and all action taken pursuant to those proceedings are binding upon all departments, courts, agencies, and officers of the United States, subject only to action upon a petition for a new trial as provided in section 873 of this title (article 73) and to action by the Secretary concerned as provided in section 874 of this title (article 74), and the authority of the President.

SUBCHAPTER X.—PUNITIVE ARTICLES

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§ 877. Art. 77. Principals

Any person punishable under this chapter who—

(1) commits an offense punishable by this chapter, or aids, abets, counsels, commands, or procures its commission; or

(2) causes an act to be done which if directly performed by him would be punishable by this chapter;

is a principal.

§ 878. Art. 78. Accessory after the fact

Any person subject to this chapter who, knowing that an offense punishable by this chapter has been committed, receives, comforts, or assists the offender in order to hinder or prevent his apprehension, trial, or punishment shall be punished as a court-martial may direct.

§ 879. Art. 79. Conviction of lesser included offense

An accused may be found guilty of an offense necessarily included in the offense charged or of an attempt to commit either the offense charged or an offense necessarily included therein.

§ 880. Art. 80. Attempts

(a) An act, done with specific intent to commit an offense under this chapter, amounting to more than mere preparation and tending,

even though failing, to effect its commission, is an attempt to commit that offense.

(b) Any person subject to this chapter who attempts to commit any offense punishable by this chapter shall be punished as a court-martial may direct, unless otherwise specifically prescribed.

(c) Any person subject to this chapter may be convicted of an attempt to commit an offense although it appears on the trial that the offense was consummated.

§ 881. Art. 81. Conspiracy

Any person subject to this chapter who conspires with any other person to commit an offense under this chapter shall, if one or more of the conspirators does an act to effect the object of the conspiracy, be punished as a court-martial may direct.

§ 882. Art. 82. Solicitation

(a) Any person subject to this chapter who solicits or advises another or others to desert in violation of section 885 of this title (article 85) or mutiny in violation of section 894 of this title (article 94) shall, if the offense solicited or advised is attempted or committed, be punished with the punishment provided for the commission of the offense, but, if the offense solicited or advised is not committed or attempted, he shall be punished as a court-martial may direct.

(b) Any person subject to this chapter who solicits or advises another or others to commit an act of misbehavior before the enemy in violation of section 899 of this title (article 99) or sedition in violation of section 894 of this title (article 94) shall, if the offense solicited or advised is committed, be punished with the punishment provided for the commission of the offense, but, if the offense solicited or advised is not committed, he shall be punished as a court-martial may direct.

§ 883. Art. 83. Fraudulent enlistment, appointment, or separation

Any person who—

(1) procures his own enlistment or appointment in the armed forces by knowingly false representation or deliberate concealment as to his qualifications for that enlistment or appointment and receives pay or allowances thereunder; or

(2) procures his own separation from the armed forces by knowingly false representation or deliberate concealment as to his eligibility for that separation;

shall be punished as a court-martial may direct.

§ 884. Art. 84. Unlawful enlistment, appointment, or separation

Any person subject to this chapter who effects an enlistment or appointment in or a separation from the armed forces of any person who is known to him to be ineligible for that enlistment, appointment, or separation because it is prohibited by law, regulation, or order shall be punished as a court-martial may direct.

§ 885. Art. 85. Desertion

(a) Any member of the armed forces who—

(1) without authority goes or remains absent from his unit, organization, or place of duty with intent to remain away therefrom permanently;

(2) quits his unit, organization, or place of duty with intent to avoid hazardous duty or to shirk important service; or

(3) without being regularly separated from one of the armed forces enlists or accepts an appointment in the same or another one of the armed forces without fully disclosing the fact that he has not been regularly separated, or enters any foreign armed service except when authorized by the United States;

is guilty of desertion.

(b) Any commissioned officer of the armed forces who, after tender of his resignation and before notice of its acceptance, quits his post or proper duties without leave and with intent to remain away therefrom permanently is guilty of desertion.

(c) Any person found guilty of desertion or attempt to desert shall be punished, if the offense is committed in time of war, by death or such other punishment as a court-martial may direct, but if the desertion or attempt to desert occurs at any other time, by such punishment, other than death, as a court-martial may direct.

§ 886. Art. 86. Absence without leave

Any member of the armed forces who, without authority—

(1) fails to go to his appointed place of duty at the time prescribed;

(2) goes from that place; or

(3) absents himself or remains absent from his unit, organization, or place of duty at which he is required to be at the time prescribed;

shall be punished as a court-martial may direct.

§ 887. Art. 87. Missing movement

Any person subject to this chapter who through neglect or design misses the movement of a ship, aircraft, or unit with which he is required in the course of duty to move shall be punished as a court-martial may direct.

§ 888. Art. 88. Contempt toward officials

Any commissioned officer who uses contemptuous words against the President, the Vice President, Congress, the Secretary of Defense, the Secretary of a military department, the Secretary of the Treasury, or the Governor or legislature of any State, Territory, Commonwealth, or possession in which he is on duty or present shall be punished as a court-martial may direct.

§ 889. Art. 89. Disrespect toward superior commissioned officer

Any person subject to this chapter who behaves with disrespect toward his superior commissioned officer shall be punished as a court-martial may direct.

§ 890. Art. 90. Assaulting or willfully disobeying superior commissioned officer

Any person subject to this chapter who—

(1) strikes his superior commissioned officer or draws or lifts up any weapon or offers any violence against him while he is in the execution of his office; or

(2) willfully disobeys a lawful command of his superior commissioned officer;

shall be punished, if the offense is committed in time of war, by death or such other punishment as a court-martial may direct, and if the offense is committed at any other time, by such punishment, other than death, as a court-martial may direct.

§ 891. Art. 91. Insubordinate conduct toward warrant officer, noncommissioned officer, or petty officer

Any warrant officer or enlisted member who—

(1) strikes or assaults a warrant officer, noncommissioned officer, or petty officer, while that officer is in the execution of his office;

(2) willfully disobeys the lawful order of a warrant officer, noncommissioned officer, or petty officer; or

(3) treats with contempt or is disrespectful in language or deportment toward a warrant officer, noncommissioned officer, or petty officer, while that officer is in the execution of his office;

shall be punished as a court-martial may direct.

§ 892. Art. 92. Failure to obey order or regulation

Any person subject to this chapter who—

(1) violates or fails to obey any lawful general order or regulation;

(2) having knowledge of any other lawful order issued by a member of the armed forces, which it is his duty to obey, fails to obey the order; or

(3) is derelict in the performance of his duties;

shall be punished as a court-martial may direct.

§ 893. Art. 93. Cruelty and maltreatment

Any person subject to this chapter who is guilty of cruelty toward, or oppression or maltreatment of, any person subject to his orders shall be punished as a court-martial may direct.

§ 894. Art. 94. Mutiny or sedition

(a) Any person subject to this chapter who—

(1) with intent to usurp or override lawful military authority, refuses, in concert with any other person, to obey orders or otherwise do his duty or creates any violence or disturbance is guilty of mutiny;

(2) with intent to cause the overthrow or destruction of lawful civil authority, creates, in concert with any other person, revolt, violence, or other disturbance against that authority is guilty of sedition;

(3) fails to do his utmost to prevent and suppress a mutiny or sedition being committed in his presence, or fails to take all

reasonable means to inform his superior commissioned officer or commanding officer of a mutiny or sedition which he knows or has reason to believe is taking place, is guilty of a failure to suppress or report a mutiny or sedition.

(b) A person who is found guilty of attempted mutiny, mutiny, sedition, or failure to suppress or report a mutiny or sedition shall be punished by death or such other punishment as a court-martial may direct.

§ 895. Art. 95. Resistance, breach of arrest, and escape

Any person subject to this chapter who resists apprehension or breaks arrest or who escapes from custody or confinement shall be punished as a court-martial may direct.

§ 896. Art. 96. Releasing prisoner without proper authority

Any person subject to this chapter who, without proper authority, releases any prisoner committed to his charge, or who through neglect or design suffers any such prisoner to escape, shall be punished as a court-martial may direct, whether or not the prisoner was committed in strict compliance with law.

§ 897. Art. 97. Unlawful detention

Any person subject to this chapter who, except as provided by law, apprehends, arrests, or confines any person shall be punished as a court-martial may direct.

§ 898. Art. 98. Noncompliance with procedural rules

Any person subject to this chapter who—

(1) is responsible for unnecessary delay in the disposition of any case of a person accused of an offense under this chapter; or

(2) knowingly and intentionally fails to enforce or comply with any provision of this chapter regulating the proceedings before, during, or after trial of an accused;

shall be punished as a court-martial may direct.

§ 899. Art. 99. Misbehavior before the enemy

Any member of the armed forces who before or in the presence of the enemy—

(1) runs away;

(2) shamefully abandons, surrenders, or delivers up any command, unit, place, or military property which it is his duty to defend;

(3) through disobedience, neglect, or intentional misconduct endangers the safety of any such command, unit, place, or military property;

(4) casts away his arms or ammunition;

(5) is guilty of cowardly conduct;

(6) quits his place of duty to plunder or pillage;

(7) causes false alarms in any command, unit, or place under control of the armed forces;

(8) willfully fails to do his utmost to encounter, engage, capture, or destroy any enemy troops, combatants, vessels, aircraft,

or any other thing, which it is his duty so to encounter, engage, capture, or destroy; or

(9) does not afford all practicable relief and assistance to any troops, combatants, vessels, or aircraft of the armed forces belonging to the United States or their allies when engaged in battle;

shall be punished by death or such other punishment as a court-martial may direct.

§ 900. Art. 100. Subordinate compelling surrender

Any person subject to this chapter who compels or attempts to compel the commander of any place, vessel, aircraft, or other military property, or of any body of members of the armed forces, to give it up to an enemy or to abandon it, or who strikes the colors or flag to an enemy without proper authority, shall be punished by death or such other punishment as a court-martial may direct.

§ 901. Art. 101. Improper use of countersign

Any person subject to this chapter who in time of war discloses the parole or countersign to any person not entitled to receive it or who gives to another who is entitled to receive and use the parole or countersign a different parole or countersign from that which, to his knowledge, he was authorized and required to give, shall be punished by death or such other punishment as a court-martial may direct.

§ 902. Art. 102. Forcing a safeguard

Any person subject to this chapter who forces a safeguard shall suffer death or such other punishment as a court-martial may direct.

§ 903. Art. 103. Captured or abandoned property

(a) All persons subject to this chapter shall secure all public property taken from the enemy for the service of the United States, and shall give notice and turn over to the proper authority without delay all captured or abandoned property in their possession, custody, or control.

(b) Any person subject to this chapter who—

(1) fails to carry out the duties prescribed in subsection (a);

(2) buys, sells, trades, or in any way deals in or disposes of captured or abandoned property, whereby he receives or expects any profit, benefit, or advantage to himself or another directly or indirectly connected with himself; or

(3) engages in looting or pillaging;

shall be punished as a court-martial may direct.

§ 904. Art. 104. Aiding the enemy

Any person who—

(1) aids, or attempts to aid, the enemy with arms, ammunition, supplies, money, or other things; or

(2) without proper authority, knowingly harbors or protects or gives intelligence to, or communicates or corresponds with or holds any intercourse with the enemy, either directly or indirectly;

shall suffer death or such other punishment as a court-martial or military commission may direct.

§ 905. Art. 105. Misconduct as prisoner

Any person subject to this chapter who, while in the hands of the enemy in time of war—

(1) for the purpose of securing favorable treatment by his captors acts without proper authority in a manner contrary to law, custom, or regulation, to the detriment of others of whatever nationality held by the enemy as civilian or military prisoners; or

(2) while in a position of authority over such persons maltreats them without justifiable cause;

shall be punished as a court-martial may direct.

§ 906. Art. 106. Spies

Any person who in time of war is found lurking as a spy or acting as a spy in or about any place, vessel, or aircraft, within the control or jurisdiction of any of the armed forces, or in or about any shipyard, any manufacturing or industrial plant, or any other place or institution engaged in work in aid of the prosecution of the war by the United States, or elsewhere, shall be tried by a general court-martial or by a military commission and on conviction shall be punished by death.

§ 907. Art. 107. False official statements

Any person subject to this chapter who, with intent to deceive, signs any false record, return, regulation, order, or other official document, knowing it to be false, or makes any other false official statement knowing it to be false, shall be punished as a court-martial may direct.

§ 908. Art. 108. Military property of United States—Loss, damage, destruction, or wrongful disposition

Any person subject to this chapter who, without proper authority—

(1) sells or otherwise disposes of;

(2) willfully or through neglect damages, destroys, or loses; or

(3) willfully or through neglect suffers to be lost, damaged, destroyed, sold, or wrongfully disposed of;

any military property of the United States, shall be punished as a court-martial may direct.

§ 909. Art. 109. Property other than military property of United States—Waste, spoilage, or destruction

Any person subject to this chapter who willfully or recklessly wastes, spoils, or otherwise willfully and wrongfully destroys or damages any property other than military property of the United States shall be punished as a court-martial may direct.

§ 910. Art. 110. Improper hazarding of vessel

(a) Any person subject to this chapter who willfully and wrongfully hazards or suffers to be hazarded any vessel of the armed forces shall suffer death or such other punishment as a court-martial may direct.

(b) Any person subject to this chapter who negligently hazards or suffers to be hazarded any vessel of the armed forces shall be punished as a court-martial may direct.

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§ 911. Art. 111. Drunken or reckless driving

Any person subject to this chapter who operates any vehicle while drunk, or in a reckless or wanton manner, shall be punished as a court-martial may direct.

§ 912. Art. 112. Drunk on duty

Any person subject to this chapter other than a sentinel or look-out, who is found drunk on duty, shall be punished as a court-martial may direct.

§ 913. Art. 113. Misbehavior of sentinel

Any sentinel or look-out who is found drunk or sleeping upon his post, or leaves it before he is regularly relieved, shall be punished, if the offense is committed in time of war, by death or such other punishment as a court-martial may direct, but if the offense is committed at any other time, by such punishment other than death as a court-martial may direct.

§ 914. Art. 114. Dueling

Any person subject to this chapter who fights or promotes, or is concerned in or connives at fighting a duel, or who, having knowledge of a challenge sent or about to be sent, fails to report the fact promptly to the proper authority, shall be punished as a court-martial may direct.

§ 915. Art. 115. Malingering

Any person subject to this chapter who for the purpose of avoiding work, duty, or service—

(1) feigns illness, physical disablement, mental lapse or derangement; or

(2) intentionally inflicts self-injury;

shall be punished as a court-martial may direct.

§ 916. Art. 116. Riot or breach of peace

Any person subject to this chapter who causes or participates in any riot or breach of the peace shall be punished as a court-martial may direct.

§ 917. Art. 117. Provoking speeches or gestures

Any person subject to this chapter who uses provoking or reproachful words or gestures towards any other person subject to this chapter shall be punished as a court-martial may direct.

§ 918. Art. 118. Murder

Any person subject to this chapter who, without justification or excuse, unlawfully kills a human being, when he—

(1) has a premeditated design to kill;

(2) intends to kill or inflict great bodily harm;

(3) is engaged in an act which is inherently dangerous to others and evinces a wanton disregard of human life; or

(4) is engaged in the perpetration or attempted perpetration of burglary, sodomy, rape, robbery, or aggravated arson;

is guilty of murder, and shall suffer such punishment as a court-martial may direct, except that if found guilty under clause (1) or (4), he shall suffer death or imprisonment for life as a court-martial may direct.

§ 919. Art. 119. Manslaughter

(a) Any person subject to this chapter who, with an intent to kill or inflict great bodily harm, unlawfully kills a human being in the heat of sudden passion caused by adequate provocation is guilty of voluntary manslaughter and shall be punished as a court-martial may direct.

(b) Any person subject to this chapter who, without an intent to kill or inflict great bodily harm, unlawfully kills a human being—

(1) by culpable negligence; or

(2) while perpetrating or attempting to perpetrate an offense, other than those named in clause (4) of section 918 of this title (article 118), directly affecting the person;

is guilty of involuntary manslaughter and shall be punished as a court-martial may direct.

§ 920. Art. 120. Rape and carnal knowledge

(a) Any person subject to this chapter who commits an act of sexual intercourse with a female not his wife, by force and without her consent, is guilty of rape and shall be punished by death or such other punishment as a court-martial may direct.

(b) Any person subject to this chapter who, under circumstances not amounting to rape, commits an act of sexual intercourse with a female not his wife who has not attained the age of sixteen years, is guilty of carnal knowledge and shall be punished as a court-martial may direct.

(c) Penetration, however slight, is sufficient to complete either of these offenses.

§ 921. Art. 121. Larceny and wrongful appropriation

(a) Any person subject to this chapter who wrongfully takes, obtains, or withholds, by any means, from the possession of the owner or of any other person any money, personal property, or article of value of any kind—

(1) with intent permanently to deprive or defraud another person of the use and benefit of property or to appropriate it to his own use or the use of any person other than the owner, steals that property and is guilty of larceny; or

(2) with intent temporarily to deprive or defraud another person of the use and benefit of property or to appropriate it to his own use or the use of any person other than the owner, is guilty of wrongful appropriation.

(b) Any person found guilty of larceny or wrongful appropriation shall be punished as a court-martial may direct.

§ 922. Art. 122. Robbery

Any person subject to this chapter who with intent to steal takes anything of value from the person or in the presence of another, against his will, by means of force or violence or fear of immediate or

future injury to his person or property or to the person or property of a relative or member of his family or of anyone in his company at the time of the robbery, is guilty of robbery and shall be punished as a court-martial may direct.

§ 923. Art. 123. Forgery

Any person subject to this chapter who, with intent to defraud—

(1) falsely makes or alters any signature to, or any part of, any writing which would, if genuine, apparently impose a legal liability on another or change his legal right or liability to his prejudice; or

(2) utters, offers, issues, or transfers such a writing, known by him to be so made or altered;

is guilty of forgery and shall be punished as a court-martial may direct.

§ 924. Art. 124. Maiming

Any person subject to this chapter who, with intent to injure, disfigure, or disable, inflicts upon the person of another an injury which—

(1) seriously disfigures his person by any mutilation thereof;

(2) destroys or disables any member or organ of his body; or

(3) seriously diminishes his physical vigor by the injury of any member or organ;

is guilty of maiming and shall be punished as a court-martial may direct.

§ 925. Art. 125. Sodomy

(a) Any person subject to this chapter who engages in unnatural carnal copulation with another person of the same or opposite sex or with an animal is guilty of sodomy. Penetration, however slight, is sufficient to complete the offense.

(b) Any person found guilty of sodomy shall be punished as a court-martial may direct.

§ 926. Art. 126. Arson

(a) Any person subject to this chapter who willfully and maliciously burns or sets on fire an inhabited dwelling, or any other structure, movable or immovable, wherein to the knowledge of the offender there is at the time a human being, is guilty of aggravated arson and shall be punished as a court-martial may direct.

(b) Any person subject to this chapter who willfully and maliciously burns or sets fire to the property of another, except as provided in subsection (a), is guilty of simple arson and shall be punished as a court-martial may direct.

§ 927. Art. 127. Extortion

Any person subject to this chapter who communicates threats to another person with the intention thereby to obtain anything of value or any acquittance, advantage, or immunity is guilty of extortion and shall be punished as a court-martial may direct.

§ 928. Art. 128. Assault

(a) Any person subject to this chapter who attempts or offers with unlawful force or violence to do bodily harm to another person, whether or not the attempt or offer is consummated, is guilty of assault and shall be punished as a court-martial may direct.

(b) Any person subject to this chapter who—

(1) commits an assault with a dangerous weapon or other means or force likely to produce death or grievous bodily harm; or

(2) commits an assault and intentionally inflicts grievous bodily harm with or without a weapon;

is guilty of aggravated assault and shall be punished as a court-martial may direct.

§ 929. Art. 129. Burglary

Any person subject to this chapter who, with intent to commit an offense punishable under sections 918–928 of this title (articles 118–128), breaks and enters, in the nighttime, the dwelling house of another, is guilty of burglary and shall be punished as a court-martial may direct.

§ 930. Art. 130. Housebreaking

Any person subject to this chapter who unlawfully enters the building or structure of another with intent to commit a criminal offense therein is guilty of housebreaking and shall be punished as a court-martial may direct.

§ 931. Art. 131. Perjury

Any person subject to this chapter who in a judicial proceeding or in a course of justice willfully and corruptly gives, upon a lawful oath or in any form allowed by law to be substituted for an oath, any false testimony material to the issue or matter of inquiry is guilty of perjury and shall be punished as a court-martial may direct.

§ 932. Art. 132. Frauds against the United States

Any person subject to this chapter—

(1) who, knowing it to be false or fraudulent—

(A) makes any claim against the United States or any officer thereof; or

(B) presents to any person in the civil or military service thereof, for approval or payment, any claim against the United States or any officer thereof;

(2) who, for the purpose of obtaining the approval, allowance, or payment of any claim against the United States or any officer thereof—

(A) makes or uses any writing or other paper knowing it to contain any false or fraudulent statements;

(B) makes any oath to any fact or to any writing or other paper knowing the oath to be false; or

(C) forges or counterfeits any signature upon any writing or other paper, or uses any such signature knowing it to be forged or counterfeited;

(3) who, having charge, possession, custody, or control of any money, or other property of the United States, furnished or intended for the armed forces thereof, knowingly delivers to any person having authority to receive it, any amount thereof less than that for which he receives a certificate or receipt; or

(4) who, being authorized to make or deliver any paper certifying the receipt of any property of the United States furnished or intended for the armed forces thereof, makes or delivers to any person such writing without having full knowledge of the truth of the statements therein contained and with intent to defraud the United States;

shall, upon conviction, be punished as a court-martial may direct.

§ 933. Art. 133. Conduct unbecoming an officer and a gentleman

Any commissioned officer, cadet, or midshipman who is convicted of conduct unbecoming an officer and a gentleman shall be punished as a court-martial may direct.

§ 934. Art. 134. General article

Though not specifically mentioned in this chapter, all disorders and neglects to the prejudice of good order and discipline in the armed forces, all conduct of a nature to bring discredit upon the armed forces, and crimes and offenses not capital, of which persons subject to this chapter may be guilty, shall be taken cognizance of by a general, special, or summary court-martial, according to the nature and degree of the offense, and shall be punished at the discretion of that court.

SUBCHAPTER XI.—MISCELLANEOUS PROVISIONS

Sec. Art.

935. 135. Courts of inquiry.
936. 136. Authority to administer oaths and to act as notary.
937. 137. Articles to be explained.
938. 138. Complaints of wrongs.
939. 139. Redress of injuries to property.
940. 140. Delegation by the President.

§ 935. Art. 135. Courts of inquiry

(a) Courts of inquiry to investigate any matter may be convened by any person authorized to convene a general court-martial or by any other person designated by the Secretary concerned for that purpose, whether or not the persons involved have requested such an inquiry.

(b) A court of inquiry consists of three or more commissioned officers. For each court of inquiry the convening authority shall also appoint counsel for the court.

(c) Any person subject to this chapter whose conduct is subject to inquiry shall be designated as a party. Any person subject to this chapter or employed by the Department of Defense who has a direct interest in the subject of inquiry has the right to be designated as a party upon request to the court. Any person designated as a party shall be given due notice and has the right to be present, to be represented by counsel, to cross-examine witnesses, and to introduce evidence.

(d) Members of a court of inquiry may be challenged by a party, but only for cause stated to the court.

(e) The members, counsel, the reporter, and interpreters of courts of inquiry shall take an oath to faithfully perform their duties.

(f) Witnesses may be summoned to appear and testify and be examined before courts of inquiry, as provided for courts-martial.

(g) Courts of inquiry shall make findings of fact but may not express opinions or make recommendations unless required to do so by the convening authority.

(h) Each court of inquiry shall keep a record of its proceedings, which shall be authenticated by the signatures of the president and counsel for the court and forwarded to the convening authority. If the record cannot be authenticated by the president, it shall be signed by a member in lieu of the president. If the record cannot be authenticated by the counsel for the court, it shall be signed by a member in lieu of the counsel.

§ 936. Art. 136. Authority to administer oaths and to act as notary

(a) The following persons on active duty may administer oaths for the purposes of military administration, including military justice, and have the general powers of a notary public and of a consul of the United States, in the performance of all notarial acts to be executed by members of any of the armed forces, wherever they may be, and by other persons subject to this chapter outside of the United States:

(1) All judge advocates of the Army and the Air Force.

(2) All law specialists.

(3) All summary courts-martial.

(4) All adjutants, assistant adjutants, acting adjutants, and personnel adjutants.

(5) All commanding officers of the Navy, Marine Corps, and Coast Guard.

(6) All staff judge advocates and legal officers, and acting or assistant staff judge advocates and legal officers.

(7) All other persons designated by regulations of the armed forces or by statute.

(b) The following persons on active duty may administer oaths necessary in the performance of their duties:

(1) The president, law officer, trial counsel, and assistant trial counsel for all general and special courts-martial.

(2) The president and the counsel for the court of any court of inquiry.

(3) All officers designated to take a deposition.

(4) All persons detailed to conduct an investigation.

(5) All recruiting officers.

(6) All other persons designated by regulations of the armed forces or by statute.

(c) No fee may be paid to or received by any person for the performance of any notarial act herein authorized.

(d) The signature without seal of any such person acting as notary, together with the title of his office, is prima facie evidence of his authority.

§ 937. Art. 137. Articles to be explained

Sections 802, 803, 807–815, 825, 827, 831, 837, 838, 855, 877–934, and 937–939 (articles 2, 3, 7–15, 25, 27, 31, 37, 38, 55, 77–134, and 137–139) of this chapter shall be carefully explained to each enlisted member at the time of his entrance on active duty, or within six days thereafter. They shall be explained again after he has completed six months of active duty, and again at the time when he reenlists. A complete text of the Uniform Code of Military Justice and of the regulations prescribed by the President thereunder shall be made available to any person on active duty, upon his request, for his personal examination.

§ 938. Art. 138. Complaints of wrongs

Any member of the armed forces who believes himself wronged by his commanding officer, and who, upon due application to that commanding officer, is refused redress, may complain to any superior commissioned officer, who shall forward the complaint to the officer exercising general court-martial jurisdiction over the officer against whom it is made. The officer exercising general court-martial jurisdiction shall examine into the complaint and take proper measures for redressing the wrong complained of; and he shall, as soon as possible, send to the Secretary concerned a true statement of that complaint, with the proceedings had thereon.

§ 939. Art. 139. Redress of injuries to property

(a) Whenever complaint is made to any commanding officer that willful damage has been done to the property of any person or that his property has been wrongfully taken by members of the armed forces, he may, under such regulations as the Secretary concerned may prescribe, convene a board to investigate the complaint. The board shall consist of from one to three commissioned officers and, for the purpose of that investigation, it has power to summon witnesses and examine them upon oath, to receive depositions or other documentary evidence, and to assess the damages sustained against the responsible parties. The assessment of damages made by the board is subject to the approval of the commanding officer, and in the amount approved by him shall be charged against the pay of the offenders. The order of the commanding officer directing charges herein authorized is conclusive on any disbursing officer for the payment by him to the injured parties of the damages so assessed and approved.

(b) If the offenders cannot be ascertained, but the organization or detachment to which they belong is known, charges totaling the amount of damages assessed and approved may be made in such proportion as may be considered just upon the individual members thereof who are shown to have been present at the scene at the time the damages complained of were inflicted, as determined by the approved findings of the board.

§ 940. Art. 140. Delegation by the President

The President may delegate any authority vested in him under this chapter, and provide for the subdelegation of any such authority.

CHAPTER 49.—MISCELLANEOUS PROHIBITIONS AND PENALTIES

[No present sections]

CHAPTER 51.—RESERVE COMPONENTS: STANDARDS AND PROCEDURES FOR RETENTION AND PROMOTION

Sec.
1001. Secretary to prescribe.
1003. Officers: age limitations.
1004. Physical examination.

§ 1001. Secretary to prescribe

(a) The Secretary concerned shall, by regulation, prescribe—

(1) standards and qualifications for the retention and promotion of members of the reserve components under his jurisdiction; and

(2) equitable procedures for the periodic determination of the compliance of each such Reserve with those standards and qualifications.

(b) If a Reserve fails to comply with the standards and qualifications prescribed under subsection (a), he shall—

(1) if qualified, be transferred to an inactive reserve status;

(2) if qualified, be retired without pay; or

(3) have his appointment or enlistment terminated.

§ 1003. Officers: age limitations

A reserve officer who has passed the maximum age prescribed for his grade and classification may, as prescribed by the Secretary concerned—

(1) be separated from the armed force concerned;

(2) be retained in, or transferred to, an active or inactive status; or

(3) upon his request, be retained in, or transferred to, a retired status.

However, no officer of the Army National Guard of the United States or the Air National Guard of the United States may be retained or transferred under this section without the consent of the governor or other appropriate authority of the jurisdiction concerned.

§ 1004. Physical examination

(a) Each Reserve who is not on active duty and not in the Retired Reserve shall be examined as to his physical fitness at least once every four years, or more often as the Secretary concerned considers necessary, and shall execute and submit annually a certificate of physical condition.

(b) The kind of duty to which a Reserve ordered to active duty may be assigned shall be considered in determining physical qualifications for active duty.

(c) Except as otherwise provided by law, the Secretary concerned may provide for the honorable discharge or the transfer to a retired status of members of the reserve components under his jurisdiction who are found to be not physically qualified for active duty. How-

ever, no member of the Army National Guard of the United States or the Air National Guard of the United States may be transferred under this subsection without the consent of the governor or other appropriate authority of the jurisdiction concerned.

CHAPTER 53.—MISCELLANEOUS RIGHTS AND BENEFITS

Sec.

1031. Administration of oath.
1032. Dual capacity: Reserve accepting employment with foreign government or concern.
1033. Compensation: Reserve on active duty accepting from any person.
1034. Communicating with a member of Congress.
1035. Enlisted members' deposits.

§ 1031. Administration of oath

Any commissioned officer of any component of an armed force, whether or not on active duty, may administer any oath—

(1) required for the enlistment or appointment of any person in the armed forces; or

(2) required by law in connection with such an enlistment or appointment.

§ 1032. Dual capacity: Reserve accepting employment with foreign government or concern

Subject to the approval of the Secretary concerned, a Reserve may accept civil employment with, and compensation therefor from, any foreign government or any concern that is wholly or partly controlled by a foreign government.

§ 1033. Compensation: Reserve on active duty accepting from any person

Notwithstanding any other provision of law, any Reserve who, before being ordered to active duty, was receiving compensation from any person may, while he is on that duty, receive compensation from that person.

§ 1034. Communicating with a member of Congress

No person may restrict any member of an armed force in communicating with a member of Congress, unless the communication is unlawful or violates a regulation necessary to the security of the United States.

§ 1035. Enlisted members' deposits

(a) An enlisted member of the Army, Navy, Air Force, or Marine Corps may deposit his savings, in amounts of $5 or more, with any branch, office, or officer of his armed force designated by the Secretary concerned. That branch, office, or officer shall give the member a deposit book containing the name of the member and of the officer receiving the deposit. The amount, date, and place of each deposit shall be entered in that book. Amounts so deposited shall be deposited in the Treasury and kept as a separate fund called the "Pay of the Army, Deposit Fund", "Pay of the Navy, Deposit Fund", "Pay of the Air Force, Deposit Fund", or "Pay of the Marine Corps, Deposit Fund", as the case may be, and shall be accounted for in the same manner as public funds.

(b) Interest at the rate of 4 percent a year accrues on amounts deposited for six months or more.

(c) Payments of deposits from the respective funds named in subsection (a), and interest thereon, may be made only to the member upon discharge, or at such time before his discharge as may be prescribed by the Secretary concerned, or to the member's heirs or legal representative.

(d) An amount deposited under subsection (a), with the interest thereon, is exempt from liability for the enlisted member's debts, including any indebtedness to the United States or any instrumentality thereof, and is not subject to forfeiture by sentence of a court-martial.

CHAPTER 55.—VOTING BY MEMBERS OF ARMED FORCES

Sec.

1071. Purpose; construction.
1072. Definitions.
1073. Right to vote in war-time presidential and congressional elections.
1074. Enactment of legislation relating to voting in other elections.
1075. Post card requests for absentee ballots: printing and transmission.
1076. Use of post cards; waiver of registration; voting by discharged persons.
1077. Distribution of ballots, envelopes, and voting instructions.
1078. Instructions for marking ballots.
1079. Establishment of right to vote.
1080. Style and marking of envelope; inserts; return envelope; size and weight of ballots.
1081. Notification of elections.
1082. Extension of time limit.
1083. Transmission, delivery, and return of post cards, ballots, etc.
1084. Administration.
1085. Prevention of fraud, coercion, and undue influence; free discussion; acts done in good faith.
1086. Free postage.

§ 1071. Purpose; construction

(a) The purpose of this chapter is to provide ample opportunity for the persons covered by section 1074 of this title to vote for Federal, State, and local officials and to use the absentee balloting procedures of the several States to the greatest extent possible. It shall be construed liberally to carry out this purpose.

(b) Nothing in this chapter restricts the right of any member of the armed forces, or any other person, to vote according to the law of the State where he is domiciled.

§ 1072. Definitions

In this chapter:

(1) "Secretary of state" includes any other State official who under the law of that State is the appropriate official to carry out functions recommended in this chapter to be performed by the secretary of state.

(2) "Member of the merchant marine of the United States" means a person, other than a member of the armed forces—

(A) who is an officer or member of the crew of (i) a vessel owned by the United States, (ii) a vessel documented under the laws of the United States, or (iii) a vessel of foreign registry under charter to, or under the control of, the United States; or

(B) who is enrolled with the United States for employment or for training for employment, or who is maintained by the United States for emergency relief service, as an officer or other member of a crew of a vessel described in clause (A).

However, "member of the merchant marine of the United States" does not include a person employed, enrolled for employment or for training for employment, or maintained for emergency relief service, on the Great Lakes or the inland waterways.

§ 1073. Right to vote in war-time presidential and congressional elections

(a) Notwithstanding any State law relating to the registration of voters, in time of war each member of the armed forces on active duty who is absent from his domicile, and who but for his absence would be eligible to register and vote at any election under the law of the State where he is domiciled, is entitled to vote for electors for President and Vice President, United States Senators, and Representatives in Congress, as provided in this chapter.

(b) In time of war no member of the armed forces on active duty may be required to pay a poll tax or other tax, or make any other payment, to a State or a political subdivision thereof as a condition of voting in an election for President and Vice President, electors for President and Vice President, United States Senators, or Representatives in Congress.

§ 1074. Enactment of legislation relating to voting in other elections

In addition to conferring the right in section 1073 of this title to vote in time of war, Congress recommends that the several States enact appropriate legislation to enable each of the persons in the following categories who is absent from his domicile to vote by absentee ballot in any primary, special, or general election held in time of war or peace in his election district or precinct, if he is eligible to vote in that election:

(1) Members of the armed forces on active duty.

(2) Members of the merchant marine of the United States.

(3) Civilians officially attached to, and serving outside the United States with, the armed forces.

§ 1075. Post card requests for absentee ballots: printing and transmission

(a) The Secretaries of the Army, Navy, Air Force, Treasury, and Commerce shall each have an adequate number of post card requests for absentee ballots printed for use under this chapter. Whenever practicable and compatible with military and merchant-marine operations, they shall have these requests—

(1) delivered in hand to the persons covered by section 1074 of this title for use in any general election for electors for President and Vice President, United States Senators, or Representatives in Congress;

(2) made available outside the United States not later than August 15 before the election, and inside the United States not later than September 15 before the election; and

(3) made available at appropriate times for use in general elections other than those covered by clause (1), and in primary and special elections.

(b) On one side of the post card the following shall be printed:

FILL OUT EVERY ITEM

Secretary of State, or other appropriate official within the State of _____:

(1) I hereby request an absentee ballot to vote in the coming (general) (primary) (special) election.

(Strike out inapplicable words)

(2) I am a citizen of the United States, serving—

in the armed forces_____( )

in the merchant marine of the United States_____( )

as a civilian outside the United States officially attached to and serving with the armed forces_____( )

(3) I was born _____

(Day) (Month) (Year)

(4) For ____ years preceding the above election my home residence (not military residence) in the above State has been _____,

(Street and number or rural route)

_____, _____. To the best of my knowledge, my voting precinct

(City, town, or village) (County)

or district is _____

(5) Mail my ballot to the following service (or merchant marine) address

_____

(Must include COMPLETE military, naval, or merchant marine MAIL address; include military or naval unit and APO or FPO and Postmaster; for merchant marine include vessel, foreign agent, and port)

You must both sign your name and print or type it

_____

(Sign here)

_____

(Print or type name and serial number plainly here)

Subscribed and sworn to before me on _____

(Day, month, year)

_____(Name)

_____ (Title)

(Commissioned or warrant officer, noncommissioned officer of one of the highest four enlisted grades, or petty officer, or other person authorized to administer and attest this oath, writes his name and rank or title here)

If this card is used in applying for a primary ballot (but not otherwise), state below choice of party:

_____

(c) On the other side of the post card the following shall be printed in red:

Free of U. S. postage including air mail

Name and complete military, naval, or merchant marine address

_____

_____

_____

_____

+

OFFICIAL ELECTION BALLOTING MATERIAL—VIA AIR MAIL

SECRETARY OF STATE OF _____
(Home State)

_____
(Capital city of Home State)

_____
(Home State)

§ 1076. Use of post cards; waiver of registration; voting by discharged persons

(a) To avoid expense, duplication of effort, and loss of time, it is recommended that, when the post card request for an absentee ballot is executed by a person covered by section 1074 of this title, the State concerned accept it as—

(1) an application for an absentee ballot under its absentee voting laws;

(2) an application for registration under its election laws; and

(3) a source of information to implement its absentee voting laws.

(b) It is further recommended that each State—

(1) waive registration for each person covered by section 1074 of this title whose service prevents him from registering; and

(2) provide an opportunity to vote in an election for each person who would be eligible to register and vote at that election but for the fact that he was discharged honorably or under honorable conditions from the armed forces too late to register.

§ 1077. Distribution of ballots, envelopes, and voting instructions

(a) In order that action may be taken as soon as possible upon each post card request for an absentee ballot, it is recommended that the secretary of state of the State concerned promptly forward the request to the proper election official.

(b) It is further recommended that, so far as its law permits, each State instruct its election officials to mail promptly to each voter applying by post card under this chapter—

(1) a suitable absentee ballot:

(2) a self-addressed envelope for the return of the ballot; and

(3) instructions for using the ballot and envelope.

§ 1078. Instructions for marking ballots

(a) It is recommended that each State include in its instructions for absentee voting by the persons covered by section 1074 of this title an express instruction that the voter may mark his ballot by pencil, pen, crayon, or any other suitable method of showing his intention. If the laws of a State do not authorize such an instruction, it is recommended that they be amended to do so.

(b) It is further recommended that each State express its voting instructions in simple terms, and not merely by quoting the pertinent statutes.

§ 1079. Establishment of right to vote

(a) It is recommended that each State that makes no provision, either on the envelope or separately, for sending with the absentee ballot a printed form to be used by the voter to establish his right to vote, have a form of oath printed and enclosed with each absentee

ballot that is mailed in response to a post card request provided under section 1075 of this title. A form substantially as follows is suggested as appropriate:

OATH OF ELECTOR FOR VOTING IN THE _____
ELECTION TO BE HELD ON _____, 19____

I do hereby swear (or affirm) that—

(1) I am a citizen of the United States;

(2) I was born _____;

(3) For _____ years preceding this election my home residence (not military residence) has been

_____
(Street and number or rural route)

_____ _____
(City, town, or village) (County)

_____
(State)

(4) I am serving (check appropriate blank)—

(a) in the armed forces_____ ( );

(b) in the merchant marine of the United States_____ ( );

(c) as a civilian outside the United States and its Territories officially attached to and serving with the armed forces_____ ( );

and

(5) I have not voted and do not intend to vote in this election at any address other than the above; and that I have not received or offered, do not expect to receive, have not paid, offered, or promised to pay, contributed, offered, or promised to contribute to another to be paid or used, any money or other valuable thing as a compensation or reward for the giving of a vote at this election, and have not made any promise to influence the giving or withholding of any such vote.

_____
Voter must write his usual signature here, and oath must be administered and attested.

Subscribed and sworn to before me this _____ day of _____ 19____

_____
Officer, noncommissioned officer in one of the highest four enlisted grades, petty officer, or other person authorized to administer this oath, shall sign his name here.

_____
Officer or other person signing above shall print or type his grade, rank, rating, or title clearly here.

(b) It is further recommended that each State authorize officers, noncommissioned officers in the highest four enlisted grades, and petty officers, of the armed forces, and members of the merchant marine of the United States designated by the Secretary of Commerce, to administer the oaths required by its law for application for, and voting by, absentee ballot by the persons covered by section 1074 of this title.

§ 1080. Style and marking of envelope; inserts; return envelope; size and weight of ballots

(a) In order that the envelope in which an absentee ballot and return envelope are mailed to a person covered by section 1074 of this title may be identified by postal officials and other authorities as containing an election ballot, it is recommended that the following be printed in red on the face of the envelope:

(1) Two parallel horizontal bars, one-quarter inch wide, one-quarter inch apart, and extending across the face, with the top bar one and one-quarter inches from the top.

(2) The words "Official Election Balloting Material—Via Air Mail", or similar language as State law prescribes, between the bars.

(3) The words "Free U. S. Postage, Including Air Mail", in a box in the upper right corner.

(4) An appropriate inscription or blanks for the return address of the sender, in the upper left corner.

(b) It is further recommended—

(1) that the gummed flap of the return envelope for the ballot be separated from the balloting material by waxed paper or other protective insert to minimize the possibility that the balloting material will stick together;

(2) that the voting instructions include a procedure to be followed by the voter if the balloting material does stick together, such as a notation of the facts on the back of the envelope, signed by the voter and the witness;

(3) that so far as possible each return envelope be preaddressed by the election official, to minimize action necessary by the voter and to assure a legible and proper address; and

(4) that each State reduce as far as possible the size and weight of its envelopes, ballots, and voting instructions, to minimize costs and speed up the transporting of balloting material.

§ 1081. Notification of elections

(a) It is recommended that the secretary of state of each State inform the Secretaries of the Army, Navy, Air Force, Treasury, and Commerce of each primary, general, and special election to be held in that State at which persons covered by section 1074 of this title may vote by absentee ballot. The notification should be sent by registered mail at least 90 days before election day and should contain substantially the following information:

STATE OF_____

1. Date of election_____
2. Type of election (general, special, or primary)_____
3. Governmental units to which it applies_____
4. (a) Officers to be elected_____
   (b) Constitutional amendments or other proposals to be voted upon_____
5. The following may vote at this election:
   (a) Members of the armed forces_____
   (b) Members of the merchant marine of the United States_____
   (c) Civilians outside the United States and its Territories officially attached to and serving with the armed forces_____
6. (a) The Federal post card application is acceptable as an application for a ballot from the following:
      (1) Members of the armed forces_____
      (2) Members of the merchant marine of the United States_____
      (3) Civilians outside the United States and its Territories officially attached to and serving with the armed forces_____
   (b) What action is necessary for the applicant to take if the post card is not acceptable as an application_____
7. Earliest date State will receive application_____
8. Earliest date the ballot will be mailed_____
9. Last day ballot may be received back to be counted_____

_____
Secretary of State,
State of_____

Date: _____

(b) Whenever practicable and compatible with military and merchant-marine operations, the Secretaries of the Army, Navy, Air

Force, Treasury, and Commerce shall each have the information supplied under subsection (a) made available to the persons covered by section 1074 of this title.

§ 1082. Extension of time limit

It is recommended that each State that, under its laws, will not have its absentee ballots available for mailing to the persons covered by section 1074 of this title at least 45 days before a primary, general, or special election, amend its laws to make the ballots so available.

§ 1083. Transmission, delivery, and return of post cards, ballots, etc.

(a) Whenever practicable and compatible with military and merchant-marine operations, the Secretaries of the Army, Navy, Air Force, Treasury, and Commerce, the Postmaster General, and other appropriate authorities shall—

(1) cooperate with appropriate State officers and agencies in sending State absentee ballots and envelopes for them to and from the persons covered by section 1074 of this title;

(2) cooperate in the execution by those persons of oaths required in connection with those ballots; and

(3) take all reasonable measures to facilitate the transmission, delivery, and return of post cards, ballots, envelopes, and instructions for voting, mailed to or by those persons.

(b) Whenever practicable and compatible with military and merchant-marine operations, ballots executed outside of the United States shall be returned by air.

§ 1084. Administration

(a) The Secretaries of the military departments shall each administer this chapter for the members of the armed forces under his jurisdiction and for civilians officially attached to, and serving outside the United States with, those forces.

(b) Except when the Coast Guard is operating as a service in the Navy, the Secretary of the Treasury shall administer this chapter for members of the Coast Guard and for civilians officially attached to, and serving outside the United States with, the Coast Guard.

(c) The Secretary of Commerce shall administer this chapter for members of the merchant marine of the United States.

(d) The Secretaries of the Army, Navy, Air Force, Treasury, and Commerce, may each delegate any function he has under this chapter to any other of those Secretaries, if that Secretary consents.

§ 1085. Prevention of fraud, coercion, and undue influence; free discussion; acts done in good faith

(a) Each person concerned with the administration of this chapter shall take all steps necessary to—

(1) prevent fraud;

(2) protect voters against coercion; and

(3) safeguard the integrity and secrecy of the ballots cast.

(b) No officer, noncommissioned officer, or petty officer of the armed forces may—

(1) attempt to influence a member of the armed forces to vote or not to vote for a particular candidate; or

(2) require a member of the armed forces to march to any voting place.

(c) Nothing in this chapter prohibits the free discussion of political issues or candidates for political office.

(d) No act done in good faith under this chapter by a member of the armed forces, an officer or employee of the Department of Commerce, or a member of the merchant marine of the United States, while exercising his judgment as to what is practicable and compatible with military and merchant-marine operations, is a violation of any law defining offenses against the elective franchise.

§ 1086. Free postage

Whether sent individually or in bulk, official post cards, ballots, voting instructions, and envelopes referred to in this chapter are free of postage, including air mail postage, in the United States mails.

CHAPTER 57.—DECORATIONS AND AWARDS

Sec.

1121. Legion of Merit: award.
1122. Medal for Merit: award.
1123. Right to wear badges of military societies.

§ 1121. Legion of Merit: award

The President, under regulations to be prescribed by him, may award a decoration called the "Legion of Merit", having suitable appurtenances and devices and not more than four degrees, to any member of the armed forces of the United States or of any friendly foreign nation who, after September 8, 1939, has distinguished himself by exceptionally meritorious conduct in performing outstanding services.

§ 1122. Medal for Merit: award

The President, under regulations to be prescribed by him, may award a decoration called the "Medal for Merit", having distinctive appurtenances and devices and only one degree, to any civilian of any nation prosecuting the war in existence on July 20, 1942, under the joint declaration of the United Nations, as then constituted, or of any other friendly foreign nation, who, after September 8, 1939, has distinguished himself by exceptionally meritorious conduct in performing outstanding services. The Medal for Merit may be awarded to a civilian of a foreign nation but only for performing an exceptionally meritorious or courageous act in the furtherance of the war efforts of the United Nations as then constituted.

§ 1123. Right to wear badges of military societies

(a) A member of the Army, Navy, Air Force, or Marine Corps who is a member of a military society originally composed of men who served in an armed force of the United States during the Revolutionary War, the War of 1812, the Mexican War, the Civil War, the Spanish-American War, the Philippine Insurrection, or the Chinese Relief Expedition of 1900 may wear, on occasions of ceremony, the distinctive badges adopted by that society.

(b) A member of the Army, Navy, Air Force, or Marine Corps who is a member of the Army and Navy Union of the United States

may wear, on public occasions of ceremony, the distinctive badges adopted by that society.

CHAPTER 59.—SEPARATION

Sec.
1161. Commissioned officers: limitations on dismissal.
1162. Reserves: discharge.
1163. Reserve components: members; limitations on separation.
1164. Warrant officers: separation for age.
1165. Regular warrant officers: separation during three-year probationary period.
1166. Regular warrant officers: elimination for unfitness or unsatisfactory performance.
1167. Regular warrant officers: severance pay.

§ 1161. Commissioned officers: limitations on dismissal

(a) No commissioned officer may be dismissed from any armed force except—

(1) by sentence of a general court-martial;

(2) in commutation of a sentence of a general court-martial; or

(3) in time of war, by order of the President.

(b) The President may drop from the rolls of any armed force any commissioned officer (1) who has been absent without authority for at least three months, or (2) who 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.

§ 1162. Reserves: discharge

Subject to other provisions of this title, reserve commissioned officers may be discharged at the pleasure of the President. Other Reserves may be discharged under regulations prescribed by the Secretary concerned.

§ 1163. Reserve components: members; limitations on separation

(a) An officer of a reserve component who has at least three years of service as a commissioned officer may not be separated from that component without his consent except under an approved recommendation of a board of officers convened by an authority designated by the Secretary concerned, or by the approved sentence of a court-martial. This subsection does not apply to a separation under subsection (b) of this section or under section 1003 of this title, to a dismissal under section 1161 (a) of this title, or to a transfer under section 3352 or 8352 of this title.

(b) The President or the Secretary concerned may drop from the rolls of the armed force concerned any Reserve (1) who has been absent without authority for at least three months, or (2) who 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.

(c) A member of a reserve component who is separated therefrom for cause, except under subsection (b), is entitled to a discharge under honorable conditions unless—

(1) he is discharged under conditions other than honorable under an approved sentence of a court-martial or under the approved findings of a board of officers convened by an authority designated by the Secretary concerned; or

(2) he consents to a discharge under conditions other than honorable with a waiver of proceedings of a court-martial or a board.

§ 1164. Warrant officers; separation for age

(a) Unless retired or separated on or before the expiration of that period, each male warrant officer shall be retired or separated from his armed force not later than 60 days after the date when he becomes 62 years of age, except as provided by section 47a of title 5.

(b) Unless retired or separated on or before the expiration of that period, each female warrant officer shall be retired or separated from her armed force not later than 60 days after the date when she becomes 55 years of age, except as provided by section 47a of title 5.

(c) The Secretary concerned may defer, for not more than four months, the separation under subsection (a) or (b) of any warrant officer if, because of unavoidable circumstances, evaluation of his physical condition and determination of his entitlement to retirement or separation for physical disability require hospitalization or medical observation that cannot be completed before the date when he would otherwise be required to be retired or separated under this section.

§ 1165. Regular warrant officers: separation during three-year probationary period

The Secretary concerned may terminate the regular appointment of any permanent regular warrant officer at any time within three years after the date when the officer accepted his original permanent appointment as a warrant officer in that component. A warrant officer who is separated under this section is not entitled to severance pay, but may be enlisted under section 515 of this title.

§ 1166. Regular warrant officers: elimination for unfitness or unsatisfactory performance

(a) Under such regulations as the Secretary concerned may prescribe, and subject to the recommendations of a board of officers or a selection board under section 560 of this title, a permanent regular warrant officer who is eligible for retirement under any provision of law shall be retired under that law if his records and reports establish his unfitness or unsatisfactory performance of duty. If he is not eligible for retirement under any provision of law, but since the date when he accepted his original permanent appointment as a regular warrant officer he has had at least three years of active service that could be credited to him under section 311 of title 37, he shall be separated with severance pay computed under section 1167 (b) of this title. However, instead of being paid severance pay he may be enlisted under section 515 of this title. If he does not have three years of such service, he shall be separated under section 1165 of this title.

(b) The Secretary concerned may defer, for not more than four months, the retirement or separation under subsection (a) of any warrant officer if, because of unavoidable circumstances, evaluation

of his physical condition and determination of his entitlement to retirement or separation for physical disability require hospitalization or medical observation that cannot be completed before the date when he would otherwise be required to be retired or separated under this section.

§ 1167. Regular warrant officers: severance pay

(a) The severance pay of a permanent regular warrant officer who is separated under section 564 (a) (3) of this title is computed by multiplying his years of active service that could be credited to him under section 311 of title 37, but not more than 12, by twice the monthly basic pay to which he is entitled at the time of separation.

(b) The severance pay of a permanent regular warrant officer who is separated under section 1166 of this title is computed by multiplying his years of active service that could be credited to him under section 311 of title 37, but not more than 12, by the monthly basic pay to which he is entitled at the time of separation.

(c) For the purposes of this section, a part of the 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.

(d) The acceptance of severance pay 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 severance pay under this section, until the total deductions equal the amount of the severance pay.

CHAPTER 61.—RETIREMENT OR SEPARATION FOR PHYSICAL DISABILITY

Sec.

1201. Regulars and members on active duty for more than 30 days: retirement.
1202. Regulars and members on active duty for more than 30 days: temporary disability retired list.
1203. Regulars and members on active duty for more than 30 days: separation.
1204. Members on active duty for 30 days or less; disability from injury: retirement.
1205. Members on active duty for 30 days or less; disability from injury: temporary disability retired list.
1206. Members on active duty for 30 days or less; disability from injury: separation.
1207. Disability from intentional misconduct or willful neglect: separation.
1208. Computation of service.
1209. Transfer to inactive status list instead of separation.
1210. Members on temporary disability retired list: periodic physical examination; final determination of status.
1211. Members on temporary disability retired list: return to active duty; promotion.
1212. Disability severance pay.
1213. Effect of separation on benefits and claims.
1214. Right to full and fair hearing.
1215. Members other than Regulars: applicability of laws.
1216. Secretaries: powers, functions, and duties.
1217. Cadets, midshipmen, and aviation cadets: chapter does not apply to.

§ 1201. Regulars and members on active duty for more than 30 days: retirement

Upon a determination by the Secretary concerned that a member of a regular component of the armed forces entitled to basic pay, or

any other member of the armed forces entitled to basic pay who has been called or ordered to active duty (other than for training) for a period of more than 30 days, is unfit to perform the duties of his office, grade, rank, or rating because of physical disability incurred while entitled to basic pay, the Secretary may retire the member, with retired pay computed under section 1401 of this title, if the Secretary also determines that—

(1) based upon accepted medical principles, the disability is of a permanent nature;

(2) the disability is not the result of the member's intentional misconduct or willful neglect, and was not incurred during a period of unauthorized absence; and

(3) either—

(A) the member has at least 20 years of service computed under section 1208 of this title; or

(B) the disability is at least 30 percent under the standard schedule of rating disabilites in use by the Veterans' Administration at the time of the determination; and either—

(i) the member has at least eight years of service computed under section 1208 of this title;

(ii) the disability is the proximate result of performing active duty; or

(iii) the disability was incurred in line of duty in time of war or national emergency.

§ 1202. Regulars and members on active duty for more than 30 days: temporary disability retired list

Upon a determination by the Secretary concerned that a member of a regular component of the armed forces entitled to basic pay, or any other member of the armed forces entitled to basic pay who has been called or ordered to active duty (other than for training) for a period of more than 30 days, would be qualified for retirement under section 1201 of this title but for the fact that his disability is not determined to be of a permanent nature, the Secretary shall, if he also determines that accepted medical principles indicate that the disability may be of a permanent nature, place the member's name on the temporary disability retired list, with retired pay computed under section 1401 of this title.

§ 1203. Regulars and members on active duty for more than 30 days: separation

Upon a determination by the Secretary concerned that a member of a regular component of the armed forces entitled to basic pay, or any other member of the armed forces entitled to basic pay who has been called or ordered to active duty (other than for training) for a period of more than 30 days, is unfit to perform the duties of his office, grade, rank, or rating because of physical disability incurred while entitled to basic pay, the member may be separated from his armed force, with severance pay computed under section 1212 of this title, if the Secretary also determines that—

(1) the member has less than 20 years of service computed under section 1208 of this title;

(2) the disability is not the result of the member's intentional misconduct or willful neglect, and was not incurred during a period of unauthorized absence;

(3) based upon accepted medical principles, the disability is or may be of a permanent nature; and

(4) either—

(A) the disability is less than 30 percent under the standard schedule of rating disabilities in use by the Veterans' Administration at the time of the determination, and the disability was (i) the proximate result of performing active duty, or (ii) incurred in line of duty in time of war or national emergency;

(B) the disability is less than 30 percent under the standard schedule of rating disabilities in use by the Veterans' Administration at the time of the determination, and the member has at least eight years of service computed under section 1208 of this title; or

(C) the disability is at least 30 percent under the standard schedule of rating disabilities in use by the Veterans' Administration at the time of the determination, the disability was neither the proximate result of performing active duty nor incurred in line of duty in time of war or national emergency, and the member has less than eight years of service computed under section 1208 of this title on the date when he would otherwise be retired under section 1201 of this title or placed on the temporary disability retired list under section 1202 of this title.

However, if the member is eligible for transfer to the inactive status list under section 1209 of this title, and so elects, he shall be transferred to that list instead of being separated.

§ 1204. Members on active duty for 30 days or less; disability from injury: retirement

Upon a determination by the Secretary concerned that a member of the armed forces not covered by section 1201, 1202, or 1203 of this title is unfit to perform the duties of his office, grade, rank, or rating because of physical disability resulting from an injury, the Secretary may retire the member with retired pay computed under section 1401 of this title, if the Secretary also determines that—

(1) based upon accepted medical principles, the disability is of a permanent nature;

(2) the disability is the proximate result of performing active duty or inactive-duty training;

(3) the disability is not the result of the member's intentional misconduct or willful neglect, and was not incurred during a period of unauthorized absence; and

(4) either—

(A) the member has at least 20 years of service computed under section 1208 of this title; or

(B) the disability is at least 30 percent under the standard schedule of rating disabilities in use by the Veterans' Administration at the time of the determination.

§ 1205. Members on active duty for 30 days or less; disability from injury: temporary disability retired list

Upon a determination by the Secretary concerned that a member of the armed forces not covered by section 1201, 1202, or 1203 of this title would be qualified for retirement under section 1204 of this title but for the fact that his disability is not determined to be of a permanent nature, the Secretary shall, if he also determines that accepted medical principles indicate that the disability may be of a permanent nature, place the member's name on the temporary disability retired list, with retired pay computed under section 1401 of this title.

§ 1206. Members on active duty for 30 days or less; disability from injury: separation

Upon a determination by the Secretary concerned that a member of the armed forces not covered by section 1201, 1202, or 1203 of this title is unfit to perform the duties of his office, grade, rank, or rating because of physical disability resulting from an injury, the member may be separated from his armed force, with severance pay computed under section 1212 of this title, if the Secretary also determines that—

(1) the member has less than 20 years of service computed under section 1208 of this title;

(2) the disability is not the result of the member's intentional misconduct or willful neglect, and was not incurred during a period of unauthorized absence;

(3) based upon accepted medical principles, the disability is or may be of a permanent nature; and

(4) the disability is less than 30 percent under the standard schedule of rating disabilities in use by the Veterans' Administration at the time of the determination, and was the proximate result of performing active duty or inactive-duty training.

However, if the member is eligible for transfer to the inactive status list under section 1209 of this title, and so elects, he shall be transferred to that list instead of being separated.

§ 1207. Disability from intentional misconduct or willful neglect: separation

Each member of the armed forces who incurs a physical disability that, in the determination of the Secretary concerned, makes him unfit to perform the duties of his office, grade, rank, or rating, and that resulted from his intentional misconduct or willful neglect or was incurred during a period of unauthorized absence, shall be separated from his armed force without entitlement to any benefits under this chapter.

§ 1208. Computation of service

(a) For the purposes of this chapter, a member of a regular component shall be credited with the service described in clause (1) or that described in clause (2), whichever is greater:

(1) The service that he is considered to have for the purpose of separation or mandatory elimination from the active list.

(2) The sum of—

(A) his active service as a member of the armed forces, a nurse, a reserve nurse after February 2, 1901, a contract surgeon, a contract dental surgeon, or an acting dental surgeon;

(B) his active service as a member of the Coast and Geodetic Survey or the Public Health Service; and

(C) his service while participating in exercises or performing duties under sections 502, 503, 504, and 505 of title 32.

(b) A member of the armed forces who is not a member of a regular component shall be credited, for the purposes of this chapter, with the number of years of service that he would count if he were computing his years of service under section 1333 of this title.

§ 1209. Transfer to inactive status list instead of separation

Any member of the armed forces who has at least 20 years of service computed under section 1332 of this title, and who would be qualified for retirement under this chapter but for the fact that his disability is less than 30 percent under the standard schedule of rating disabilities in use by the Veterans' Administration at the time of the determination, may elect, instead of being separated under this chapter, to be transferred to the inactive status list under section 1335 of this title and, if otherwise eligible, to receive retired pay under chapter 71 of this title upon becoming 60 years of age.

§ 1210. Members on temporary disability retired list: periodic physical examination; final determination of status

(a) A physical examination shall be given at least once every 18 months to each member of the armed forces whose name is on the temporary disability retired list to determine whether there has been a change in the disability for which he was temporarily retired. He may be required to submit to those examinations while his name is carried on that list. If a member fails to report for an examination under this subsection, after receipt of proper notification, his disability retired pay may be terminated. However, payments to him shall be resumed if there was just cause for his failure to report. If payments are so resumed, they may be made retroactive for not more than one year.

(b) The Secretary concerned shall make a final determination of the case of each member whose name is on the temporary disability retired list upon the expiration of five years after the date when the member's name was placed on that list. If, at the time of that determination, the physical disability for which the member's name was carried on the temporary disability retired list still exists, it shall be considered to be of a permanent nature.

(c) If, as a result of a periodic examination under subsection (a), or upon a final determination under subsection (b), it is determined that the member's physical disability is of a permanent nature and is at least 30 percent under the standard schedule of rating disabilities in use by the Veterans' Administration at the time of the determination, his name shall be removed from the temporary disability retired list and he shall be retired under section 1201 or 1204 of this title, whichever applies.

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(d) If, as a result of a periodic examination under subsection (a), or upon a final determination under subsection (b), it is determined that the member's physical disability is of a permanent nature and is less than 30 percent under the standard schedule of rating disabilities in use by the Veterans' Administration at the time of the determination, and if he has at least 20 years of service computed under section 1208 of this title, his name shall be removed from the temporary disability retired list and he shall be retired under section 1201 or 1204 of this title, whichever applies, with retired pay computed under section 1401 of this title.

(e) If, as a result of a periodic examination under subsection (a), or upon a final determination under subsection (b), it is determined that the member's physical disability is less than 30 percent under the standard schedule of rating disabilities in use by the Veterans' Administration at the time of the determination, and if he has less than 20 years of service computed under section 1208 of this title, his name shall be removed from the temporary disability retired list and he may be separated under section 1203 or 1206 of this title, whichever applies.

(f) If, as a result of a periodic examination under subsection (a), or upon a final determination under subsection (b), it is determined that the member is physically fit to perform the duties of his office, grade, rank, and rating, the Secretary shall treat him as provided in section 1211 of this title.

(g) Any member of the armed forces whose name is on the temporary disability retired list, and who is required to travel to submit to a physical examination under subsection (a), is entitled to the travel and transportation allowances authorized for members in his retired grade traveling in connection with temporary duty while on active duty.

(h) If his name is not sooner removed, the disability retired pay of a member whose name is on the temporary disability retired list terminates upon the expiration of five years after the date when his name was placed on that list.

§ 1211. Members on temporary disability retired list: return to active duty; promotion

(a) With his consent, any member of the Army or the Air Force whose name is on the temporary disability retired list, and who is found to be physically fit to perform the duties of his office, grade, or rank under section 1210 (f) of this title, shall—

(1) if a commissioned officer of a regular component, be recalled to active duty and, as soon as practicable, may be reappointed by the President, by and with the advice and consent of the Senate, to the active list of his regular component in the regular grade held by him when his name was placed on the temporary disability retired list, or in the next higher regular grade;

(2) if a warrant officer of a regular component, be recalled to active duty and, as soon as practicable, be reappointed by the Secretary concerned in the regular grade held by him when his name was placed on the temporary disability retired list, or in the next higher regular warrant grade;

(3) if an enlisted member of a regular component, be reenlisted in the regular grade held by him when his name was placed on

the temporary disability retired list or in the next higher regular enlisted grade;

(4) if a commissioned, warrant, or enlisted Reserve, be reappointed or reenlisted as a Reserve for service in his reserve component in the reserve grade held by him when his name was placed on the temporary disability retired list, or appointed or enlisted in the next higher reserve commissioned, warrant, or enlisted grade, as the case may be;

(5) if a commissioned, warrant, or enlisted member of the Army National Guard of the United States or the Air National Guard of the United States when the disability was incurred, and if he cannot be reappointed or reenlisted as a Reserve for service therein, be appointed or enlisted as a Reserve for service in the Army Reserve or the Air Force Reserve, as the case may be, in a grade corresponding to the reserve grade held by him when his name was placed on the temporary disability retired list, or in the next higher reserve commissioned, warrant, or enlisted grade, as the case may be; and

(6) if a member of the Army, or the Air Force, who has no regular or reserve grade, be reappointed or reenlisted in the Army, or the Air Force, as the case may be, in the temporary grade held by him when his name was placed on the temporary disability retired list, or appointed or enlisted in the next higher temporary grade.

(b) With his consent, any member of the naval service or of the Coast Guard whose name is on the temporary disability retired list, and who is found to be physically fit to perform the duties of his office, grade, rank, or rating under section 1210 (f) of this title, shall—

(1) if he held an appointment in a commissioned grade in a regular component when his name was placed on the temporary disability retired list, be recalled to active duty and, as soon as practicable, may be reappointed by the President, by and with the advice and consent of the Senate, to his regular component in the grade permanently held by him when his name was placed on the temporary disability retired list, or in the next higher grade;

(2) if he held an appointment in the grade of warrant officer, W–1, in a regular component when his name was placed on the temporary disability retired list, be recalled to active duty and, as soon as practicable, be reappointed by the Secretary concerned in his regular component in the grade permanently held by him when his name was placed on the temporary disability retired list, or may be appointed by the President, by and with the advice and consent of the Senate, to the grade of chief warrant officer, W–2;

(3) if he held a permanent enlisted grade in a regular component when his name was placed on the temporary disability retired list, be reenlisted in his regular component in the grade permanently held by him when his name was placed on the temporary disability retired list, or in the next higher enlisted grade;

(4) if he was a member of the Fleet Reserve or the Fleet Marine Corps Reserve when his name was placed on the temporary disability retired list, resume his status in the Fleet Reserve or the Fleet Marine Corps Reserve in the grade held by him when

his name was placed on the temporary disability retired list, or in the next higher enlisted grade; and

(5) if a member of a reserve component, be reappointed or reenlisted in his reserve component in the grade permanently held by him when his name was placed on the temporary disability retired list or, if that permanent grade is not chief petty officer or master sergeant, in the next higher grade in that reserve component.

(c) If a member is appointed, reappointed, enlisted, or reenlisted, or resumes his status in the Fleet Reserve or the Fleet Marine Corps Reserve, under subsection (a) or (b), his status on the temporary disability retired list terminates on the date of his appointment, reappointment, enlistment, reenlistment, or resumption, as the case may be. However, if such a member does not consent to the action proposed under subsection (a) or (b), his status on the temporary disability retired list and his disability retired pay shall be terminated as soon as practicable.

(d) Disability retired pay of a member covered by this section terminates—

(1) on the date when he is recalled to active duty under subsection (a) (1) or (2) or subsection (b) (1), (2), or (3), for an officer of a regular component;

(2) on the date when he resumes his status in the Fleet Reserve or the Fleet Marine Corps Reserve under subsection (b) (5), for a member of the Fleet Reserve or the Fleet Marine Corps Reserve; and

(3) on the date when he is appointed, reappointed, enlisted, or reenlisted, for any other member of the armed forces.

(e) Whenever seniority in grade or years of service is a factor in determining the qualifications of a member of the armed forces for promotion, each member who has been appointed, reappointed, enlisted, or reenlisted, under subsection (a) or (b), shall, when his name is placed on a lineal list, a promotion list, or any similar list, have the seniority in grade and be credited with the years of service authorized by the Secretary concerned. The authorized strength in any regular grade is automatically increased to the minimum extent necessary to give effect to each appointment made in that grade under this section. An authorized strength so increased is increased for no other purpose, and while he holds that grade the officer whose appointment caused the increase is counted for the purpose of determining when other appointments, not under this section, may be made in that grade.

(f) Action under this section shall be taken on a fair and equitable basis, with regard being given to the probable opportunities for advancement and promotion that the member might reasonably have had if his name had not been placed on the temporary disability retired list.

§ 1212. Disability severance pay

(a) Upon separation from his armed force under section 1203 or 1206 of this title, a member is entitled to disability severance pay computed by multiplying (1) his years of service, but not more than 12, computed under section 1208 of this title, by (2) the highest of the following amounts:

(A) Twice the amount of monthly basic pay to which he would be entitled if serving (i) on active duty on the date when he is separated and (ii) in the grade and rank in which he was serving on the date when his name was placed on the temporary disability retired list, or if his name was not carried on that list, on the date when he is separated.

(B) Twice the amount of monthly basic pay to which he would be entitled if serving (i) on active duty on the date when his name was placed on the temporary disability retired list or, if his name was not carried on that list, on the date when he is separated, and (ii) in any temporary grade or rank higher than that described in clause (A), in which he served satisfactorily as determined by the Secretary of the military department or the Secretary of the Treasury, as the case may be, having jurisdiction over the armed force from which he is separated.

(C) Twice the amount of monthly basic pay to which he would be entitled if serving (i) on active duty on the date when his name was placed on the temporary disability retired list or, if his name was not carried on that list, on the date when he is separated, and (ii) in the permanent regular or reserve grade to which he would have been promoted had it not been for the physical disability for which he is separated and which was found to exist as a result of a physical examination for promotion.

(D) Twice the amount of monthly basic pay to which he would be entitled if serving (i) on active duty on the date when his name was placed on the temporary disability retired list or, if his name was not carried on that list, on the date when he is separated, and (ii) in the temporary grade or rank to which he would have been promoted had it not been for the physical disability for which he is separated and which was found to exist as a result of a physical examination for promotion, if his eligibility for promotion was required to be based on cumulative years of service or years in grade.

(b) For the purposes of subsection (a), a part of a year of active service 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) The amount of disability severance pay received under this section shall be deducted from any compensation for the same disability to which the former member of the armed forces or his dependents become entitled under any law administered by the Veterans' Administration. However, no deduction may be made from any death compensation to which his dependents become entitled after his death.

§ 1213. Effect of separation on benefits and claims

Unless a person who has received disability severance pay again becomes a member of an armed force, the Coast and Geodetic Survey, or the Public Health Service, he is not entitled to any payment from the armed force from which he was separated for, or arising out of, his service before separation, under any law administered by one of those services or for it by another of those services. However, this section does not prohibit the payment of money to a person who has received disability severance pay, if the money was due him on the date of his separation or if a claim by him is allowed under any law.

§ 1214. Right to full and fair hearing

No member of the armed forces may be retired or separated for physical disability without a full and fair hearing if he demands it.

§ 1215. Members other than Regulars: applicability of laws

The laws and regulations that entitle any retired member of a regular component of the armed forces to pay, rights, benefits, or privileges extend the same pay, rights, benefits, or privileges to any other member of the armed forces who is not a member of a regular component and who is retired, or to whom retired pay is granted, because of physical disability.

§ 1216. Secretaries: powers, functions, and duties

(a) The Secretary concerned shall prescribe regulations to carry out this chapter within his department.

(b) The Secretary concerned has all powers, functions, and duties incident to the determination under this chapter of—

(1) the fitness for active duty of any member of an armed force under his jurisdiction;

(2) the percentage of disability of any such member at the time of his separation from active duty;

(3) the suitability of any member for reappointment, reenlistment, or reentry upon active duty in an armed force under his jurisdiction; and

(4) the entitlement to, and payment of, disability severance pay to any member of an armed force under his jurisdiction.

(c) The Secretary concerned or the Administrator of Veterans' Affairs, as prescribed by the President, has the powers, functions, and duties under this chapter incident to hospitalization, reexaminations, and the payment of disability retired pay within his department or agency.

§ 1217. Cadets, midshipmen, and aviation cadets: chapter does not apply to

This chapter does not apply to cadets at the United States Military Academy, the United States Air Force Academy, or the Coast Guard Academy, to midshipmen of the Navy, or to aviation cadets.

CHAPTER 63.—RETIREMENT FOR AGE

Sec.

1255. Age 55: female regular warrant officers.
1263. Age 62: warrant officers.
1275. Computation of retired pay: law applicable.

§ 1255. Age 55: female regular warrant officers

(a) A female permanent regular warrant officer who has at least 20 years of active service that could be credited to her under section 311 of title 37, and who is at least 55 years of age, shall be retired 60 days after she becomes that age, except as provided by section 47a of title 5.

(b) The Secretary concerned may defer, for not more than four months, the retirement under subsection (a) of any warrant officer if, because of unavoidable circumstances, evaluation of her physical condition and determination of her entitlement to retirement or separation for physical disability require hospitalization or medical observa-

tion that cannot be completed before the date when she would otherwise be required to retire under this section.

§ 1263. Age 62: warrant officers

(a) Unless retired under section 1255 or 1305 of this title, a permanent regular warrant officer who has at least 20 years of active service that could be credited to him under section 311 of title 37, and who is at least 62 years of age, shall be retired 60 days after he becomes that age, except as provided by section 47a of title 5.

(b) The Secretary concerned may defer, for not more than four months, the retirement under subsection (a) of any warrant officer if, because of unavoidable circumstances, evaluation of his physical condition and determination of his entitlement to retirement or separation for physical disability require hospitalization or medical observation that cannot be completed before the date when he would otherwise be required to retire under this section.

§ 1275. Computation of retired pay: law applicable

A member of the armed forces retired under this chapter is entitled to retired pay computed under chapter 71 of this title.

CHAPTER 65.—RETIREMENT FOR LENGTH OF SERVICE

Sec.

1293. Twenty years or more: warrant officers.
1305. Thirty years or more: regular warrant officers.
1315. Computation of retired pay: law applicable.

§ 1293. Twenty years or more: warrant officers

The Secretary concerned may, upon the warrant officer's request, retire a warrant officer of any armed force under his jurisdiction who has at least 20 years of active service that could be credited to him under section 311 of title 37.

§ 1305. Thirty years or more: regular warrant officers

(a) A permanent regular warrant officer who has at least 30 years of active service that could be credited to him under section 311 of title 37 shall be retired 60 days after he completes that service, except as provided by section 47a of title 5.

(b) The Secretary concerned may defer, for not more than four months, the retirement under subsection (a) of any warrant officer if, because of unavoidable circumstances, evaluation of his physical condition and determination of his entitlement to retirement or separation for physical disability require hospitalization or medical observation that cannot be completed before the date when he would otherwise be required to retire under this section.

(c) Under such regulations as he may prescribe, the Secretary concerned may defer the retirement under subsection (a) of any warrant officer upon the recommendation of a board of officers and with the consent of the warrant officer, but not later than 60 days after he becomes 62 years of age.

§ 1315. Computation of retired pay: law applicable

A member of the armed forces retired under this chapter is entitled to retired pay computed under chapter 71 of this title.

CHAPTER 67.—RETIRED PAY FOR NON-REGULAR SERVICE

Sec.
1331. Age and service requirements.
1332. Computation of years of service in determining entitlement to retired pay.
1333. Computation of years of service in computing retired pay.
1334. Time not creditable toward years of service.
1335. Inactive status list.
1336. Service credited for retired pay benefits not excluded for other benefits.
1337. Limitation on active duty.

§ 1331. Age and service requirements

(a) Except as provided in subsection (c), a person is entitled, upon application, to retired pay computed under section 1401 of this title, if—

(1) he is at least 60 years of age;

(2) he has performed at least 20 years of service computed under section 1332 of this title;

(3) he performed the last eight years of qualifying service as a member of a reserve component of any of the armed forces, of the Army or the Air Force without component, or of any other category named in section 1332 (a) (1) of this title except as a member of (A) a regular component of an armed force, (B) the Fleet Reserve and the Fleet Marine Corps Reserve, or (C) a regular and a reserve component of an armed force at the same time; and

(4) he is not entitled, under any other provision of law, to retired pay from an armed force or retainer pay as a member of the Fleet Reserve or the Fleet Marine Corps Reserve.

(b) Application for retired pay under this section must be made to the Secretary of the military department, or the Secretary of the Treasury, as the case may be, having jurisdiction at the time of application over the armed force in which the applicant is serving or last served.

(c) No person who, before August 16, 1945, was a Reserve of an armed force, or a member of the Army without component or other category covered by section 1332 (a) (1) of this title except a regular component, is eligible for retired pay under this chapter, unless he performed active duty after April 5, 1917, and before November 12, 1918, or after September 8, 1940, and before January 1, 1947.

§ 1332. Computation of years of service in determining entitlement to retired pay

(a) Except as provided in subsection (b), for the purpose of determining whether a person is entitled to retired pay under section 1331 of this title, his years of service are computed by adding—

(1) his years of service, before July 1, 1949, in—

(A) the armed forces;

(B) the federally recognized National Guard before June 15, 1933;

(C) a federally recognized status in the National Guard before June 15, 1933;

(D) the Naval Reserve Force;

(E) the Naval Militia that conformed to the standards prescribed by the Secretary of the Navy; and

(F) the National Naval Volunteers; and

(2) each one-year period, after July 1, 1949, in which he has been credited with at least 50 points on the following basis—

(A) one point for each day of—

(i) active service; or

(ii) service under sections 316, 503, 504, and 505 of title 32 while performing annual training duty or while attending a prescribed course of instruction at a school designated as a service school by law or by the Secretary concerned;

if that service conformed to required standards and qualifications;

(B) one point for each attendance at a drill or period of equivalent instruction that was prescribed for that year by the Secretary concerned and conformed to the requirements prescribed by law, including attendance under section 502 of title 32; and

(C) points at the rate of 15 a year for membership in a reserve component of an armed force, in the Army or the Air Force without component, or in any other category covered by subsection (a) (1) except a regular component.

(b) The following service may not be counted under subsection (a):

(1) Service (other than active service) in an inactive section of the Organized Reserve Corps or of the Army Reserve, or in an inactive section of the officers' section of the Air Force Reserve.

(2) Service (other than active service) after June 30, 1949, while on the Honorary Retired List of the Naval Reserve or of the Marine Corps Reserve.

(3) Service in the inactive National Guard.

(4) Service in a non-federally recognized status in the National Guard.

(5) Service in the Fleet Reserve or the Fleet Marine Corps Reserve.

(6) Service in any status other than that as a commissioned officer, warrant officer, flight officer, or enlisted member.

§ 1333. Computation of years of service in computing retired pay

For the purpose of computing the retired pay of a person under this chapter, his years of service and any fraction of such a year are computed by adding—

(1) the days of service credited to him under section 1332 (a) (2) (A) of this title;

(2) one day for each point credited to him under clause (B) or (C) of section 1332 (a) (2) of this title, but not more than 60 days in any one year; and

(3) 50 days for each year before July 1, 1949, and proportionately for each fraction of a year, of service (other than active service) in a reserve component of an armed force, in the Army or the Air Force without component, or in any other category covered by section 1332 (a) (1) of this title except a regular component;

and by dividing the sum of that addition by 360.

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§ 1334. Time not creditable toward years of service

(a) Service in an inactive status may not be counted in any computation of years of service under this chapter.

(b) Time spent after retirement or transfer to the Retired Reserve may not be credited in any computation of years of service under this chapter.

§ 1335. Inactive status list

(a) A person who would be eligible for retired pay under this chapter but for the fact that he is under 60 years of age may be transferred, at his request and by direction of the Secretary concerned, to such inactive status list as may be established for members of his armed force, other than members of a regular component.

(b) While on an inactive status list under subsection (a), a person is not required to participate in any training or other program prescribed for his component.

(c) The Secretary may at any time recall to active status a member who is on an inactive status list under subsection (a).

§ 1336. Service credited for retired pay benefits not excluded for other benefits

No period of service included wholly or partly in determining a person's right to, or the amount of, retired pay under this chapter may be excluded in determining his eligibility for any annuity, pension, or old-age benefit, under any other law, on account of civilian employment by the United States or otherwise, or in determining the amount payable under that law, if that service is otherwise properly credited under it.

§ 1337. Limitation on active duty

No member of the armed forces may be ordered to active duty solely for the purpose of qualifying him for retired pay under this chapter.

CHAPTER 69.—RETIRED GRADE

Sec.

1371. Warrant officers: general rule.
1372. Grade on retirement for physical disability: members of armed forces.
1373. Higher grade for later physical disability: retired officers recalled to active duty.
1375. Entitlement to commission: commissioned officers advanced on retired list.
1376. Retired lists.

§ 1371. Warrant officers: general rule

Unless entitled to a higher retired grade under some other provision of law, a warrant officer retires, as determined by the Secretary concerned, in the permanent regular or reserve warrant officer grade, if any, that he held on the day before the date of his retirement, or in any higher warrant officer grade in which he served on active duty satisfactorily, as determined by the Secretary, for a period of more than 30 days.

§ 1372. Grade on retirement for physical disability: members of armed forces

Unless entitled to a higher retired grade under some other provision of law, any member of an armed force who is retired for physical disability under section 1201 or 1204 of this title, or whose name is placed on the temporary disability retired list under section 1202 or 1205 of this title, is entitled to the grade equivalent to the highest of the following:

(1) The grade or rank in which he is serving on the date when his name is placed on the temporary disability retired list or, if his name was not carried on that list, on the date when he is retired.

(2) The highest temporary grade or rank in which he served satisfactorily, as determined by the Secretary of the armed force from which he is retired.

(3) The permanent regular or reserve grade to which he would have been promoted had it not been for the physical disability for which he is retired and which was found to exist as a result of his physical examination for promotion.

(4) The temporary grade to which he would have been promoted had it not been for the physical disability for which he is retired, if eligibility for that promotion was required to be based on cumulative years of service or years of service in grade and the disability was discovered as a result of his physical examination for promotion.

§ 1373. Higher grade for later physical disability: retired officers recalled to active duty

Unless entitled to a higher retired grade under some other provision of law, a member of an armed force whose retired pay is computed under section 1402 (d) of this title is entitled, upon his release from active duty, to the grade equivalent to the grade or rank upon which his retired pay is based under that section.

§ 1375. Entitlement to commission: commissioned officers advanced on retired list

A commissioned officer of the Army, Navy, Air Force, or Marine Corps who is advanced on a retired list is entitled to a commission in the grade to which he is advanced.

§ 1376. Retired lists

(a) Under regulations prescribed by the Secretary concerned, there shall be maintained retired lists containing the names of the Reserves of the armed forces under his jurisdiction who are in the Retired Reserve.

(b) The Secretary concerned shall maintain a temporary disability retired list containing the names of members of the armed forces under his jurisdiction placed thereon under sections 1202 and 1205 of this title. The list shall be published annually in the official register or other official publication of the armed force concerned.

CHAPTER 71.—COMPUTATION OF RETIRED PAY

Sec.

1401. Computation of retired pay.
1402. Recomputation of retired or retainer pay to reflect later active duty.
1403. Disability retired pay: treatment under title 26.
1404. Applicability of section 47a of title 5.

§ 1401. Computation of retired pay

The monthly retired pay of a person entitled thereto under this subtitle is computed according to the following table. For each case covered by a section of this title named in the column headed "For sections", retired pay is computed by taking, in order, the steps prescribed opposite it in columns 1, 2, 3, and 4, as modified by the applicable footnotes. However, if a person would otherwise be entitled to retired pay computed under more than one pay formula of this table or of any other provision of law, he is entitled to be paid under the applicable formula that is most favorable to him. Section references below are to sections of this title.

For-mula No.	For sec-tions	Column 1 Take	Column 2 Multiply by	Column 3 Add	Column 4 Subtract
1	1201 1204	Monthly basic pay [1] of grade to which member is entitled under section 1372.	As member elects— (1) 2½% of years of service credited to him under section 1208;[3] or (2) the percentage of disability on date when retired.		Excess over 75% of pay upon which computation is based.
2	1202 1205	Monthly basic pay [1] of grade to which member is entitled under section 1372.	As member elects— (1) 2½% of years of service credited to him under section 1208;[3] or (2) the percentage of disability on date when his name was placed on temporary disability retired list.	Amount necessary to increase product of columns 1 and 2 to 50% of pay upon which computation is based.	Excess over 75% of pay upon which computation is based.
3	1331	Monthly basic pay [2] of highest grade held satisfactorily by person at any time in the armed forces.	2½% of years of service credited to him under section 1333.		Excess over 75% of pay upon which computation is based.
4	564 1255 1263 1293 1305	Monthly basic pay to which member would have been entitled if he had served on active duty in his retired grade on day before retirement, or if the pay of that grade is less than the pay of any warrant grade satisfactorily held by him on active duty, the monthly basic pay of that warrant officer grade.	2½% of years of service that may be credited to him in computing basic pay.[3]		Excess over 75% of pay upon which computation is based.

[1] Compute at rates applicable on date of retirement or date when member's name was placed on temporary disability retired list, as the case may be, and adjust to reflect later changes in applicable permanent rates.

[2] Compute at rates applicable on date when retired pay is granted.

[3] Before applying percentage factor, credit a part of a year that is six months or more as a whole year, and disregard a part of a year that is less than six months.

§ 1402. Recomputation of retired or retainer pay to reflect later active duty

(a) A member of an armed force who has been retired or has become entitled to retainer pay, and who thereafter serves on active duty, is entitled, upon release from that duty, to recompute his retired or retainer pay as follows:

Column 1 Take	Column 2 Multiply by	Column 3 Add	Column 4 Subtract
Monthly basic pay or base and longevity pay, as the case may be, of the grade in which he would be eligible to retire if he were retiring upon that release from active duty.	2½% of the sum of— (1) the years of service that may be credited to him in computing retired or retainer pay; and (2) his years of active service after retirement or becoming entitled to retainer pay.[1]		Excess over 75% of pay upon which computation is based.

[1] Before applying percentage factor, credit a part of a year that is six months or more as a whole year, and disregard a part of a year that is less than six months.

(b) A member of an armed force who has been retired other than for physical disability, and who while on active duty incurs a physical disability of at least 30 percent for which he would otherwise be eligible for retired pay under chapter 61 of this title, is entitled, upon his release from active duty, to retired pay under subsection (d).

(c) A member of an armed force who—

(1) was retired for physical disability under section 1201 or 1204 of this title or any other law or whose name is on the temporary disability retired list;

(2) incurs, while on active duty after retirement or after his name was placed on that list, a physical disability that is in addition to or that aggravates the physical disability for which he was retired or for which his name was placed on the temporary disability retired list; and

(3) is qualified under section 1201, 1202, 1204, or 1205 of this title;

is entitled, upon his release from active duty, to retired pay under subsection (d).

(d) A member of an armed force covered by subsection (b) or (c) may elect to receive either (1) the retired pay to which he became entitled when he retired, or (2) retired pay computed as follows:

Column 1 Take	Column 2 Multiply by	Column 3 Add	Column 4 Subtract
Highest monthly basic pay that member received while on active duty after retirement or after date when his name was placed on temporary disability retired list, as the case may be.	As member elects— (1) 2½% of years of service credited under section 1208 of this title; [1] or (2) the highest percentage of disability attained while on active duty after retirement or after the date when his name was placed on temporary disability retired list, as the case may be.[1]	Add amount necessary to increase product of columns 1 and 2 to 50% of pay upon which computation is based, if member is on temporary disability retired list.	Excess over 75% of pay upon which computation is based.

[1] Before applying percentage factor, credit a part of a year that is six months or more as a whole year, and disregard a part of a year that is less than six months.

If, while on active duty after retirement or after his name was placed on the temporary disability retired list, a member covered by this subsection was promoted to a higher grade in which he served satisfactorily, as determined by the Secretary concerned, he is entitled to retired pay based on the monthly basic pay to which he would be entitled if he were on active duty in that higher grade.

§ 1403. Disability retired pay: treatment under title 26

That part of the retired pay of a member of an armed force, computed under formula No. 1 or 2 of section 1401, or under section 1402 (d), of this title on the basis of years of service, which exceeds the retired pay that he would receive if it were computed on the basis of percentage of disability is not considered as a pension, annuity, or similar allowance for personal injury, or sickness, resulting from active service in the armed forces, under section 104 (a) of title 26.

§ 1404. Applicability of section 47a of title 5

The retirement provisions of this title are subject to section 47a of title 5.

CHAPTER 73.—ANNUITIES BASED ON RETIRED OR RETAINER PAY

Sec.

1431. Election of annuity: members of armed forces.
1432. Election of annuity: former members of armed forces.
1433. Mental incompetency of member.
1434. Kinds of annuities that may be elected.
1435. Eligible beneficiaries.
1436. Computation of reduction in retired pay.
1437. Payment of annuity.
1438. Deposits for amounts not deducted.
1439. Refund of amounts deducted from retired pay.
1440. Annuities not subject to legal process.
1441. Annuities in addition to other payments.
1442. Recovery of annuity erroneously paid.
1443. Board of Actuaries.
1444. Regulations; reports to Congress; determinations.

§ 1431. Election of annuity: members of armed forces

(a) This section applies to all members of the armed forces except—

(1) members whose names are on a retired list or who are in the Retired Reserve;

(2) Reserves on an inactive status list;

(3) members assigned to the inactive National Guard;

(4) cadets at the United States Military Academy, the United States Air Force Academy, or the Coast Guard Academy; and

(5) midshipmen.

(b) To provide an annuity under section 1434 of this title, a person covered by subsection (a) may elect to receive a reduced amount of the retired or retainer pay to which he may become entitled as a result of service in his armed force. The election must be made before he completes 18 years of service for which he is entitled to credit in the computation of his basic pay. However, if, because of military operations, he is missing in action, interned in a neutral country, captured by a hostile force, or beleaguered or besieged, and for that

reason is unable to make the election before completing 18 years of that service, he may make the election within six months after he returns to the jurisdiction of his armed force.

(c) An election made under subsection (b) may be changed or revoked by the elector before his retirement or before he becomes entitled to retired or retainer pay. However, unless made under section 1433, the change or revocation is not effective if he is retired or becomes entitled to retired or retainer pay within five years after the date of the change or revocation. If he revokes the election, he may not change or withdraw the revocation.

(d) A person who was retired or granted retired or retainer pay before November 1, 1953, and who elected within 180 days after that date to receive a reduced amount of that pay to provide an annuity, may not revoke that election.

§ 1432. Election of annuity: former members of armed forces

A person who was a former member of an armed force on November 1, 1953, and who is granted retired or retainer pay after that date, may, at the time he is granted that pay, make an election as provided in section 1431 of this title.

§ 1433. Mental incompetency of member

If a person who would be entitled to make an election under section 1431 or 1432 of this title is determined to be mentally incompetent by medical officers of the armed force concerned or of the Veterans' Administration, or by a court of competent jurisdiction, and for that reason cannot make the election within the prescribed time, the Secretary concerned may make an election for that person upon the request of his spouse or, if there is no spouse, of his children who would be eligible to be made beneficiaries under section 1435 of this title. If the person for whom the Secretary has made an election is later determined to be mentally competent by medical officers of the Veterans' Administration or by a court of competent jurisdiction, he may, within 180 days after that determination, change or revoke that election. However, deductions made from his retired or retainer pay before that date may not be refunded.

§ 1434. Kinds of annuities that may be elected

(a) The annuity that a person is entitled to elect under section 1431 or 1432 of this title may be 50, 25, or 12½ percent, as specified by the elector at the time of the election, of the reduced amount of his retired or retainer pay. He may make the annuity payable—

(1) to, or on behalf of, the surviving spouse, ending when the spouse dies or remarries;

(2) in equal shares to, or on behalf of, the surviving children eligible for the annuity at the time each payment is due, ending when there is no surviving eligible child; or

(3) to, or on behalf of, the surviving spouse, and after the death or remarriage of that spouse, in equal shares to, or on behalf of, the surviving children, ending when there is no surviving eligible child.

(b) A person may elect to provide both the annuity provided in clause (1) of subsection (a) and that provided in clause (2) of sub-

section (a), but the combined amount of the annuities may not be more than 50 percent of his reduced retired or retainer pay.

(c) Any annuity under subsection (a), or any combination of annuities under subsection (b), may provide, at the elector's option, that no deduction may be made from his retired or retainer pay after the last day of the month in which there is no beneficiary who would be eligible for the annuity if the elector died.

§ 1435. Eligible beneficiaries

Only the following persons are eligible to be made the beneficiaries of, or to receive payments under, an annuity elected under this chapter by a member of the armed forces:

(1) The spouse of the member on the date when the member is retired or becomes entitled to retired or retainer pay or, if the member was already retired or entitled to retired or retainer pay on November 1, 1953, the spouse on that date.

(2) The children of the member who are—

(A) unmarried;

(B) under 18 years of age or incapable of supporting themselves because of a mental defect or physical incapacity existing before their eighteenth birthday;

(C) legitimate or adopted children of, or stepchildren in fact dependent for their support upon, the member;

(D) living on the date when the member is retired or becomes entitled to retired or retainer pay or, if the member was already retired or entitled to retired or retainer pay on November 1, 1953, living on that date; and

(E) born on or before the date prescribed in clause (D).

§ 1436. Computation of reduction in retired pay

The reduction in the retired or retainer pay of any person who elects an annuity under this chapter shall be computed by the armed force concerned as of the date when the persor becomes eligible for that pay. It shall be computed under an actuarial equivalent method based on (1) appropriate actuarial tables selected by the Board of Actuaries, and (2) an interest rate of 3 percent a year, or such other rate as the Secretary of the Treasury, after considering the average yield on outstanding marketable long-term obligations of the United States during the preceding six months, may specify by August 1 of any year for the following year. The method and tables shall be those in effect on the date as of which the computation is made.

§ 1437. Payment of annuity

Each annuity payable under this chapter accrues as of the first day of the month in which the person upon whose reduced pay the annuity is based dies. Payments shall be made in equal installments and not later than the fifteenth day of each month following that month. However, no annuity accrues for the month in which entitlement thereto ends.

§ 1438. Deposits for amounts not deducted

If, for any period, a person who has been retired or has become entitled to retired or retainer pay, and who has elected an annuity under this chapter, is not entitled to retired or retainer pay, he must

deposit in the Treasury the amount that would otherwise have been deducted from his pay for that period to provide the annuity.

§ 1439. Refund of amounts deducted from retired pay

If a person whose name is on the temporary disability retired list of an armed force, and who has elected an annuity under this chapter, has his name removed from that list for any reason other than retirement or grant of retired pay, he is entitled to a refund of the difference between the amount by which his retired pay was reduced to provide the annuity and the cost of an amount of term insurance equal to the protection provided for his dependents during the period that he was on that list.

§ 1440. Annuities not subject to legal process

No annuity payable under this chapter is assignable or subject to execution, levy, attachment, garnishment, or other legal process.

§ 1441. Annuities in addition to other payments

An annuity under this chapter is in addition to any pension or other payment to which the beneficiary is entitled under any other provision of law, and may not be considered as income under any law administered by the Veterans' Administration.

§ 1442. Recovery of annuity erroneously paid

In addition to other methods of recovery provided by law, the Secretary concerned may authorize the recovery, by deduction from later payments to a person, of any amount erroneously paid to him under this chapter. However, recovery is not required if, in the judgment of the Secretary concerned and the Comptroller General, there has been no fault by the person to whom the amount was erroneously paid and recovery would be contrary to the purposes of this chapter or against equity and good conscience.

§ 1443. Board of Actuaries

To advise on the administration of this chapter, the President shall convene at least once a year a Board of Actuaries composed of the Government Actuary, the Chief Actuary of the Social Security Administration, and an actuary who is a member of the Society of Actuaries. The compensation of the member from the Society of Actuaries shall be prescribed by the President.

§ 1444. Regulations; reports to Congress; determinations

(a) The President shall prescribe regulations to carry out this chapter. Those regulations shall, so far as practicable, be uniform for the armed forces, the Coast and Geodetic Survey, and the Public Health Service.

(b) The President shall report to Congress annually on the administration of this chapter.

(c) Determinations and certifications of eligibility for, and payments of, annuities and other payments or refunds under this chapter shall be made by the department concerned. However, in the case of a department other than a military department, payments shall be made through the disbursing facilities of the Department of the Treasury.

CHAPTER 75.—DEATH BENEFITS: CARE OF THE DEAD

Sec.

1481. Recovery, care, and disposition of remains: decedents covered.
1482. Expenses incident to death.
1483. Prisoners of war and interned enemy aliens.
1484. Pensioners, indigent patients, and persons who die on military reservations.
1485. Dependents of members of armed forces; death while outside United States.
1486. Other citizens of United States.
1487. Temporary interment.
1488. Removal of remains.

§ 1481. Recovery, care, and disposition of remains: decedents covered

(a) The Secretary concerned may provide for the recovery, care, and disposition of the remains of—

(1) any Regular of an armed force, or member of an armed force without component, under his jurisdiction who dies while on active duty;

(2) any Reserve of an armed force under his jurisdiction who dies while (A) on active duty, (B) performing authorized travel to or from that duty, (C) on authorized inactive-duty training, or (D) hospitalized or undergoing treatment at the expense of the United States for injury incurred, or disease contracted, while on that duty or training or while performing that travel;

(3) any member of the Army National Guard or Air National Guard who dies while entitled to pay from the United States and while (A) on active duty, (B) performing authorized travel to or from that duty, (C) on authorized inactive-duty training, or (D) hospitalized or undergoing treatment at the expense of the United States for injury incurred, or disease contracted, while on that duty or training or while performing that travel;

(4) any member of the Army Reserve Officers' Training Corps, Naval Reserve Officers' Training Corps, or Air Force Reserve Officers' Training Corps who dies while (A) attending a training camp, (B) on an authorized practice cruise, (C) performing authorized travel to or from such a camp or cruise, or (D) hospitalized or undergoing treatment at the expense of the United States for injury incurred, or disease contracted, while attending such a camp, while on such a cruise, or while performing that travel;

(5) any accepted applicant for enlistment in an armed force under his jurisdiction;

(6) any person who has been discharged from an enlistment in an armed force under his jurisdiction while a patient in a United States hospital, and who continues to be such a patient until the date of his death;

(7) any retired member of an armed force under his jurisdiction who becomes a patient in a United States hospital while he is on active duty for a period of more than 30 days, and who continues to be such a patient until the date of his death; and

(8) any military prisoner who dies while in his custody.

(b) This section applies to each person covered by subsection (a)(1)–(7) even though he may have been temporarily absent from active duty, with or without leave, at the time of his death, unless he had been dropped from the rolls of his organization before his death.

§ 1482. Expenses incident to death

(a) Incident to the recovery, care, and disposition of the remains of any decedent covered by section 1481 of this title, the Secretary concerned may pay the necessary expenses of—

(1) recovery and identification of the remains;

(2) notification to the next of kin or other appropriate person;

(3) preparation of the remains for burial, including cremation if requested by the person designated to direct disposition of the remains;

(4) furnishing of a uniform or other clothing;

(5) furnishing of a casket or urn, or both, with outside box;

(6) hearse service;

(7) funeral director's services;

(8) transportation of the remains, and round-trip transportation and prescribed allowances for an escort of one person, to the place selected by the person designated to direct disposition of the remains or, if such a selection is not made, to a national or other cemetery which is selected by the Secretary and in which burial of the decedent is authorized;

(9) interment of the remains; and

(10) presentation of a flag of the United States to the person designated to direct disposition of the remains, except in the case of a military prisoner who dies while in the custody of the Secretary and while under a sentence that includes a discharge.

(b) If an individual pays any expense payable by the United States under this section, the Secretary concerned shall reimburse him or his representative in an amount not larger than that normally incurred by the Secretary in furnishing the supply or service concerned. If reimbursement by the United States is also authorized under another provision of law or regulation, the individual may elect under which provision to be reimbursed.

(c) Only the following persons may be designated to direct disposition of the remains of a decedent covered by this chapter:

(1) The surviving spouse of the decedent.

(2) Blood relatives of the decedent.

(3) Adoptive relatives of the decedent.

(4) If no person covered by clauses (1)–(3) can be found, a person standing in loco parentis to the decedent.

§ 1483. Prisoners of war and interned enemy aliens

The Secretary concerned may provide for the care and disposition of the remains of prisoners of war and interned enemy aliens who die while in his custody and, incident thereto, pay the necessary expenses of—

(1) notification to the next of kin or other appropriate person;

(2) preparation of the remains for burial, including cremation;

(3) furnishing of clothing;

(4) furnishing of a casket or urn, or both, with outside box;

(5) transportation of the remains to the cemetery or other place selected by the Secretary; and

(6) interment of the remains.

§ 1484. Pensioners, indigent patients, and persons who die on military reservations

If proper disposition of the remains cannot otherwise be made, the Secretary concerned may provide for the care and disposition of the remains of pensioners and indigent patients who die in hospitals operated by his department and of persons who die on the military reservations of that department and, incident thereto, pay the necessary expenses of—

(1) notification to the next of kin or other appropriate person;
(2) preparation of the remains for burial, including cremation;
(3) furnishing of clothing;
(4) furnishing of a casket or urn, or both, with outside box;
(5) transportation of the remains to a cemetery selected by the Secretary; and
(6) interment of the remains.

§ 1485. Dependents of members of armed forces; death while outside United States

(a) The Secretary concerned may provide for, and pay the necessary expenses of, transporting the remains of any dependent of a member of an armed force under his jurisdiction who is on active duty at a place outside the United States, if the dependent dies while residing with that member or while traveling to or from that place. Transportation of remains under this section may be made to the home of the decedent or to any other place that the Secretary determines to be the appropriate place of interment.

(b) The Secretary may furnish mortuary services and supplies, on a reimbursable basis, for persons covered by subsection (a), if (1) that action is practicable, and (2) local commercial mortuary services and supplies are not available or the Secretary believes that their cost is prohibitive.

(c) Reimbursement for mortuary services and supplies furnished under this section shall be collected and credited to appropriations available, at the time of reimbursement, for those services and supplies.

§ 1486. Other citizens of United States

(a) If local commercial mortuary services and supplies are not available, or if he believes that their cost is prohibitive, the Secretary concerned may furnish those services and supplies on a reimbursable basis in the case of any of the following citizens of the United States who die outside the United States:

(1) Any employee of a humanitarian agency accredited to the armed forces, such as the American Red Cross and the United Services Organization.

(2) Any civilian performing a service directly for the Secretary because of employment by an agency under a contract with the Secretary.

(3) Any officer or member of a crew of a merchant vessel operated by or for the United States through the Secretary.

(4) Any person who is on duty with an armed force under the jurisdiction of the Secretary and who is paid from non-appropriated funds.

(5) Upon the specific request of the Department of State, any person not otherwise covered by this section.

(6) Any dependent of a person who is covered by this section, if the dependent is living outside the United States with that person at the time of death.

(b) The Secretary may furnish transportation of the remains of persons covered by this section, on a reimbursable basis, to a port of entry in the United States.

(c) Reimbursement for services, supplies, and transportation furnished under this section shall be collected and credited to appropriations available, at the time of reimbursement, for those services, supplies, and transportation.

§ 1487. Temporary interment

Whenever necessary for the temporary interment of remains pending transportation under this chapter to a designated cemetery, the Secretary concerned may acquire, and provide for the maintenance of, grave sites in commercial cemeteries, or he may acquire the right to use such grave sites for burial purposes. If the death occurs outside the United States and a temporary commercial grave site is not available on a reasonable basis, the Secretary may acquire land, or the right to use land, necessary for the temporary interment of the remains under this chapter.

§ 1488. Removal of remains

If a cemetery on a military reservation, including an installation cemetery, has been or is to be discontinued, the Secretary concerned may provide for the removal of remains from that cemetery to any other cemetery. With respect to any deceased member of an armed force under his jurisdiction whose last service terminated honorably by death or otherwise, the Secretary may also provide for the removal of the remains from a place of temporary interment, or from an abandoned grave or cemetery, to a national cemetery.

CHAPTER 77.—POSTHUMOUS COMMISSIONS AND WARRANTS

Sec.

1521. Posthumous commissions.
1522. Posthumous warrants.
1523. Posthumous commissions and warrants: effect on pay and allowances.

§ 1521. Posthumous commissions

(a) The President may issue, or have issued, an appropriate commission in the name of a member of the armed forces who, after September 8, 1939—

(1) was appointed to a commissioned grade but was unable to accept the appointment because of death in line of duty;

(2) successfully completed the course at an officers' training school and was recommended for appointment to a commissioned grade by the commanding officer or officer in charge of the school but was unable to accept the appointment because of death in line of duty; or

(3) was officially recommended for appointment or promotion to a commissioned grade and the recommendation for whose

appointment or promotion was approved by the Secretary concerned but was unable to accept the promotion or appointment because of death in line of duty.

(b) A commission issued under subsection (a) shall issue as of the date of the appointment, recommendation, or approval, as the case may be, and the member's name shall be carried on the records of the military or executive department concerned as if he had served in the grade, and branch if any, in which posthumously commissioned, from the date of the appointment, recommendation, or approval to the date of his death.

§ 1522. Posthumous warrants

(a) The Secretary concerned may issue, or have issued, an appropriate warrant in the name of a member of the armed forces who, after September 8, 1939, was officially recommended for appointment or promotion to a grade other than a commissioned grade but was unable to accept the appointment or promotion because of death in line of duty.

(b) A warrant issued under subsection (a) shall issue as of the date of the recommendation, and the member's name shall be carried on the records of the military or executive department concerned as if he had served in the grade to which posthumously appointed or promoted from the date of the recommendation to the date of his death.

§ 1523. Posthumous commissions and warrants: effect on pay and allowances

No person is entitled to any bonus, gratuity, pay, or allowance because of a posthumous commission or warrant.

CHAPTER 79.—CORRECTION OF MILITARY RECORDS

Sec.
1551. Correction of name after separation from service under an assumed name.
1552. Correction of military records: claims incident thereto.

§ 1551. Correction of name after separation from service under an assumed name

The Secretary of the military department concerned shall issue a certificate of discharge or an order of acceptance of resignation in the true name of any person who was separated from the Army, Navy, Air Force, or Marine Corps honorably or under honorable conditions after serving under an assumed name during a war with another nation or people, upon application by, or on behalf of, that person, and upon proof of his identity. However, a certificate or order may not be issued under this section if the name was assumed to conceal a crime or to avoid its consequences.

§ 1552. Correction of military records: claims incident thereto

(a) The Secretary of a military department, under procedures established by him and approved by the Secretary of Defense, and acting through boards of civilians of the executive part of that military department, may correct any military record of that department when he considers it necessary to correct an error or remove an injustice. Under procedures prescribed by him, the Secretary of the Treasury may in the same manner correct any military record of the

Coast Guard. Except when procured by fraud, a correction under this section is final and conclusive on all officers of the United States.

(b) No correction may be made under subsection (a) unless the claimant or his heir or legal representative files a request therefor before October 26, 1961, or within three years after he discovers the error or injustice, whichever is later. However, a board established under subsection (a) may excuse a failure to file within three years after discovery if it finds it to be in the interest of justice.

(c) The department concerned may pay, from applicable current appropriations, a claim for the loss of pay, allowances, compensation, emoluments, or other pecuniary benefits, or for the repayment of a fine or forfeiture, if, as a result of correcting a record under this section, the amount is found to be due the claimant on account of his or another's service in the Army, Navy, Air Force, Marine Corps, or Coast Guard, as the case may be. If the claimant is dead, the money shall be paid, upon demand, to his legal representative. However, if no demand for payment is made by a legal representative, the money shall be paid—

(1) to the surviving spouse, heir, or beneficiaries, in the order prescribed by the law applicable to that kind of payment;

(2) if there is no such law covering order of payment, in the order set forth in section 2771 of this title; or

(3) as otherwise prescribed by the law applicable to that kind of payment.

A claimant's acceptance of a settlement under this section fully satisfies the claim concerned. This section does not authorize the payment of any claim compensated by private law before October 25, 1951.

(d) Applicable current appropriations are available to continue the pay, allowances, compensation, emoluments, and other pecuniary benefits of any person who was paid under subsection (c), and who, because of the correction of his military record, is entitled to those benefits, but for not longer than one year after the date when his record is corrected under this section if he is not reenlisted in, or appointed or reappointed to, the grade to which those payments relate. Without regard to qualifications for reenlistment, or appointment or reappointment, the Secretary concerned may reenlist a person in, or appoint or reappoint him to, the grade to which payments under this section relate.

(e) No payment may be made under this section for a benefit to which the claimant might later become entitled under the laws and regulations administered by the Administrator of Veterans' Affairs.

(f) The Secretary of Defense for the military departments, and the Secretary of the Treasury for the Coast Guard, shall report to Congress every six months on claims paid under this section during the period covered by the report. The report shall include for each claim the name of the claimant, a brief description of the claim, and a statement of the amount paid.

CHAPTER 81.—CIVILIAN EMPLOYEES

Sec.

1581. Appointment: professional and scientific services.
1582. Professional and scientific services: reports to Congress on appointments.
1583. Employment of certain persons without compensation.
1584. Laws relating to employment of non-citizens: not applicable to research and development activities.

§ 1581. Appointment: professional and scientific services

(a) The Secretary of Defense may establish not more than six civilian positions to carry out research and development relating to the national defense, military 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.

§ 1582. Professional and scientific services: reports to Congress on appointments

The Secretary of Defense shall report to Congress each calendar year on the number of positions established under sections 1581, 4021, 7471, and 9021 of this title during that calendar year. The report shall list the name, rate of compensation, functions, and qualifications of each incumbent. However, the Secretary may omit any item if he considers that a full public report on it would be detrimental to the national security. In such a case, he shall present the information, in executive session, to such committees of the Senate and the House of Representatives as are designated by the presiding officers of those bodies.

§ 1583. Employment of certain persons without compensation

(a) The Secretary of Defense may employ, without compensation, not more than 10 persons of outstanding experience and ability. However, a person so employed may be allowed transportation, and not more than $15 a day instead of subsistence, while away from his home or regular place of business pursuant to employment under this section.

(b) The Secretary may, by regulation, exempt persons employed under subsection (a) from sections 281, 283, 284, 434, and 1914 of title 18 and section 99 of title 5.

§ 1584. Laws relating to employment of non-citizens: not applicable to research and development activities

Laws prohibiting the employment of, or payment of compensation or expenses to, a person who is not a citizen of the United States do not apply to any expert, scientist, technician, or professional person whose employment in connection with the research and development activities of a military department is determined to be necessary by the Secretary of that department.

PART III.—TRAINING

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CHAPTER 101.—TRAINING GENERALLY

Sec.
2001. Reserve components.

§ 2001. Reserve components

As prescribed by the Secretary concerned, each reserve component except the Army National Guard of the United States and the Air National Guard of the United States shall be divided into training categories according to the kinds and degrees of training, including the number and duration of drills or equivalent duties to be completed in stated periods. The designation of training categories shall be the same for all armed forces and the same within the Ready Reserve and the Standby Reserve.

PART IV.—SERVICE, SUPPLY, AND PROCUREMENT

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CHAPTER 131.—PLANNING AND COORDINATION

Sec.
2201. General functions of Secretary of Defense.
2202. Obligation of funds: limitation.

§ 2201. General functions of Secretary of Defense

The Secretary of Defense shall, in support of strategic and logistic plans—

(1) coordinate appropriate activities relating to industrial matters, including plans of the Department of Defense for procurement, production, and distribution;

(2) plan for the military aspects of industrial mobilization;

(3) assign procurement responsibilities among the military departments;

(4) plan for the standardization of items prescribed by section 2451 (c) (1) of this title;

(5) plan for the greatest practicable allocation, on the basis of procurement by a single procurement agency, of the authority to buy technical supplies and common use items used by each of the armed forces;

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(6) prepare estimates of potential production, procurement, and personnel for use in evaluating the logistic feasibility of strategic operations;

(7) determine priorities for the segments of the military procurement programs;

(8) supervise subordinate agencies created to consider matters covered by this section;

(9) regroup, combine, or dissolve inter-service agencies operating in the fields of procurement, production, and distribution, so as to promote efficiency and economy;

(10) maintain liaison with other departments and agencies for the proper correlation of military requirements with the civilian economy, particularly with regard to the procurement or disposition of strategic and critical materials and the maintenance of adequate reserves of those materials, and the making of recommendations as to policies in connection therewith; and

(11) assemble and review requirements for material and personnel presented by the Joint Chiefs of Staff and by the production, procurement, and distribution agencies assigned to meet military needs.

§ 2202. Obligation of funds: limitation

Notwithstanding any other provision of law, an officer or agency of the Department of Defense may obligate funds for procuring, producing, warehousing, or distributing supplies, or for related functions of supply management, only under regulations prescribed by the Secretary of Defense. The purpose of this section is to achieve the efficient, economical, and practical operation of an integrated supply system to meet the needs of the military departments without duplicate or overlapping operations or functions.

CHAPTER 133.—FACILITIES FOR RESERVE COMPONENTS

Sec.
2231. Purpose.
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§ 2231. Purpose

The purpose of this chapter is to provide for—

(1) the acquisition, by purchase, lease, transfer, construction, expansion, rehabilitation, or conversion, of facilities necessary for the proper development, training, operation, and maintenance of the reserve components of the armed forces;

(2) the joint use of those facilities by units of two or more of those reserve components, to the greatest practicable extent for efficiency and economy:

(3) the use of those facilities, in time of war or national emergency, by those units and other units of the armed forces, to the greatest practicable extent for efficiency and economy; and

(4) any other use of those facilities by the United States, in time of war or national emergency, to the greatest practicable extent for efficiency and economy.

§ 2232. Definitions

In this chapter:

(1) "State" and "Territory" include political subdivisions and military units thereof and tax-supported agencies therein.

(2) "Facility" includes any (A) interest in land, (B) armory or other structure, and (C) storage or other facility normally needed for the administration and training of any unit of the reserve components of the armed forces.

§ 2233. Acquisition

(a) Subject to sections 2234, 2235, 2236, and 2238 of this title and subsection (c) of this section, and after consulting the Committees on Armed Services of the Senate and the House of Representatives, the Secretary of Defense may—

(1) acquire by purchase, lease, or transfer, and construct, expand, rehabilitate, or convert and equip, such facilities as he determines to be necessary to carry out the purposes of this chapter;

(2) contribute to any State or Territory, Puerto Rico, or the District of Columbia such amounts as he determines to be necessary to expand, rehabilitate, or convert facilities owned by it for use jointly by units of two or more of the reserve components of the armed forces; and

(3) contribute to any State or Territory, Puerto Rico, or the District of Columbia such amounts for the acquisition, construction, expansion, rehabilitation, or conversion by it of additional facilities as he determines to be required by any increase in the strength of the Army National Guard of the United States or the Air National Guard of the United States.

(b) Title to property acquired under subsection (a) (1) vests in the United States.

(c) The Secretary of Defense may delegate any of his authority or functions under this chapter to any department, agency, or officer of the Department of Defense.

§ 2234. Location and use

No expenditure or contribution may be made for a facility under section 2233 of this title, unless the Secretary of Defense determines that—

(1) the number of units of the reserve components of the armed forces located or to be located in the area within which the facility is to be provided is not and will not be larger than the number that can reasonably be expected to be maintained at authorized strength, considering the number of persons living in the area who are qualified for membership in those reserve units; and

(2) the plan under which the facility is to be provided makes provision for the greatest practicable use of the facility jointly by units of two or more of those components.

§ 2235. Administration; other use permitted by Secretary

(a) The Secretary of Defense, after consulting the Committees on Armed Services of the Senate and the House of Representatives on matters of policy, may—

(1) administer, operate, maintain, and equip facilities constructed, expanded, rehabilitated, or converted under section 2233 (a) (1) of this title or otherwise acquired and used for the purposes of this chapter;

(2) permit persons or organizations other than members and units of the armed forces to use those facilities under such leases or other agreements as he considers appropriate; and

(3) cover the payments received under those leases or agreements into the Treasury to the credit of the appropriation from which the cost of maintaining the facility, including its utilities and services, is paid.

(b) The Secretary may not permit any use or disposition to be made of a facility covered by subsection (a) that would interfere with its use—

(1) for administering and training the reserve components of the armed forces; or

(2) in time of war or national emergency, by other units of the armed forces or by the United States for any other purpose.

§ 2236. Contributions to States; other use permitted by States

(a) Contributions under section 2233 of this title are subject to such terms as the Secretary of Defense, after consulting the Committees on Armed Services of the Senate and the House of Representatives, considers necessary for the purposes of this chapter. Except as otherwise agreed when the contribution is made, a facility provided by a contribution under section 2233 (a) (3) of this title may be used jointly by units of two or more reserve components of the armed forces only to the extent that the State or Territory, Puerto Rico, or the District of Columbia, whichever is concerned, considers practicable.

(b) No contribution made for a facility under section 2233 (a) (3) of this title may be more than 75 percent of the cost of the construction to which it is to be applied. For the purpose of computing the cost of construction under this subsection, the amount contributed by the State or Territory, Puerto Rico, or the District of Columbia, whichever is concerned, may not include the cost or market value of any real property that it has contributed.

(c) If a State or Territory, Puerto Rico, or the District of Columbia acquires, constructs, expands, rehabilitates, or converts a facility with amounts contributed under section 2233 of this title, it may—

(1) permit persons or organizations other than members and units of the armed forces to use the facility under such leases or other agreements as it considers appropriate; and

(2) apply amounts received under those leases or agreements to the cost of maintaining the facility.

(d) Except as otherwise agreed when the contribution is made, and except as the agreement is later changed, a State or Territory, Puerto Rico, or the District of Columbia may not permit any use or disposition of the facility that would interfere with its use—

(1) for administering and training the reserve components of the armed forces; or

(2) in time of war or national emergency, by other units of the armed forces or by the United States for any other purpose.

§ 2237. Supervision of construction

Any construction, expansion, rehabilitation, or conversion under this chapter may be performed under the supervision of the Chief of Engineers of the Army or the Chief of the Bureau of Yards and Docks of the Navy.

§ 2238. Army National Guard of United States; Air National Guard of United States: limitation on relocation of units

No unit of the Army National Guard of the United States or the Air National Guard of the United States may be relocated or withdrawn under this chapter until the governor of the State or Territory, or Puerto Rico, or the commanding general of the National Guard of the District of Columbia, as the case may be, has been consulted.

CHAPTER 135.—ENCOURAGEMENT OF AVIATION

Sec.

2271. Design competitions: advertisement; selection of winner.
2272. Design competitions: rejection or purchase of designs; contracts; conditions.
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2279. Aircraft: restrictions on alien employees of contractor.

§ 2271. Design competitions: advertisement; selection of winner

(a) To encourage the development of aviation and to improve the efficiency of aeronautical war material for the Army, Navy, Air Force, and Marine Corps, the Secretary of each military department, before procuring new designs of aircraft, aircraft parts, or aeronautical accessories, shall invite the submission of new designs thereof in competition, as follows.

(b) An invitation for the submission of a design shall be made by advertisement in not less than three leading aeronautical journals for a period of 30 days, and in such other manner as the Secretary of the military department concerned considers advisable. Such an advertisement shall specify a time within which designs and prices may be submitted. This time may not be less than 60 days after the expiration of the 30-day advertising period. Each submission shall be sealed and shall contain the design submitted, a statement of the price for which the design or any part of it would be sold to the United States, and a graduated scale of prices for which the designer is willing to construct all or any part of a designed item. The submission shall be kept sealed until the expiration of the specified time. No design mailed after that time may be considered.

(c) Each advertisement under subsection (b) shall state in general terms the kind of aircraft, aircraft parts, or aeronautical accessories

to be developed and the approximate quantity required. The department concerned shall furnish to each applicant identical detailed information as to the conditions of the competition and the features and characteristics to be developed in the design, listing specifically the measures of merit, expressed in percentages, that are to be applied in determining the merits of the design. These measures of merit apply throughout the competition.

(d) Each design submitted under subsection (b) shall be referred to a board appointed by the Secretary of the military department concerned. The board shall appraise each design as soon as practicable and report the winners to the Secretary. If the Secretary approves the board's report, he shall fix the time and place of a public announcement of the results and notify each competitor. If the Secretary does not approve it, the papers may be returned to the board for revision, or he may choose the winners, as he elects. The decision of the Secretary is final and conclusive. The announcement of the results of the competition shall state the percentages awarded to each feature or characteristic of each of the designs submitted and the price named for each design and each feature thereof, if separable.

(e) If, within 10 days after the announcement of the results of a competition under subsection (d), a competitor makes a reasonable showing in writing to the Secretary of the military department concerned that an error was made in determining the merits of designs submitted and that he was thereby deprived of an award, the Secretary shall at once refer the matter to a board of arbitration for determination. The board of arbitration shall be composed of three skilled aeronautical engineers, one of whom shall be selected by the Secretary, one by the claimant, and the third by the other members. No person may be a member of a board of arbitration if he served on the board of appraisal that judged the competition out of which the arbitration arose. The findings of the board are conclusive if approved by the Secretary. In a competition, three competitors, or less, who have the highest figures of merit may be selected as winners.

§ 2272. Design competitions: rejection or purchase of designs; contracts; conditions

(a) If the Secretary of the military department concerned determines that a winner of a design competition under section 2271 of this title is, or can become within a reasonable time, able and equipped to furnish or construct all or part of any designed item, he may contract with that winner for furnishing or constructing it at a reasonable price, but not more than the price submitted with the design, on terms that he considers most advantageous to the United States. However, if the Secretary determines that the winner will not be able to furnish all or part of any designed item, he may buy the design, or a separable part of it, at a fair and reasonable price, but not more than the price submitted with the design.

(b) If the Secretary of the military department concerned determines that none of the designs submitted in a competition is of sufficient merit to justify procurement of a designed item, he need not accept or pay for them.

(c) If the Secretary of the military department concerned determines that the designs submitted by two or more competitors are of

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equal merit, or that features in the designs of one competitor are superior to the corresponding features in the designs of another competitor and that the superior features of one design may be substituted for the inferior features of another, he may divide the contracts for furnishing the item equitably among those competitors that submitted designs of equal merit, or he may combine features of superior excellence of different designs in such manner as he determines to be in the best interest of the United States. Payment may be made accordingly to the several competitors at fair and reasonable prices and the contract for the item may be awarded to the competitor or competitors having the highest figures of merit in the competition.

(d) If the Secretary of the military department concerned cannot contract with a winner in a design competition for furnishing or constructing all or part of a designed item, or if he cannot agree with a winner for the purchase of a design at a reasonable price, he may retain the design and advertise according to law for proposals for furnishing or constructing the item. After all proposals are submitted the Secretary may contract with the lowest responsible bidder for furnishing the item, on terms that he considers in the best interest of the United States. However, the Secretary may reject all bids and advertise for other bids with the same or different specifications.

(e) Each seller of designs and each contractor furnishing or constructing aircraft, aircraft parts, or aeronautical accessories under this section shall, if the Secretary of the military department concerned requests it, release claims against the United States arising out of the sale or contract. The release shall be in the form, and shall contain the terms, prescribed by the Secretary.

(f) No contract may be awarded under this section—

(1) to an individual who is not a citizen of the United States;

(2) to a corporation, unless 75 percent of its capital stock is owned by, and all its directors are, citizens of the United States; or

(3) to an individual or a corporation that does not have a manufacturing plant within the United States.

However, the Secretary of the military department concerned may contract with any domestic corporation whose stock is listed on a stock exchange, unless he knows that a majority of its stock is owned or controlled by aliens.

§ 2273. Right of United States to design; right of designer to patent; right to sue United States

(a) Any executive or military department of the United States may construct or have constructed according to the winning design, and may use, any aircraft, aircraft part, or aeronautical accessory, after payment is completed under a contract made under section 2272 of this title, or after payment for or purchase of the winning design, or a separable part thereof, for that item under that section. An item so constructed may be sold according to law as condemned material. In neither case may any further compensation be paid to the winner of the competition. However, the winner may apply for a patent on any feature of the designed item that was originated by him, and, if the patent is granted, he has exclusive rights under it against all persons except the United States or its vendee under this subsection.

(b) Any person who believes that—

(1) a design developed by him after July 2, 1926, relating to aircraft or an aircraft component, is being used; or

(2) an article embodying a design developed by him after July 2, 1926, relating to aircraft or an aircraft component, is being used or manufactured;

by or for the United States without just compensation to him from the United States or any other source may, within four years from the date of that use or manufacture, sue in the Court of Claims to recover reasonable and entire compensation.

§ 2274. Procurement for experimental purposes

(a) The Secretary of a military department may buy designs, aircraft, aircraft parts, and aeronautical accessories that he considers necessary for experimental purposes in the development of the best kinds of those items for the Army, Navy, Air Force, or Marine Corps, as the case may be. Purchases under this subsection may be made abroad or in the United States or the Territories, Commonwealths, and possessions, with or without competition and by contract or otherwise.

(b) If, as a result of a purchase under subsection (a), a new or suitable design considered to be the best kind for the Army, Navy, Air Force, or Marine Corps, as the case may be, is developed, the Secretary of the military department concerned may contract for procurement of the item in quantity. Contracts under this subsection are subject to sections 2272 (f) and 2279 of this title but are not subject to sections 2271 (a)–(d) and 2272 (a) of this title.

§ 2275. Contracts; review of decisions

The Secretary of a military department may award a contract for aircraft, aircraft parts, or aeronautical accessories under this chapter to the person whom he finds to be the lowest responsible bidder who can satisfactorily perform the work to the best advantage of the United States. Except for review by the President or a Federal court, or as otherwise provided by the contract, the decision of the Secretary is not reviewable as to—

(1) the award of the contract;

(2) the interpretation of the contract; or

(3) the application and administration of the contract.

§ 2276. Inspection and audit of plant and books of contractor; criminal provisions

(a) The manufacturing plant and books of a contractor furnishing or constructing aircraft, aircraft parts, or aeronautical accessories for a military department under this chapter, or that part of the plant which is used for that purpose, are subject at all times to inspection and audit by a person designated by the head of any executive department.

(b) The Secretary of the military department concerned shall keep for 10 years all audits and reports of inspection made for that department under subsection (a). Any committee of Congress may inspect them.

(c) Whoever, by collusion, understanding, or arrangement, deprives or attempts to deprive the United States of the benefit of a

full and free competition under this chapter or of a full and free audit, so far as necessary to disclose the cost of executing the contract, of the books of a person carrying out a contract under this chapter shall be fined not more than $20,000 or imprisoned for not more than five years, or both.

§ 2277. Appropriations; availability

Any appropriation available to a military department for the procurement of aircraft, aircraft parts, or aeronautical accessories may be used by that department to buy designs and pay the costs of arbitration under this chapter.

§ 2278. Purchase of sample aircraft

The Secretary of the Army or the Secretary of the Air Force may buy a sample aircraft from an unsuccessful bidder in a competition held by his department and requiring the submission of sample aircraft. However, not more than one sample aircraft may be bought from each of the first, second, and third of those bidders in order of merit, at prices not more than 75, 60, and 50 percent, respectively, of the cost of developing and manufacturing the sample, as determined by the Secretary of the military department concerned.

§ 2279. Aircraft: restrictions on alien employees of contractor

Unless the Secretary of the military department concerned first consents in writing, an alien employed by a person who contracts under this chapter to furnish or construct aircraft, aircraft parts, or aeronautical accessories for the United States may not have access to the plans or specifications for the contracted items or to the work under construction, and may not participate in the trials under the contract.

CHAPTER 137.—PROCUREMENT GENERALLY

Sec.
2301. Declaration of policy.
2302. Definitions.
2303. Applicability of chapter.
2304. Purchases and contracts: advertising; exceptions.
2305. Formal advertisements for bids; time; opening; award; rejection.
2306. Kinds of contracts.
2307. Advance payments.
2308. Assignment and delegation of procurement functions and responsibilities.
2309. Allocation of appropriations.
2310. Determinations and decisions.
2311. Delegation.
2312. Remission of liquidated damages.
2313. Examination of books and records of contractor.
2314. Laws inapplicable to agencies named in section 2303 of this title.

§ 2301. Declaration of policy

It is the policy of Congress that a fair proportion of the purchases and contracts made under this chapter be placed with small business concerns.

§ 2302. Definitions

In this chapter—

(1) "Head of an agency" means the Secretary, the Under Secretary, or any Assistant Secretary, of the Army, Navy, or Air

Force; the Secretary of the Treasury; or the Executive Secretary of the National Advisory Committee for Aeronautics.

(2) "Negotiate" means make without formal advertising.

(3) "Formal advertising" means advertising as prescribed by section 2305 (a) and (b) of this title.

§ 2303. Applicability of chapter

(a) This chapter applies to the purchase, and contract to purchase, by any of the following agencies, for its use or otherwise, of all property named in subsection (b), and all services, for which payment is to be made from appropriated funds:

(1) The Department of the Army.
(2) The Department of the Navy.
(3) The Department of the Air Force.
(4) The Coast Guard.
(5) The National Advisory Committee for Aeronautics.

(b) This chapter does not cover land. It covers all other property including—

(1) public works;
(2) buildings;
(3) facilities;
(4) vessels;
(5) floating equipment;
(6) aircraft;
(7) parts;
(8) accessories;
(9) equipment; and
(10) machine tools.

(c) The provisions of this chapter that apply to the procurement of property apply also to contracts for its installation or alteration.

§ 2304. Purchases and contracts: formal advertising; exceptions

(a) Purchases of and contracts for property or services covered by this chapter shall be made by formal advertising. However, the head of an agency may negotiate such a purchase or contract, if—

(1) it is determined that such action is necessary in the public interest during a national emergency declared by Congress or the President;

(2) the public exigency will not permit the delay incident to advertising;

(3) the aggregate amount involved is not more than $1,000;

(4) the purchase or contract is for personal or professional services;

(5) the purchase or contract is for any service by a university, college, or other educational institution;

(6) the purchase or contract is for property or services to be procured and used outside the United States, its Territories, and its possessions;

(7) the purchase or contract is for medicine or medical supplies;

(8) the purchase or contract is for property for authorized resale;

(9) the purchase or contract is for perishable subsistence supplies;

(10) the purchase or contract is for property or services for which it is impracticable to obtain competition;

(11) the purchase or contract is for property or services that he determines to be for experimental, developmental, or research work, or for making or furnishing property for experiment, test, development, or research;

(12) the purchase or contract is for property or services whose procurement he determines should not be publicly disclosed because of their character, ingredients, or components;

(13) the purchase or contract is for equipment that he determines to be technical equipment whose standardization and the interchangeability of whose parts are necessary in the public interest and whose procurement by negotiation is necessary to assure that standardization and interchangeability;

(14) the purchase or contract is for technical or special property that he determines to require a substantial initial investment or an extended period of preparation for manufacture, and for which he determines that formal advertising and competitive bidding might require duplication of investment or preparation already made or would unduly delay the procurement of that property; or

(15) the purchase or contract is for property or services for which he determines that the bid prices received after formal advertising are unreasonable as to all or part of the requirements, or were not independently reached in open competition, and for which (A) he has notified each responsible bidder of intention to negotiate and given him reasonable opportunity to negotiate; (B) the negotiated price is lower than the lowest rejected bid of any responsible bidder, as determined by the head of the agency; and (C) the negotiated price is the lowest negotiated price offered by any responsible supplier;

(16) he determines that (A) it is in the interest of national defense to have a plant, mine, or other facility, or a producer, manufacturer, or other supplier, available for furnishing property or services in case of a national emergency; or (B) the interest of industrial mobilization in case of such an emergency, or the interest of national defense in maintaining active engineering, research, and development, would otherwise be subserved; or

(17) negotiation of the purchase or contract is otherwise authorized by law.

(b) The data respecting the negotiation of each purchase or contract under clauses (1) and (7)–(17) of subsection (a) shall be kept by the contracting agency for six years after the date of final payment on the contract.

(c) This section does not authorize—

(1) the negotiation of a contract to construct or repair any building, road, sidewalk, sewer main, or similar item, unless—

(A) it is made under clauses (1)–(3), (10)–(12), or (15) of subsection (a); or

(B) it is to be performed outside the United States; or

(2) the erection, repair, or furnishing of any public building or public improvement.

(d) Whenever the head of the agency determines it to be practicable, such advance publicity as he considers suitable with regard

to the property involved and other relevant considerations shall be given for a period of at least 15 days before making a purchase of or contract for property, or a service, under clause (7) or (8) of subsection (a) involving more than $10,000.

(e) A report shall be made to Congress, on May 19 and November 19 of each year, of the purchases and contracts made under clauses (11) and (16) of subsection (a) during the period since the date of the last report. The report shall—

(1) name each contractor;

(2) state the amount of each contract; and

(3) describe, with consideration of the national security, the property and services covered by each contract.

(f) For the purposes of the following laws, purchases or contracts negotiated under this section shall be treated as if they were made with formal advertising:

(1) Sections 35–45 of title 41.

(2) Sections 276a–276a–5 of title 40.

(3) Sections 324 and 325a of title 40.

§ 2305. Formal advertisements for bids; time; opening; award; rejection

(a) Whenever formal advertising is required under section 2304 of this title, the advertisement shall be made a sufficient time before the purchase or contract. The specifications and invitations for bids shall permit such free and full competition as is consistent with the procurement of the property and services needed by the agency concerned.

(b) Bids shall be opened publicly at the time and place stated in the advertisement. Awards shall be made with reasonable promptness by giving written notice to the responsible bidder whose bid conforms to the invitation and will be the most advantageous to the United States, price and other factors considered. However, all bids may be rejected if the head of the agency determines that rejection is in the public interest.

(c) If the head of the agency considers that any bid received after formal advertising evidences a violation of the antitrust laws, he shall refer the bid to the Attorney General for appropriate action.

§ 2306. Kinds of contracts

(a) The cost-plus-a-percentage-of-cost system of contracting may not be used. Subject to this limitation and subject to subsections (b)–(e), the head of an agency may, in negotiating contracts under section 2304 of this title, make any kind of contract that he considers will promote the best interests of the United States.

(b) Each contract negotiated under section 2304 of this title shall contain a warranty, determined to be suitable by the head of the agency, that the contractor has employed or retained no person or selling agency to solicit or obtain the contract under an understanding or agreement for a commission, percentage, brokerage, or contingent fee, except a bona fide employee or established commercial or selling agency maintained by him to obtain business. If a contractor breaks such a warranty the United States may annul the contract without liability or may deduct the commission, percentage, brokerage, or contingent fee from the contract price or consideration.

(c) No cost contract, cost-plus-a-fixed-fee contract, or incentive contract may be made under section 2304 of this title, unless the head of the agency determines that such a contract is likely to be less costly to the United States than any other kind of contract or that it is impracticable to obtain property or services of the kind or quality required except under such a contract.

(d) The fee for performing a cost-plus-a-fixed-fee contract for experimental, developmental, or research work may not be more than 15 percent of the estimated cost of the contract, not including the fee. The fee for performing a cost-plus-a-fixed-fee contract for architectural or engineering services for a public work or utility plus the cost of those services to the contractor may not be more than 6 percent of the estimated cost of that work or project, not including fees. The fee for performing any other cost-plus-a-fixed-fee contract may not be more than 10 percent of the estimated cost of the contract, not including the fee. Determinations under this subsection of the estimated costs of a contract or project shall be made by the head of the agency at the time the contract is made.

(e) Each cost contract and each cost-plus-a-fixed-fee contract shall provide for notice to the agency by the contractor before the making, under the prime contract, of—

(1) a cost-plus-a-fixed-fee subcontract; or

(2) a fixed-price subcontract or purchase order involving more than $25,000 or 5 percent of the estimated cost of the prime contract.

§ 2307. Advance payments

(a) Under terms agreed upon by the parties, the head of an agency may make advance payments in any amount on a negotiated contract, whether or not the contract previously provided for such payments, if—

(1) the contractor gives adequate security; and

(2) the head of the agency determines that advance payments are in the public interest or the interest of national defense and are necessary for the procurement of the property or services under the contract.

The total amount of advance payments on any contract may not be more than the contract price.

(b) The terms governing advance payments under subsection (a) may provide for a lien in favor of the United States on—

(1) the property contracted for;

(2) the credit balance in any special account in which the advance payments are deposited; and

(3) such of the material and other property acquired for performance of the contract as may be agreed upon by the parties.

Upon inclusion of such a provision, a lien is created that is paramount to any other lien.

§ 2308. Assignment and delegation of procurement functions and responsibilities

Subject to section 2311 of this title, to facilitate the procurement of property and services covered by this chapter by each agency named in section 2303 of this title for any other agency, and to facilitate joint procurement by those agencies—

(1) the head of an agency may, within his agency, delegate functions and assign responsibilities relating to procurement;

(2) the heads of two or more agencies may by agreement delegate procurement functions and assign procurement responsibilities from one agency to another of those agencies or to an officer or civilian employee of another of those agencies; and

(3) the heads of two or more agencies may create joint or combined offices to exercise procurement functions and responsibilities.

§ 2309. Allocation of appropriations

(a) Appropriations available for procurement by an agency named in section 2303 of this title may, through administrative allotment, be made available for obligation for procurement by any other agency in amounts authorized by the head of the allotting agency and without transfer of funds on the books of the Department of the Treasury.

(b) A disbursing officer of the allotting agency may make any disbursement chargeable to an allotment under subsection (a) upon a voucher certified by an officer or civilian employee of the procuring agency.

§ 2310. Determinations and decisions

(a) Determinations and decisions required to be made under this chapter by the head of an agency may be made for an individual purchase or contract or for a class of purchases or contracts. Such a determination or decision is final.

(b) Each determination or decision under clauses (11)–(16) of section 2304 (a), section 2306, or section 2307 (a) of this title shall be based on a written finding by the person making the determination or decision. Such a finding is final and shall be kept available in the agency for at least six years after the date of the determination or decision. A copy of the finding shall be submitted to the General Accounting Office with each contract to which it applies.

§ 2311. Delegation

The head of an agency may delegate, subject to his direction, to any other officer or official of that agency, any power under this chapter except the power to make determinations and decisions under clauses (11)–(16) of section 2304 (a), or section 2307 (a) of this title. However, the power to make a determination or decision under section 2304 (a) (11) of this title may be delegated only to a chief officer or official of that agency who is responsible for procurement, and only for contracts requiring the expenditure of not more than $25,000.

§ 2312. Remission of liquidated damages

Upon the recommendation of the head of an agency, the Comptroller General may remit all or part, as he considers just and equitable, of any liquidated damages assessed for delay in performing a contract, made by that agency, that provides for such damages.

§ 2313. Examination of books and records of contractor

(a) An agency named in section 2303 of this title is entitled, through an authorized representative, to inspect the plant and audit the books and records of—

(1) a contractor performing a cost or cost-plus-a-fixed-fee contract made by that agency under this chapter; and

(2) a subcontractor performing any subcontract under a cost or cost-plus-a-fixed-fee contract made by that agency under this chapter.

(b) Each contract negotiated under this chapter shall provide that the Comptroller General and his representatives are entitled, until the expiration of three years after final payment, to examine any books, documents, papers, or records of the contractor, or any of his subcontractors, that directly pertain to, and involve transactions relating to, the contract or subcontract.

§ 2314. Laws inapplicable to agencies named in section 2303 of this title

Sections 5, 6, 6a, and 13 of title 41 do not apply to the procurement of property or services by the agencies named in section 2303 of this title.

CHAPTER 139.—RESEARCH AND DEVELOPMENT

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2351. Policy, plans, and coordination.
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2354. Contracts: indemnification provisions.
2355. Contracts: vouchering procedures.
2356. Contracts: delegations.
2357. Contracts: reports to Congress.

§ 2351. Policy, plans, and coordination

The Secretary of Defense shall keep informed on the status of scientific research relating to the national security, and shall make adequate provision for research and development on scientific problems relating to the national security. He shall—

(1) prepare a complete and integrated program of research and development for military purposes;

(2) keep informed on trends in scientific research relating to the national security and the measures necessary to assure continued and increasing progress;

(3) coordinate research and development among the military departments and allocate responsibility for specific programs among those departments;

(4) formulate policy for the Department of Defense on research and development involving agencies outside the Department of Defense; and

(5) consider the interaction of research and development and strategy and instruct the Joint Chiefs of Staff thereon.

§ 2352. Contracts: limited to five-year terms

Subject to availability of appropriations, contracts of a military department for services and the use of facilities for research or development, or both, may be for a term of not more than five years, and may be extended for not more than five additional years.

§ 2353. Contracts: acquisition, construction, or furnishing of test facilities and equipment

(a) A contract of a military department for research or development, or both, may provide for the acquisition or construction by, or furnishing to, the contractor, of research, developmental, or test facilities and equipment that the Secretary of the military department concerned determines to be necessary for the performance of the contract. The facilities and equipment, and specialized housing for them, may be acquired or constructed at the expense of the United States, and may be lent or leased to the contractor with or without reimbursement, or may be sold to him at fair value. This subsection does not authorize new construction or improvements having general utility.

(b) Facilities that would not be readily removable or separable without unreasonable expense or unreasonable loss of value may not be installed or constructed under this section on property not owned by the United States, unless the contract contains—

(1) a provision for reimbursing the United States for the fair value of the facilities at the completion or termination of the contract or within a reasonable time thereafter;

(2) an option in the United States to acquire the underlying land; or

(3) an alternative provision that the Secretary concerned considers to be adequate to protect the interests of the United States in the facilities.

(c) Proceeds of sales or reimbursements under this section shall be paid into the Treasury as miscellaneous receipts, except to the extent otherwise authorized by law with respect to property acquired by the contractor.

§ 2354. Contracts: indemnification provisions

(a) With the approval of the Secretary of the military department concerned, any contract of a military department for research or development, or both, may provide that the United States will indemnify the contractor against either or both of the following, but only to the extent that they arise out of the direct performance of the contract and to the extent not compensated by insurance or otherwise:

(1) Claims (including reasonable expenses of litigation or settlement) by third persons, including employees of the contractor, for death, bodily injury, or loss of or damage to property, from a risk that the contract defines as unusually hazardous.

(2) Loss of or damage to property of the contractor from a risk that the contract defines as unusually hazardous.

(b) A contract, made under subsection (a), that provides for indemnification must also provide for—

(1) notice to the United States of any claim or suit against the contractor for the death, bodily injury, or loss of or damage to property; and

(2) control of or assistance in the defense by the United States, at its election, of that suit or claim.

(c) No payment may be made under subsection (a) unless the Secretary of the department concerned, or an officer or official of his department designated by him, certifies that the amount is just and reasonable.

(d) Upon approval by the Secretary concerned, payments under subsection (a) may be made from—

(1) funds obligated for the performance of the contract concerned;

(2) funds available for research or development, or both, and not otherwise obligated; or

(3) funds appropriated for those payments.

§ 2355. Contracts: vouchering procedures

Notwithstanding any law relating to the expenditure of and accounting for public funds, the Secretary of each military department may, with the approval of the Secretary of Defense and the Comptroller General, prescribe by regulation the extent to which vouchers for funds spent under a contract of his department for research or development, or both, must be itemized, substantiated, or certified before payment.

§ 2356. Contracts: delegations

(a) The Secretary of a military department may delegate any authority under section 1584, 2353, 2354, or 2355 of this title to—

(1) the Under Secretary of his department;

(2) an Assistant Secretary of his department; or

(3) the chief, and one assistant to the chief, of any technical service, bureau, or office.

However, the authority of the Secretary under section 2353 (b) (3) of this title may not be delegated to a person described in clause (3) of this subsection.

(b) Subject to other provisions of law, the power to negotiate and administer contracts for research or development, or both, may be further delegated. In this section "negotiate" means make without the formal advertising prescribed by section 2305 (a) and (b) of this title.

§ 2357. Contracts: reports to Congress

The Secretary of each military department shall report to Congress on contracts for research or development, or both, made during each six-month period ending on January 16 or July 16. The report shall—

(1) list each of those contracts in which the cost to the United States will be more than $50,000; and

(2) contain specific information on each contract described in clause (1), but may omit any information if the Secretary considers that its disclosure would be detrimental to the national security.

CHAPTER 141.—MISCELLANEOUS PROCUREMENT PROVISIONS

Sec.
2381. Contracts: regulations for bids.
2382. Aircraft: contract requirements.
2383. Emergency purchases: war material abroad.
2384. Supplies: marking with name of contractor.
2385. Arms and ammunition: immunity from taxation.
2386. Copyrights, patents, designs, etc.; acquisition.

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§ 2381. Contracts: regulations for bids

(a) The Secretary of a military department may—

(1) prescribe regulations for the preparation, submission, and opening of bids for contracts with that department; and

(2) require that a bid be accompanied by a written guaranty, signed by one or more responsible persons, undertaking that the bidder, if his bid is accepted, will, within the time prescribed by the Secretary or other officer authorized to make the contract, make a contract and furnish a bond with good and sufficient sureties for the performance of the contract.

(b) If a bidder, after being notified of the acceptance of his bid, fails within the time prescribed under subsection (a) (2) to enter into a contract and furnish the prescribed bond, the Secretary concerned or other authorized officer shall—

(1) contract with another person; and

(2) charge against the defaulting bidder and his guarantors the difference between the amount specified by the bidder in his bid and the amount for which a contract is made with the other person, this difference being immediately recoverable by the United States for the use of the military department concerned in an action against the bidder and his guarantors, jointly or severally.

(c) Proceedings under this section are subject to regulations under section 486 of title 40, unless exempted therefrom under section 481 (a) of that title.

§ 2382. Aircraft: contract requirements

(a) The Secretary of a military department may not contract for the manufacture of all or part of any complete aircraft, 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 military department concerned, 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 military department concerned. 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 12 percent of the total contract price for contracts covered by this section and completed by a contractor or 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 military department concerned. 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, or a net profit of less than 12 percent, 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 succeeding four taxable years.

(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 military department concerned 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.

§ 2383. Emergency purchases: war material abroad

The Secretary of a military department may make emergency purchases of war material abroad. Material so purchased shall be admitted free of duty.

§ 2384. Supplies: marking with name of contractor

Each contractor furnishing supplies to a military department shall mark them with his name in the manner directed by the Secretary of that department. No supplies may be received unless so marked.

§ 2385. Arms and ammunition: immunity from taxation

No tax on the sale or transfer of firearms, pistols, revolvers, shells, or cartridges may be imposed on such articles when bought with funds appropriated for a military department.

§ 2386. Copyrights, patents, designs, etc.; acquisition

Funds appropriated for a military department available for making or procuring supplies may be used to acquire any of the following if the acquisition relates to supplies or processes produced or used by or for, or useful to, that department:

(1) Copyrights, patents, and applications for patents.

(2) Licenses under copyrights, patents, and applications for patents.

(3) Designs, processes, and manufacturing data.

(4) Releases, before suit is brought, for past infringement of patents.

CHAPTER 143.—PRODUCTION BY MILITARY AGENCIES

Sec.

2421. Plantations and farms: operation, maintenance, and improvement.

§ 2421. Plantations and farms: operation, maintenance, and improvement

(a) Appropriations for the subsistence of members of the Army, Navy, Air Force, or Marine Corps are available for expenditures necessary in the operation, maintenance, and improvement of any plantation or farm, outside the United States and under the jurisdiction of the Army, Navy, Air Force, or Marine Corps, as the case may be, for furnishing fresh fruits and vegetables to the armed forces. However, no land may be acquired under this subsection.

(b) Fruits and vegetables produced under subsection (a) that are over the amount furnished or sold to the armed forces or to civilians serving with the armed forces may be sold only outside the United States.

(c) Of the persons employed by the United States under subsection (a), only nationals of the United States are entitled to the benefits provided by laws relating to the employment, work, compensation, or other benefits of civilian employees of the United States.

(d) A plantation or farm covered by subsection (a) shall be operated, maintained, and improved by a private contractor or lessee, so far as practicable. Before using members of the Army, Navy, Air Force, or Marine Corps, as the case may be, the Secretary concerned must make a reasonable effort to make a contract or lease with a person in civil life for his services for that operation, maintenance, or improvement, on terms advantageous to the United States. A determination by the Secretary as to the reasonableness of effort to make a contract or lease, and as to the advantageous nature of its terms, is final.

CHAPTER 145.—CATALOGING AND STANDARDIZATION

Sec.

2451. Defense supply management.
2452. Duties of Secretary of Defense.
2453. Supply catalog: distribution and use.
2454. Supply catalog: new or obsolete items.
2455. Reports to Congress.
2456. Coordination with General Services Administration.

§ 2451. Defense supply management

(a) The Secretary of Defense shall develop a single catalog system and related program of standardizing supplies for the Department of Defense.

(b) In cataloging, the Secretary shall name, describe, classify, and number each item recurrently used, bought, stocked, or distributed by the Department of Defense, so that only one distinctive combination of letters or numerals, or both, identifies the same item throughout the Department of Defense. Only one identification may be used for each item for all supply functions from purchase to final disposal in the field or other area. The catalog may consist of a number of volumes, sections, or supplements. It shall include all items of supply and, for each item, information needed for supply operations, such as descriptive and performance data, size, weight, cubage, packaging

and packing data, a standard quantitative unit of measurement, and other related data that the Secretary determines to be desirable.

(c) In standardizing supplies the Secretary shall, to the highest degree practicable—

(1) standardize items used throughout the Department of Defense by developing and using single specifications, eliminating overlapping and duplicate specifications, and reducing the number of sizes and kinds of items that are generally similar;

(2) standardize the methods of packing, packaging, and preserving standardized items; and

(3) make efficient use of the services and facilities for inspecting, testing, and accepting those items.

§ 2452. Duties of Secretary of Defense

The Secretary of Defense shall—

(1) develop and maintain the supply catalog, and the standardization program, described in section 2451 of this title;

(2) direct and coordinate progressive use of the supply catalog in all supply functions within the Department of Defense from the determination of requirements through final disposal;

(3) direct, review, and approve—

(A) the naming, description, and pattern of description of all items;

(B) the screening, consolidation, classification, and numbering of descriptions of all items; and

(C) the publication and distribution of the supply catalog;

(4) maintain liaison with industry advisory groups to coordinate the development of the supply catalog and the standardization program with the best practices of industry and to obtain the fullest practicable cooperation and participation of industry in developing the supply catalog and the standardization program;

(5) establish, publish, review, and revise, within the Department of Defense, military specifications, standards, and lists of qualified products, and resolve differences between the military departments, bureaus, and services with respect to them;

(6) assign responsibility for parts of the cataloging and the standardization programs to the military departments, bureaus, and services within the Department of Defense, when practical and consistent with their capacity and interest in those supplies;

(7) establish time schedules for assignments made under clause (6); and

(8) make final decisions in all matters concerned with the cataloging and standardization programs.

§ 2453. Supply catalog: distribution and use

The Secretary of Defense shall distribute the parts of the supply catalog described in section 2451 of this title as they are completed. Existing catalogs shall be replaced according to schedules established by the Secretary. After replacement no other supply catalog may be used within the Department of Defense with respect to the kinds of items covered by that part. All property reports and records shall use the nomenclature, item numbers, and descriptive data of the supply catalog.

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§ 2454. Supply catalog: new or obsolete items

(a) After any part of the supply catalog described in section 2451 of this title is distributed, and with respect to the kinds of items covered by that part, only the items listed in it may be procured for recurrent use in the Department of Defense. However, a military department may acquire any new item that is necessary to carry out its mission. As soon as such an item is acquired, it shall be submitted to the Secretary for inclusion in the catalog and the standardization program.

(b) Obsolete items may be deleted from the catalog at any time.

§ 2455. Reports to Congress

(a) The Secretary of Defense shall send to the Committees on Armed Services of the Senate and the House of Representatives, on January 31 and July 31 of each year, a progress report on cataloging under this chapter from each military department. Each report shall cover the six-month period ending with the preceding June 30 or December 31, whichever was later. The report shall contain—

(1) the number of sections or parts of the supply catalog that have been published, and their titles;

(2) the number of item identification numbers in the catalog that have replaced, for all supply purposes, former item identifications or stock or catalog numbers;

(3) the reduction in the number of separate item identifications; and

(4) any other information that the Secretary considers will best inform Congress of the status of the cataloging program.

(b) The Secretary shall report to the Committees on Armed Services of the Senate and the House of Representatives, on January 31 and July 31 of each year, on the progress of the standardization program within the military departments. Each report shall cover the six-month period ending with the preceding June 30 or December 31, whichever was later. The report shall contain—

(1) the number of separate specifications that have been consolidated into single specifications for use throughout the Department of Defense;

(2) the reduction in the number of sizes or kinds of items that are generally similar;

(3) the duplications eliminated in services, space, and facilities; and

(4) any other information that the Secretary considers will best inform Congress of the progress of the standardization program.

(c) The Secretary may combine the reports required by subsections (a) and (b).

§ 2456. Coordination with General Services Administration

To avoid unnecessary duplication, the Administrator of General Services and the Secretary of Defense shall coordinate the cataloging and standardization activities of the General Services Administration and the Department of Defense.

CHAPTER 147.—UTILITIES AND SERVICES

Sec.

2481. Utilities and services: sale; expansion and extension of systems and facilities.
2482. Commissary stores: private operation.

§ 2481. Utilities and services: sale; expansion and extension of systems and facilities

(a) Under such regulations and for such periods and at such prices as he may prescribe, the Secretary of a military department or his designee may sell or contract to sell to purchasers within or in the immediate vicinity of an activity of the Army, Navy, Air Force, or Marine Corps, as the case may be, any of the following utilities and related services, if it is determined that they are not available from another local source and that the sale is in the interest of national defense or in the public interest:

(1) Electric power.
(2) Steam.
(3) Compressed air.
(4) Water.
(5) Sewage and garbage disposal.
(6) Natural, manufactured, or mixed gas.
(7) Ice.
(8) Mechanical refrigeration.
(9) Telephone service.

(b) Proceeds of sales under subsection (a) shall be credited to the appropriation currently available for the supply of that utility or service.

(c) To meet local needs the Secretary of the military department concerned may make minor expansions and extensions of any distributing system or facility within an activity through which a utility or service is furnished under subsection (a).

§ 2482. Commissary stores: private operation

Private persons may operate commissary stores under such regulations as the Secretary of Defense may approve.

CHAPTER 149.—ISSUE TO ARMED FORCES

Sec.

2511. Reserve components: supplies, services, and facilities.

§ 2511. Reserve components: supplies, services, and facilities

(a) The Secretary concerned shall make available to the reserve components under his jurisdiction the supplies, services, and facilities of the armed forces under his jurisdiction that he considers necessary to support and develop those components.

(b) Whenever he finds it to be in the best interest of the United States, the Secretary concerned or his representative may issue supplies of the armed forces under his jurisdiction to the reserve components under his jurisdiction, without charge to the appropriations for those components for the cost or value of the supplies or for any related expense.

(c) Whenever he finds it to be in the best interest of the United States, the Secretary of the Army or the Secretary of the Air Force,

or his representative, may issue to the Army National Guard or the Air National Guard, as the case may be, supplies of the armed forces under his jurisdiction that are in addition to supplies issued to that National Guard under section 702 of title 32 or charged against its appropriations under section 106 or 107 of title 32, without charge to the appropriations for those components for the cost or value of the supplies or for any related expense.

(d) Supplies issued under subsection (b) or (c) may be repossessed or redistributed as prescribed by the Secretary concerned.

CHAPTER 151.—ISSUE OF SERVICEABLE MATERIAL OTHER THAN TO ARMED FORCES

Sec.

2541. Equipment and barracks: national veterans' organizations.
2542. Equipment for instruction and practice: American National Red Cross.

§ 2541. Equipment and barracks: national veterans' organizations

(a) The Secretary of a military department, under conditions prescribed by him, may lend cots, blankets, pillows, mattresses, bed sacks, and other supplies under the jurisdiction of that department to any recognized national veterans' organization for use at its national or state convention or national youth athletic or recreation tournament. He may, under conditions prescribed by him, also permit the organization to use unoccupied barracks under the jurisdiction of that department for such an occasion.

(b) Property lent under subsection (a) may be delivered on terms and at times agreed upon by the Secretary of the military department concerned and representatives of the veterans' organization. However, the veterans' organization must defray any expense incurred by the United States in the delivery, return, rehabilitation, or replacement of that property, as determined by the Secretary.

(c) The Secretary of the military department concerned shall require a good and sufficient bond for the return in good condition of property lent or used under subsection (a).

§ 2542. Equipment for instruction and practice: American National Red Cross

The Secretary of a military department, under regulations to be prescribed by him, may lend equipment under the jurisdiction of that department that is on hand, and that can be temporarily spared, to any organization formed by the American National Red Cross that needs it for instruction and practice for the purpose of aiding the Army, Navy, or Air Force in time of war. The Secretary shall by regulation require the immediate return, upon request, of equipment lent under this section. The Secretary shall require a bond, in double the value of the property issued under this section, for the care and safekeeping of that property and for its return when required.

CHAPTER 153.—EXCHANGE OF MATERIAL AND DISPOSAL OF OBSOLETE, SURPLUS, OR UNCLAIMED PROPERTY

Sec.

2571. Interchange of supplies and services.
2572. Condemned or obsolete material: loan or gift to certain organizations.
2573. Excess property: transfers to Canal Zone Government.
2574. Armament: sale of individual pieces.
2575. Disposition of unclaimed property.

§ 2571. Interchange of supplies and services

(a) If its head approves, a department or organization within the Department of Defense may, upon request, perform work and services for, or furnish supplies to, any other of those departments or organizations, without reimbursement or transfer of funds.

(b) If military or civilian personnel of a department or organization within the Department of Defense are assigned or detailed to another of those departments or organizations, and if the head of the department or organization to which they are transferred approves, their pay and allowances and the cost of transporting their dependents and household goods may be charged to an appropriation that is otherwise available for those purposes to that department or organization.

§ 2572. Condemned or obsolete material: loan or gift to certain organizations

Subject to regulations under section 486 of title 40, the Secretary of a military department, or the Secretary of the Treasury, under regulations to be prescribed by him, may lend or give, without expense to the United States, books, manuscripts, works of art, drawings, plans, models, and condemned or obsolete combat material that are not needed by that department to—

(1) a municipal corporation;
(2) a soldiers' monument association;
(3) a State museum;
(4) an incorporated museum, operated and maintained for educational purposes only, whose charter denies it the right to operate for profit;
(5) a post of the Veterans of Foreign Wars of the United States;
(6) a post of the American Legion;
(7) a local unit of any other recognized war veterans' association; or
(8) a post of the Sons of Veterans Reserve.

§ 2573. Excess property: transfers to Canal Zone Government

A military department may transfer to the Canal Zone Government, without reimbursement and regardless of location, any supplies, including tools, structures, vessels, and floating equipment, that are excess property as defined by section 472 (e) of title 40 and have been certified by the Governor of the Canal Zone as necessary for the care, maintenance, operation, improvement, sanitation, or government of the Canal Zone.

§ 2574. Armament: sale of individual pieces

A piece of armament that can be advantageously replaced, and that is not needed for its historical value, may be sold by the military department having jurisdiction over it for not less than cost, if the Secretary concerned considers that there are adequate sentimental reasons for the sale.

§ 2575. Disposition of unclaimed property

(a) The Secretary of any military department, and the Secretary of the Treasury, under such regulations as they may respectively prescribe, may each by public or private sale or otherwise, dispose of all lost, abandoned, or unclaimed personal property that comes into the custody or control of his department, other than property subject to section 4712, 4713, 6522, 9712, or 9713 of this title or subject to subsection (c) of this section. However, property may not be disposed of until diligent effort has been made to find the owner, his heirs or next of kin, or his legal representative, nor until one year after the date when the property is received at a storage point designated by the Secretary. If the owner, his heirs or next of kin, or his legal representative is determined but not found, the property may not be disposed of until the expiration of 120 days after the date when notice, giving the time and place of the intended sale or other disposition, has been sent by registered mail to that person at his last known address.

(b) The net proceeds from the sale of property under this section shall be covered into the Treasury as miscellaneous receipts. The owner, his heirs or next of kin, or his legal representative may file a claim for those proceeds with the General Accounting Office within five years after the date of the disposal of the property. If not filed within that period, such a claim may not be considered by a court or the General Accounting Office.

(c) No property covered by this section may be delivered to the Soldiers' Home by the Secretary of the Army or the Secretary of the Air Force, except papers of value, sabers, insignia, decorations, medals, watches, trinkets, manuscripts, and other articles valuable chiefly as keepsakes. The Home shall deliver the property to the owner, his heirs or next of kin, or his legal representative, if he establishes a right to it within two years after its receipt by the Home.

CHAPTER 155.—ACCEPTANCE OF GIFTS AND SERVICES

Sec.
2601. General gift funds.
2602. American National Red Cross: cooperation and assistance.

§ 2601. General gift funds

(a) The Secretary concerned may accept, hold, administer, and spend any gift, devise, or bequest of real or personal property, made on the condition that it be used for the benefit, or in connection with the establishment, operation, or maintenance, of a school, hospital, library, museum, cemetery, or other institution or organization under the jurisdiction of his department. He may pay all necessary ex-

penses in connection with the conveyance or transfer of a gift, devise, or bequest made under this subsection.

(b) Gifts and bequests of money, and the proceeds of the sale of property, received under subsection (a) shall be deposited in the Treasury in the fund called—

(1) "Department of the Army General Gift Fund", in the case of deposits of that department;

(2) "Department of the Navy General Gift Fund", in the case of deposits of that department;

(3) "Department of the Air Force General Gift Fund", in the case of deposits of that department: and

(4) "Coast Guard General Gift Fund", in the case of deposits of the Secretary of the Treasury.

The Secretary concerned may disburse funds deposited under this subsection for the benefit or use of the designated institution or organization, subject to the terms of the gift, devise, or bequest.

(c) For the purposes of Federal income, estate, and gift taxes, property that is accepted under subsection (a) shall be considered as a gift, devise, or bequest to or for the use of the United States.

(d) The Secretary of the Treasury, upon the request of the Secretary of a military department, may retain money, securities, and the proceeds of the sale of securities, in the gift fund of the department concerned, and may invest money and reinvest the proceeds of the sale of securities in that fund in securities of the United States or in securities guaranteed as to principal and interest by the United States. The Secretary of the Treasury may do likewise with respect to the Coast Guard General Gift Fund. The interest and profits accruing from those securities shall be deposited to the credit of the gift fund of the department concerned and may be disbursed as provided in subsection (b).

§ 2602. American National Red Cross: cooperation and assistance

(a) Whenever the President finds it necessary, he may accept the cooperation and assistance of the American National Red Cross, and employ it under the armed forces under regulations to be prescribed by the Secretary of Defense.

(b) Personnel of the American National Red Cross who are performing duties in connection with its cooperation and assistance under subsection (a) may be furnished—

(1) transportation, at the expense of the United States, while traveling to and from, and while performing, those duties, in the same manner as civilian employees of the armed forces;

(2) meals and quarters, at their expense or at the expense of the American National Red Cross, except that where civilian employees of the armed forces are quartered without charge, employees of the American National Red Cross may also be quartered without charge; and

(3) available office space, warehousing, wharfage, and means of communication, without charge.

(c) No fee may be charged for a passport issued to an employee of the American National Red Cross for travel outside the United States to assume or perform duties under this section.

(d) Supplies of the American National Red Cross, including gifts for the use of the armed forces, may be transported at the expense of the United States, if it is determined under regulations prescribed under subsection (a) that they are necessary to the cooperation and assistance accepted under this section.

(e) For the purposes of this section, employees of the American National Red Cross may not be considered as employees of the United States.

CHAPTER 157.—TRANSPORTATION

Sec.

2631. Supplies: preference to United States vessels.
2632. Transportation to and from certain places of employment.

§ 2631. Supplies: preference to United States vessels

Only vessels of the United States or belonging to the United States may be used in the transportation by sea of supplies bought for the Army, Navy, Air Force, or Marine Corps. However, if the President finds that the freight charged by those vessels is excessive or otherwise unreasonable, contracts for transportation may be made as otherwise provided by law. Charges made for the transportation of those supplies by those vessels may not be higher than the charges made for transporting like goods for private persons.

§ 2632. Transportation to and from certain places of employment

(a) Whenever the Secretary of a military department determines that it is necessary for the effective conduct of the affairs of that department, he may, at reasonable rates of fare fixed under regulations to be prescribed by him, provide assured and adequate transportation by motor vehicle or water carrier to and from their places of employment for persons attached to, or employed in, that department, and during a war or during a national emergency declared by Congress or the President, for persons attached to, or employed in, a private plant that is manufacturing material for that department.

(b) Transportation may not be provided under subsection (a) unless the Secretary of the military department concerned, or an officer of the department concerned designated by the Secretary, determines that—

(1) other facilities are inadequate and cannot be made adequate;

(2) a reasonable effort has been made to induce operators of private facilities to provide the necessary transportation; and

(3) the service to be furnished will make proper use of transportation facilities and will supply the most efficient transportation to the persons concerned.

(c) To provide transportation under subsection (a), the department may—

(1) buy, lease, or charter motor vehicles or water carriers having a seating capacity of 12 or more passengers;

(2) maintain and operate that equipment by—

(A) enlisted members of the Army, Navy, Air Force or Marine Corps, as the case may be;

(B) employees of the department concerned; and

(C) private persons under contract; and

(3) lease or charter the equipment to private or public carriers for operation under terms that are considered necessary by the Secretary or by an officer of the department designated by the Secretary, and that may provide for the pooling of Government-owned and privately owned equipment and facilities and for the reciprocal use of that equipment.

(d) Fares received under subsection (a), and proceeds of the leasing or chartering of equipment under subsection (c) (3), shall be covered into the Treasury as miscellaneous receipts.

CHAPTER 159.—REAL PROPERTY; RELATED PERSONAL PROPERTY; AND LEASE OF NON-EXCESS PROPERTY

Sec.

2661. Planning and construction of public works projects by military departments.
2662. Real property transactions: agreement with Armed Services Committees; reports.
2663. Acquisition.
2664. Acquisition of property for lumber production.
2665. Sale of certain interests in land; logs.
2666. Acquisition: land purchase contracts; limitation on commission.
2667. Leases: non-excess property.
2668. Easements for rights-of-way.
2669. Easements for rights-of-way: gas, water, sewer pipe lines.
2670. Licenses: military installations; erection and use of buildings; American National Red Cross.

§ 2661. Planning and construction of public works projects by military departments

The Secretary of Defense shall maintain direct surveillance over the planning and construction of public works projects by the military departments. The Secretary shall keep currently and fully informed of the status, progress, and cost of, and other pertinent matters concerning, those projects.

§ 2662. Real property transactions: agreement with Armed Services Committees; reports

(a) The Secretary of a military department, or his designee, must come to an agreement with the Committees on Armed Services of the Senate and the House of Representatives before entering into any of the following transactions by or for the use of that department:

(1) An acquisition of fee title to any real property, if the estimated price is more than $25,000.

(2) A lease of any real property to the United States, if the estimated annual rental is more than $25,000.

(3) A lease of real property owned by the United States, if the estimated annual rental is more than $25,000.

(4) A transfer of real property owned by the United States to another Federal agency or another military department or to a State, if the estimated value is more than $25,000.

(5) A report of excess real property owned by the United States to a disposal agency, if the estimated value is more than $25,000.

If a transaction covered by clause (1) or (2) is part of a project, the agreement must be based on the general plan for that project, in-

cluding an estimate of the total cost of the lands to be acquired or leases to be made.

(b) The Secretary of each military department shall report quarterly to the Committees on Armed Services of the Senate and the House of Representatives on transactions described in subsection (a) that involve an estimated value of more than $5,000 but not more than $25,000.

(c) This section applies only to real property in the United States, Alaska, Hawaii, and Puerto Rico. It does not apply to real property for river and harbor projects or flood-control projects, or to leases of Government-owned real property for agricultural or grazing purposes.

(d) A statement in an instrument of conveyance, including a lease, that the requirements of this section have been met, or that the conveyance is not subject to this section, is conclusive.

§ 2663. Acquisition

(a) The Secretary of a military department may have proceedings brought in the name of the United States, in a court of proper jurisdiction, to acquire by condemnation any interest in land, including temporary use, needed for—

(1) the site, construction, or operation of fortifications, coast defenses, or military training camps;

(2) the construction and operation of plants for the production of nitrate and other compounds, and the manufacture of explosives or other munitions of war; or

(3) the development and transmission of power for the operation of plants under clause (2).

Proceedings under this subsection shall be in accordance with the law of the State in which the suit is brought.

(b) In time of war or when war is imminent, the United States may, immediately upon the filing of a petition for condemnation under subsection (a), take and use the land to the extent of the interest sought to be acquired.

(c) The Secretary of the military department concerned may contract for or buy any interest in land, including temporary use, needed for any purpose named in subsection (a), as soon as the owner fixes a price for it and the Secretary considers that price to be reasonable.

(d) The Secretary of the military department concerned may accept for the United States a gift of any interest in land, including temporary use, for any purpose named in subsection (a).

§ 2664. Acquisition of property for lumber production

(a) The Secretary of a military department, the Secretary of Commerce, and the Chairman of the Federal Maritime Board, or any one or more of them, may have proceedings brought in the name of the United States to acquire by condemnation any interest in property named in subsection (b) and needed for—

(1) the production of aircraft, vessels, dry docks, or equipment for them;

(2) the procurement of supplies for aircraft, vessels, and dry docks; or

(3) housing for persons employed by the United States in connection with functions of the Army, Navy, Air Force, or Marine Corps, or the functions transferred to the Secretary of Commerce

or the Federal Maritime Board by 1950 Reorganization Plan No. 21, effective May 24, 1950 (64 Stat. 1273), as the case may be. Proceedings under this subsection shall be in accordance with the laws of the State in which the suit is brought.

(b) The kinds of property that may be acquired by condemnation under subsection (a) are—

(1) standing or fallen timber;
(2) sawmills;
(3) camps;
(4) machinery;
(5) logging roads;
(6) rights-of-way;
(7) supplies; and
(8) works, property, or appliances suitable for the production of lumber and timber products.

(c) Jurisdiction over condemnation proceedings under this section is vested in the United States District Court for the district in which the property, or any part of it, sought to be condemned is located, regardless of its value.

(d) In time of war or when war is imminent, the United States may, immediately upon the filing of a petition for condemnation under subsection (a), take and use the property to the extent of the interest sought to be acquired.

(e) A person named in subsection (a) may contract for or buy any interest in property needed for any purpose named in subsection (a), as soon as the owner fixes a price for it and that person considers that price to be reasonable.

(f) A person named in subsection (a) may accept for the United States a gift of any property named in subsection (b) for any purpose named in subsection (a).

§ 2665. Sale of certain interests in land; logs

(a) The President, through an executive department or the Federal Maritime Board, may sell to any person or foreign government any interest in land that is acquired under section 2664 of this title for the production of lumber or timber products, except land under the control of the Department of the Army or the Department of the Air Force.

(b) The President, through an executive department or the Federal Maritime Board, may sell to any person or foreign government any logs wholly or partly manufactured by, or otherwise procured for, the Army, Navy, Air Force, or Federal Maritime Board.

(c) Sales under subsection (a) or (b) shall be at prices determined by the President acting through the selling agency.

(d) Proceeds of sales under subsection (a) or (b) shall be credited to the appropriations under which the property was procured.

§ 2666. Acquisition: land purchase contracts; limitation on commission

The maximum amount payable as commission on a contract for the purchase of land from funds appropriated for the Department of Defense is 2 percent of the purchase price.

§ 2667. Leases: non-excess property

(a) Whenever the Secretary of a military department considers it advantageous to the United States, he may lease to such lessee and upon such terms as he considers will promote the national defense or be in the public interest, real or personal property that is—

(1) under the control of that department;

(2) not for the time needed for public use; and

(3) not excess property, as defined by section 472 of title 40.

(b) A lease under subsection (a)—

(1) may not be for more than five years, unless the Secretary concerned determines that a lease for a longer period will promote the national defense or be in the public interest;

(2) may give the lessee the first right to buy the property if the lease is revoked to allow the United States to sell the property under any other provision of law;

(3) must permit the Secretary to revoke the lease at any time, unless he determines that the omission of such a provision will promote the national defense or be in the public interest;

(4) must be revocable by the Secretary during a national emergency declared by the President; and

(5) may provide, notwithstanding section 303b of title 40 or any other provision of law, for the maintenance, protection, repair, or restoration, by the lessee, of the property leased, or of the entire unit or installation where a substantial part of it is leased, as part or all of the consideration for the lease.

(c) This section does not apply to oil, mineral, or phosphate lands.

(d) Money rentals received by the United States directly from a lease under this section shall be covered into the Treasury as miscellaneous receipts. Payments for utilities or services furnished to the lessee under such a lease by the department concerned may be covered into the Treasury to the credit of the appropriation from which the cost of furnishing them was paid.

(e) The interest of a lessee of property leased under this section may be taxed by State or local governments. A lease under this section shall provide that, if and to the extent that the leased property is later made taxable by State or local governments under an act of Congress, the lease shall be renegotiated.

§ 2668. Easements for rights-of-way

(a) If the Secretary of a military department finds that it will not be against the public interest, he may grant, upon such terms as he considers advisable, easements for rights-of-way over, in, and upon public lands permanently withdrawn or reserved for the use of that department, and other lands under his control, to a State, Territory, Commonwealth, or possession, or political subdivision thereof, or to a citizen, association, partnership, or corporation of a State, Territory, Commonwealth, or possession, for—

(1) railroad tracks;

(2) oil pipe lines;

(3) substations for electric power transmission lines, telephone lines, and telegraph lines, and pumping stations for gas, water, sewer, and oil pipe lines;

(4) canals;
(5) ditches;
(6) flumes;
(7) tunnels;
(8) dams and reservoirs in connection with fish and wildlife programs, fish hatcheries, and other improvements relating to fish-culture;
(9) roads and streets; and
(10) any other purpose that he considers advisable, except a purpose covered by section 2669 of this title or by section 961 of title 43.

(b) No easement granted under this section may include more land than is necessary for the easement.

(c) The Secretary of the military department concerned may terminate all or part of any easement granted under this section for—
(1) failure to comply with the terms of the grant;
(2) nonuse for a two-year period; or
(3) abandonment.

(d) Copies of instruments granting easements over public lands under this section shall be furnished to the Secretary of the Interior.

§ 2669. Easements for rights-of-way: gas, water, sewer pipe lines

(a) If the Secretary of a military department finds that it will be in the public interest and will not substantially injure the interest of the United States in the property affected, he may grant, upon such terms as he considers advisable, easements for rights-of-way over, in, and upon public lands permanently withdrawn or reserved for the use of that department, and other lands under his control, for gas, water, and sewer pipe lines, to a State, Territory, Commonwealth, or possession, or political subdivision thereof, or to a citizen, association, partnership, or corporation of a State, Territory, Commonwealth, or possession.

(b) No easement granted under this section may include more land than is necessary for the easement.

(c) The Secretary of the military department concerned may terminate all or part of any easement granted under this section for—
(1) failure to comply with the terms of the grant;
(2) nonuse; or
(3) abandonment.

(d) The Secretary concerned shall include in his annual report to the President a complete statement of each easement granted under this section, including the name and address of the grantee, the purpose of the grant, and the benefits accruing to the United States or to the public.

§ 2670. Licenses: military installations; erection and use of buildings; American National Red Cross

Under such conditions as he may prescribe, the Secretary of any military department may issue a revocable license to the American National Red Cross to—
(1) erect and maintain, on any military installation under his jurisdiction, buildings for the storage of supplies; or
(2) use, for the storage of supplies, buildings erected by the United States.

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Supplies stored in buildings erected or used under this section are available to aid the civilian population in a serious national disaster.

CHAPTER 161.—PROPERTY RECORDS

Sec.
2701. Basis: reports.

§ 2701. Basis: reports

(a) Under regulations prescribed by him, the Secretary of Defense shall have the records of the fixed property, installations, major equipment items, and stored supplies of the military departments maintained on both a quantitative and a monetary basis, so far as practicable.

(b) The Secretary shall report once a year to Congress and the President on property records maintained under this section.

CHAPTER 163.—MILITARY CLAIMS

Sec.
2731. Definition.
2732. Property loss: incident to service; members of Army, Navy, Air Force, or Marine Corps and civilian employees.
2733. Property loss; personal injury or death: incident to noncombat activities of Department of Army, Navy, or Air Force.
2734. Property loss; personal injury or death: incident to noncombat activities of Department of Army, Navy, or Air Force; foreign countries.
2735. Settlement: final and conclusive.

§ 2731. Definition

In this chapter, "settle" means consider, ascertain, adjust, determine, and dispose of a claim, whether by full or partial allowance or by disallowance.

§ 2732. Property loss: incident to service; members of Army, Navy, Air Force, or Marine Corps and civilian employees

(a) Under such regulations as the Secretary of a military department may prescribe, he or any officer designated by him may settle and pay a claim against the United States for not more than $2,500 by a civilian employee of that department, or a member of the Army, Navy, Air Force, or Marine Corps, as the case may be, for damage to, or loss of, personal property incident to his service. If the claim is substantiated and the possession of that property is determined to be reasonable, useful, or proper under the circumstances, the claim may be paid or the property replaced in kind.

(b) Under such regulations as the Secretary of Defense may prescribe, he or any officer designated by him has the same authority as the Secretary of a military department with respect to a claim by a civilian employee of the Department of Defense not covered by subsection (a) for damage to, or loss of, personal property incident to his service.

(c) If a person named in subsection (a) or (b) is dead, the Secretary of the military department concerned or the Secretary of Defense, as the case may be, or any official designated by him, may settle and pay any claim made by the decedent's surviving (1) spouse, (2) children, (3) father or mother, or both, or (4) brothers or sisters, or both, that arose before or after the decedent's death and is otherwise

covered by subsection (a) or (b). Claims of survivors shall be settled and paid in the order named.

(d) A claim may be allowed under subsection (a) or (b) for damage to, or loss of, property only if—

(1) it is presented in writing within two years after it accrues, except that if the claim accrues in time of war or in time of armed conflict in which any armed force is engaged or if such a war or armed conflict intervenes within two years after it accrues, and if good cause is shown, the claim may be presented not later than two years after that cause ceases to exist, or two years after the war or armed conflict is terminated, whichever is earlier;

(2) it did not occur at quarters occupied by the claimant within the United States that were not assigned to him or otherwise provided in kind by the United States; or

(3) it was not caused wholly or partly by the negligent or wrongful act of the claimant, his agent, or his employee.

(e) For the purposes of subsection (d) (1), the dates of beginning and ending of an armed conflict are the dates established by concurrent resolution of Congress or by a determination of the President.

(f) The Secretary of Defense and the Secretary of each military department shall report once a year to Congress on claims settled under this section during the period covered by the report. The report shall include for each claim the name of the claimant, the amount claimed, and the amount paid.

§ 2733. Property loss; personal injury or death: incident to noncombat activities of Department of Army, Navy, or Air Force

(a) Under such regulations as the Secretary of a military department may prescribe, he or, subject to appeal to him, any officer designated by him may settle, and pay in an amount not more than $1,000, a claim against the United States for—

(1) damage to, or loss of, real property, including damage or loss incident to use and occupancy;

(2) damage to, or loss of, personal property, including property bailed to the United States and including registered or insured mail damaged, lost, or destroyed by a criminal act while in the possession of the Army, Navy, Air Force, or Marine Corps, as the case may be; or

(3) personal injury or death;

either caused by a civilian officer or employee of that department, or a member of the Army, Navy, Air Force, or Marine Corps, as the case may be, acting within the scope of his employment, or otherwise incident to noncombat activities of that department.

(b) A claim may be allowed under subsection (a) only if—

(1) it is presented in writing within one year after it accrues; except that if the claim accrues in time of war or a war intervenes within one year after it accrues, and if good cause is shown, the claim may be presented not later than one year after the war is terminated;

(2) it is not covered by section 2734 of this title or section 2672 of title 28;

(3) it is not for personal injury or death of such a member or civilian officer or employee whose injury or death is incident to his service;

(4) the damage to, or loss of, property, or the personal injury or death, was not caused wholly or partly by a negligent or wrongful act of the claimant, his agent, or his employee; and

(5) it is substantiated as prescribed in regulations of the Secretary concerned.

(c) A claim for personal injury or death under subsection (a) may not be allowed for more than the cost of reasonable medical, hospital, and burial expenses actually incurred, and not otherwise furnished or paid by the United States.

(d) The Secretary of the military department concerned may report a claim for more than $1,000 that would otherwise be covered by this section to Congress for its consideration.

(e) No claim may be paid under subsection (a) unless the amount tendered is accepted by the claimant in full satisfaction.

(f) For the purposes of this section, a member of the Coast and Geodetic Survey or of the Public Health Service who is serving with the Navy or Marine Corps shall be treated as if he were a member of that armed force.

§ 2734. Property loss; personal injury or death: incident to noncombat activities of Department of Army, Navy, or Air Force; foreign countries

(a) To promote and maintain friendly relations through the prompt settlement of meritorious claims arising in foreign countries, the Secretary of a military department or any officer designated by him may, under such regulations as the Secretary may prescribe, appoint one or more claims commissions, each composed of one or more commissioned officers of the armed forces under his jurisdiction, to settle and pay any claim for not more than $5,000, for—

(1) damage to, or loss of, real property of any foreign country or of any political subdivision or inhabitant of that country, including damage or loss incident to use and occupancy;

(2) damage to, or loss of, personal property of any foreign country or of any political subdivision or inhabitant of that country, including property bailed to the United States; or

(3) personal injury to, or death of, any inhabitant of a foreign country;

if the damage, loss, personal injury, or death occurs in that country and is caused by, or is otherwise incident to noncombat activities of, the armed forces under his jurisdiction, or is caused by a member thereof or by a civilian employee of the department concerned. The claim of an insured, but not that of a subrogee, may be considered under this subsection. In this section, "foreign country" includes any place under the jurisdiction of the United States in a foreign country.

(b) A claim may be allowed under subsection (a) only if—

(1) it is presented within one year after it accrues;

(2) in the case of a national of a country at war with the United States, or of any ally of that country, the claimant is determined by the commission or by the local military commander to be friendly to the United States; and

(3) it did not arise from action by an enemy or result directly or indirectly from an act of the armed forces of the United States in combat.

(c) Allowance of a claim for more than $2,500 under subsection (a) may, by regulation, be made subject to the approval of any commissioned officer designated by the Secretary of the military department concerned.

(d) The Secretary of the military department concerned may certify to Congress any claim for more than $5,000 that would otherwise be covered by this section in the amount that he considers just and reasonable, as a legal claim for payment from appropriations made by Congress therefor, together with a brief statement of the claim, the amount claimed, and the amount allowed.

(e) No claim may be paid under subsection (a) unless the amount tendered is accepted in full satisfaction.

(f) In time of war and upon the request of a military department, a claim arising in that department and covered by subsection (a) may be settled and paid by a commission appointed under subsection (a) and composed of officers of an armed force under the jurisdiction of another military department.

(g) A claim against the Coast Guard may be settled or paid under this section only if it arises and is settled and paid while the Coast Guard is operating as a service in the Navy. Officers of the Coast Guard may serve on claims commissions, or as officers to approve settlements made by such a commission, only for claims against the Coast Guard. Payment of such claims shall be made out of the appropriation for the operating expenses of the Coast Guard.

§ 2735. Settlement: final and conclusive

Notwithstanding any other provision of law, the settlement of a claim under section 2732, 2733, or 2734 of this title is final and conclusive.

CHAPTER 165.—ACCOUNTABILITY AND RESPONSIBILITY

Sec.

2771. Final settlement of accounts: deceased members.
2772. Withholding pay of officers.

§ 2771. Final settlement of accounts: deceased members

(a) In the settlement of the accounts of a deceased member of the Army, Navy, Air Force, or Marine Corps, if a demand is not made by his legal representative, the General Accounting Office may allow any amount due, to the person highest on the following list living on the date of settlement:

(1) Surviving spouse.

(2) Children and their issue, per stirpes.

(3) Father and mother in equal parts or, if either is dead, the survivor.

(4) Brothers and sisters, and their children, per stirpes.

(b) Reimbursement for funeral expenses may be made from the amount due the decedent's estate, if the person who paid the expenses presents a claim for them before settlement by the General Accounting Office.

§ 2772. Withholding pay of officers

The pay of an officer of the Army, Navy, Air Force, or Marine Corps may be withheld, under section 82 of title 5, only for an indebtedness to the United States admitted by the officer or shown by the judgment of a court, or upon a special order issued in the discretion of the Secretary of the military department concerned.

Subtitle B—Army

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PART I. ORGANIZATION

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CHAPTER 301.—DEFINITIONS

Sec.
3001. Definitions.

§ 3001. Definitions

In this title, "Army" means the Army or Armies referred to in the Constitution of the United States, less that part established by law as the Air Force.

CHAPTER 303.—DEPARTMENT OF THE ARMY

Sec.
3011. Department of the Army: seal.
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3013. Under Secretary of the Army: Assistant Secretaries of the Army.
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3015. Chief of National Guard Bureau: appointment; acting chief.
3016. Administrative Assistant.
3017. Secretary of the Army: successors to duties.

§ 3011. Department of the Army: seal

The Secretary of the Army shall have a seal for the Department of the Army. The design of the seal must be approved by the President. Judicial notice shall be taken of the seal.

§ 3012. Secretary of the Army: powers and duties; delegation by; compensation

(a) There is a Secretary of the Army, who is the head of the Department of the Army.

(b) The Secretary is responsible for and has the authority necessary to conduct all affairs of the Department of the Army, including—

(1) functions necessary or appropriate for the training, operations, administration, logistical support and maintenance, welfare, preparedness, and effectiveness of the Army, including research and development; and

(2) such other activities as may be prescribed by the President or the Secretary of Defense as authorized by law.

He shall perform such other duties relating to Army affairs, and conduct the business of the Department in such manner, as the President or the Secretary of Defense may prescribe.

(c) The Secretary may assign such of his duties as he considers appropriate to the Under Secretary of the Army and to the Assistant Secretaries of the Army. Officers of the Army shall, as directed by the Secretary, report on any matter to the Secretary, the Under Secretary, or an Assistant Secretary.

(d) The Secretary or, as he may prescribe, the Under Secretary or an Assistant Secretary shall supervise all matters relating to—

(1) the procurement activities of the Department of the Army; and

(2) planning for the mobilization of materials and industrial organizations essential to the wartime needs of the Army.

(e) The Secretary, as he considers appropriate, may assign, detail, and prescribe the duties of members of the Army and civilian personnel of the Department of the Army.

(f) The Secretary may change the title of any other officer, or of any activity, of the Department of the Army.

(g) The Secretary may prescribe regulations to carry out his functions, powers, and duties under this title.

(h) The compensation of the Secretary is $18,000 a year.

§ 3013. Under Secretary of the Army; Assistant Secretaries of the Army

(a) There are an Under Secretary of the Army and four Assistant Secretaries of the Army in the Department of the Army. The Under Secretary and the Assistant Secretaries shall be appointed from civilian life by the President, by and with the advice and consent of the Senate. The Secretary of the Army shall designate one Assistant Secretary as Assistant Secretary of the Army for Financial Management. He may also designate that Assistant Secretary as Comptroller of the Army.

(b) The compensation of the Under Secretary and of the Assistant Secretaries is that prescribed by law for assistant secretaries of executive departments.

§ 3014. Comptroller of the Army: appointment; functions

(a) Subject to the authority, direction, and control of the Secretary of Defense, the Secretary of the Army shall have the following matters in the Department of the Army 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 Army and a Deputy Comptroller of the Army in the Department of the Army. They shall be appointed by the Secretary of the Army. 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 Army, the Comptroller is responsible for the matters in the Department of the Army 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 Army, the Under Secretary, or an Assistant Secretary. However, this subsection does not prevent the Comptroller from having concurrent responsibility to the Chief of Staff, the Vice Chief of Staff, or a Deputy Chief of Staff, if the Secretary so prescribes.

§ 3015. Chief of National Guard Bureau: appointment; acting chief

(a) The President, by and with the advice and consent of the Senate, shall appoint the Chief of the National Guard Bureau from officers of the Army National Guard of the United States or the Air National Guard of the United States who—

(1) have been recommended by their respective governors;

(2) have had at least 10 years of commissioned service in the active National Guard; and

(3) are in a grade above lieutenant colonel.

(b) The Chief of the National Guard Bureau holds office for four years, but may be removed for cause at any time and may not hold that office after he becomes 64 years of age. He is eligible to succeed himself. If he holds a lower reserve grade he shall be appointed as a Reserve in his armed force in the grade of major general for service in the Army National Guard of the United States or the Air National Guard of the United States, as the case may be.

(c) If the Chief of the National Guard Bureau is unable, because of disability, to perform the functions of his office, or if that office is vacant, the senior officer of the Army National Guard of the United States or the Air National Guard of the United States on duty in the Bureau shall act as its chief until the disability ceases or a successor is appointed.

§ 3016. Administrative Assistant

(a) There is an Administrative Assistant in the Department of the Army. The Administrative Assistant shall be appointed by the Secretary of the Army and shall perform duties that the Secretary considers appropriate.

(b) During a vacancy in the office of Secretary, the Administrative Assistant has charge and custody of all records, books, and papers of the Department of the Army.

(c) The Secretary may authorize the Administrative Assistant to sign, during the temporary absence of the Secretary, any paper requiring his signature. In such a case, the Administrative Assistant's signature has the same effect as the Secretary's signature.

§ 3017. Secretary of the Army: successors to duties

(a) If the Secretary of the Army dies, resigns, is removed from office, is absent, or is disabled, the person who is highest on the following list, and who is not absent or disabled, shall perform the duties of the Secretary until the President, under section 6 of title 5, directs another person to perform those duties or until the absence or disability ceases:

(1) The Under Secretary of the Army.

(2) The Assistant Secretaries of the Army in order of their length of service as such.

(3) The Chief of Staff.

(b) Performance of the duties of the Secretary by the Chief of Staff or any officer of the Army designated under section 6 of title 5 shall not be considered as the holding of a civil office within the meaning of section 3544 (b) of this title.

CHAPTER 305.—THE ARMY STAFF

Sec.

3031. Composition: assignment and detail of members of Army and civilians.
3032. General duties.
3033. Reserve components of Army; policies and regulations for government of.
3034. Chief of Staff: appointment; duties.
3035. Vice Chief of Staff, Deputy Chief of Staff, and Assistant Chiefs of Staff: succession to duties of Chief of Staff.
3036. Chiefs of branches: appointments; duties.
3037. Judge Advocate General, Assistant Judge Advocate General, and general officers of Judge Advocate General's Corps: appointment; duties.
3038. Chief of Engineers: additional duties.
3039. Inspector General; Provost Marshal General.
3040. Deputy and assistant chiefs of branches.

§ 3031. Composition: assignment and detail of members of Army and civilians

(a) There is in the executive part of the Department of the Army an Army Staff consisting of—

(1) the Chief of Staff;

(2) the Vice Chief of Staff;

(3) not more than three Deputy Chiefs of Staff, as prescribed by the Secretary of the Army;

(4) not more than five Assistant Chiefs of Staff, as prescribed by the Secretary;

(5) the officers named in sections 3036, 3039, and 3040 of this title;

(6) other members of the Army assigned or detailed to the Army Staff; and

(7) civilians in the Department of the Army assigned or detailed to the Army Staff.

(b) Except as otherwise specifically prescribed by law, the Army Staff shall be organized in such manner, and its members shall perform such duties and have such titles, as the Secretary may prescribe. A part of the Army Staff may be designated as the Army General Staff.

(c) Not more than 3,000 officers of the Army may be assigned or detailed to permanent duty in the executive part of the Department of the Army. Of this number not more than 1,000 may be detailed or assigned to duty on or with the Army General Staff. However, these limitations do not apply in time of war, or of national emergency declared by Congress, or whenever the President finds that it is in the national interest to increase the number of officers in the executive part of the Department or on or with the Army General Staff. The Secretary shall report quarterly to Congress the number of officers in the executive part of the Department of the Army and the number of commissioned officers on or with the Army General Staff, and the justification therefor.

(d) No commissioned officer who is assigned or detailed to duty in the executive part of the Department of the Army may serve for a tour of duty of more than four years. However, the Secretary may extend such a tour of duty if he makes a special finding that the extension is necessary in the public interest. No officer may be assigned or detailed to duty in the executive part of the Department of the Army within two years after relief from that duty, except upon a special finding by the Secretary that the assignment or detail is

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necessary in the public interest. This subsection does not apply in time of war, or of national emergency declared by Congress.

§ 3032. General duties

(a) The Army Staff shall furnish professional assistance to the Secretary, the Under Secretary, and the Assistant Secretaries of the Army.

(b) Under the direction and control of the Secretary, the Army Staff shall—

(1) prepare such plans for the national security, for employment of the Army for that purpose, both separately and in conjunction with the naval and air forces, and for recruiting, organizing, supplying, equipping, training, serving, mobilizing, and demobilizing the Army, as will assist in the execution of any power, duty, or function of the Secretary or the Chief of Staff;

(2) investigate and report upon the efficiency of the Army and its preparation for military operations;

(3) prepare detailed instructions for the execution of approved plans and supervise the execution of those plans and instructions;

(4) act as agent of the Secretary and the Chief of Staff in coordinating the action of all organizations of the Department of the Army; and

(5) perform such other duties, not otherwise assigned by law, as may be prescribed by the Secretary.

§ 3033. Reserve components of Army; policies and regulations for government of

(a) Each policy or regulation affecting the following subjects shall be prepared by a committee of officers of the appropriate division or divisions of the Army General Staff and of an equal number of officers of the Army National Guard of the United States:

(1) The organization or distribution of the Army National Guard of the United States.

(2) The organization, distribution, or training of the Army National Guard.

(b) The members of each committee under subsection (a) who are officers of the Army National Guard of the United States must be selected from lists of officers of that component who are suitable for that duty, submitted by the governors of the States and Territories of whose Army National Guard they are members, respectively, and by the commanding general of the District of Columbia National Guard for the District of Columbia.

(c) Each policy or regulation affecting the organization, distribution, training, appointment, assignment, promotion, or discharge of members of the Army Reserve shall be prepared by a committee of officers of the appropriate divisions of the Army General Staff and of an equal number of officers of the Army Reserve.

(d) Each policy or regulation affecting the Army Reserve and either the Army National Guard of the United States or the Army National Guard shall be prepared by a committee composed of equal numbers of officers of the Regular Army, of the Army National Guard of the United States, and of the Army Reserve.

(e) There shall be not less than 10 officers of the Army National Guard of the United States and the Army Reserve on duty with the Army General Staff, one-half of whom shall be from each of those components. These officers shall be considered as additional members of the Army General Staff while on that duty.

(f) The Chief of Staff shall—

(1) send the statements of policies and regulations prepared under this section to the Secretary of the Army;

(2) advise him with regard thereto; and

(3) after action on those policies and regulations by the Secretary, act as the agent of the Secretary in carrying them into effect.

§ 3034. Chief of Staff: appointment; duties

(a) The Chief of Staff shall be appointed by the President, by and with the advice and consent of the Senate, from the general officers of the Army. He serves during the pleasure of the President, but not for more than four years unless reappointed by the President, by and with the advice and consent of the Senate.

(b) The Chief of Staff, while so serving, has the grade of general without vacating his regular or reserve grade, and is counted as one of the officers authorized to serve in a grade above lieutenant general under section 3066 of this title.

(c) Except as otherwise prescribed by law and subject to section 3012 (c) and (d) of this title, the Chief of Staff performs his duties under the direction of the Secretary of the Army, and is directly responsible to the Secretary for the efficiency of the Army, its preparedness for military operations, and plans therefor.

(d) The Chief of Staff shall—

(1) preside over the Army Staff;

(2) send the plans and recommendations of the Army Staff to the Secretary, and advise him with regard thereto;

(3) after approval of the plans or recommendations of the Army Staff by the Secretary, act as the agent of the Secretary in carrying them into effect;

(4) supervise the members and organizations of the Army;

(5) perform the duties described for him by sections 141 and 171 of this title and other provisions of law; and

(6) perform such other military duties, not otherwise assigned by law, as are assigned to him by the President.

§ 3035. Vice Chief of Staff, Deputy Chiefs of Staff, and Assistant Chiefs of Staff: succession to duties of Chief of Staff

(a) The Vice Chief of Staff, the Deputy Chiefs of Staff, and the Assistant Chiefs of Staff shall be general officers detailed to those positions.

(b) If the Chief of Staff is absent or disabled or if that office is vacant, the officer who is highest on the following list and who is not absent or disabled shall, unless otherwise directed by the President, perform the duties of the Chief of Staff until a successor is appointed or the absence or disability ceases:

(1) The Vice Chief of Staff.

(2) The Deputy Chiefs of Staff in order of seniority.

§ 3036. Chiefs of branches: appointment; duties

(a) There are in the Army the following officers:
(1) Chief of Engineers.
(2) Chief Signal Officer.
(3) Adjutant General.
(4) Quartermaster General.
(5) Chief of Finance.
(6) Chief of Ordnance.
(7) Chief Chemical Officer.
(8) Chief of Transportation.
(9) Surgeon General.
(10) Judge Advocate General.
(11) Chief of Chaplains.

(b) Each officer named in subsection (a), except the Judge Advocate General, shall be appointed by the President, by and with the advice and consent of the Senate, from officers above the grade of major who—

(1) have shown by extensive duty in the branch concerned, or by similar duty, that they are qualified for the appointment; and

(2) have been recommended by a board under subsection (e).

If the officer holds a lower regular grade, he shall be appointed in the regular grade of major general. The Judge Advocate General shall be appointed as prescribed in section 3037 of this title.

(c) An officer appointed under subsection (b) normally holds office for four years. However, the President may terminate or extend the appointment at any time.

(d) Each officer named in subsection (a) shall perform the duties prescribed by the Secretary and by law.

(e) For each office to be filled under subsection (b), the Secretary shall select a board of five general officers, including the incumbent, if any, of the office, and at least two officers, if available, in a grade above major general who have had extensive service in the branch concerned. The Secretary shall give the board a list of the officers to be considered and shall specify the number of officers, not less than three, to be recommended. The list shall include—

(1) the name of each officer of the Regular Army who is appointed in, or assigned to, that branch, and whose regular grade is colonel;

(2) the name of each officer whose regular grade is above colonel, who has shown by extensive duty in that branch, or by similar duty, that he is qualified for the appointment;

(3) to the extent that the Secretary determines advisable, the name of each officer of the Regular Army who is appointed in, or assigned to, that branch, and whose regular grade is lieutenant colonel, in the order in which their names appear on the applicable promotion lists; and

(4) to the extent that the Secretary considers advisable, the name of each regular or reserve officer on active duty in a grade above lieutenant colonel who has shown by extensive duty in that branch, or by similar duty, that he is qualified for the appointment.

From these officers, the board shall recommend by name the number prescribed by the Secretary, and the President may appoint any

officer so recommended. If the President declines to appoint any of the recommended officers, or if the officer nominated cannot be appointed because of advice by the Senate, the Secretary shall convene a board to recommend additional officers. An officer who is recommended but not appointed shall be considered not to have been recommended. This does not affect his eligibility for selection and recommendation for the grade of brigadier general or major general under section 3306 or 3307 of this title.

§ 3037. Judge Advocate General, Assistant Judge Advocate General, and general officers of Judge Advocate General's Corps: appointment; duties

(a) The President, by and with the advice and consent of the Senate, shall appoint the Judge Advocate General, the Assistant Judge Advocate General, and general officers of the Judge Advocate General's Corps, from officers of the Judge Advocate General's Corps who are recommended by the Secretary of the Army. An officer appointed as the Judge Advocate General or Assistant Judge Advocate General who holds a lower regular grade shall be appointed in the regular grade of major general.

(b) The Judge Advocate General shall be appointed from those officers who at the time of appointment 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.

(c) The Judge Advocate General, in addition to other duties prescribed by law—

(1) is the legal adviser of the Secretary of the Army and of all officers and agencies of the Department of the Army;

(2) shall direct the members of the Judge Advocate General's Corps in the performance of their duties; and

(3) shall receive, revise, and have recorded the proceedings of courts of inquiry and military commissions.

§ 3038. Chief of Engineers: additional duties

Under the direction of the Secretary of the Army, the Chief of Engineers, in addition to other duties prescribed by law, is responsible for—

(1) the direction of the construction, maintenance, and repair of buildings, structures, and utilities for the Army;

(2) the acquisition of all real estate and the issue of licenses in connection with Government reservations; and

(3) the operation of water, gas, electric, and sewer utilities.

However, any utility pertaining exclusively to a branch of the Army may be operated by that branch.

§ 3039. Inspector General; Provost Marshal General

(a) There is an Inspector General in the Army. When directed by the Secretary of the Army or the Chief of Staff, the Inspector General shall inquire into and report upon the discipline, efficiency, and economy of the Army, and shall perform any other duties prescribed by the Secretary, by the Chief of Staff, or by law.

(b) There is a Provost Marshal General in the Army. The Provost Marshal General shall perform the duties prescribed by the Secretary, by the Chief of Staff, or by law.

(c) The position of Inspector General and that of Provost Marshal General shall each be filled by the detail of a general officer of the Army for a tour of duty of not more than four years. However, the Secretary may extend such a tour of duty if he makes a special finding that the extension is necessary in the public interest.

§ 3040. Deputy and assistant chiefs of branches

(a) Each officer named in sections 3036 and 3039 of this title shall have, in addition to the assistants prescribed by subsections (b) and (c) and by section 3037 of this title, such deputies and assistants as the Secretary of the Army may prescribe. Each such deputy and assistant shall be an officer detailed by the Secretary to that position from the officers of the Army for a tour of duty of not more than four years, under a procedure prescribed by the Secretary similar to that prescribed in section 3036 of this title.

(b) There is an Assistant Surgeon General appointed from the officers of the Dental Corps, as prescribed in section 3036 of this title. An appointee who holds a lower regular grade shall be appointed in the regular grade of major general.

(c) There are two assistants to the Chief of Engineers appointed as prescribed in section 3036 of this title. An appointee who holds a lower regular grade shall be appointed in the regular grade of brigadier general.

CHAPTER 307.—THE ARMY

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§ 3061. Regulations

The President may prescribe regulations for the government of the Army.

§ 3062. Policy; composition; organized peace establishment

(a) It is the intent of Congress to provide an Army that is capable, in conjunction with the other armed forces, of—

(1) preserving the peace and security, and providing for the defense, of the United States, the Territories, Commonwealths, and possessions, and any areas occupied by the United States;

(2) supporting the national policies;

(3) implementing the national objectives; and

(4) overcoming any nations responsible for aggressive acts that imperil the peace and security of the United States.

(b) In general, the Army, within the Department of the Army, includes land combat and service forces and such aviation and water transport as may be organic therein. It shall be organized, trained, and equipped primarily for prompt and sustained combat incident to operations on land. It is responsible for the preparation of land forces necessary for the effective prosecution of war except as otherwise assigned and, in accordance with integrated joint mobilization plans, for the expansion of the peacetime components of the Army to meet the needs of war.

(c) The Army consists of—

(1) the Regular Army, the Army National Guard of the United States, the Army National Guard while in the service of the United States, and the Army Reserve; and

(2) all persons appointed or enlisted in, or conscripted into, the Army without component.

(d) The organized peace establishment of the Army consists of all—

(1) military organizations of the Army with their installations and supporting and auxiliary elements, including combat, training, administrative, and logistic elements; and

(2) members of the Army, including those not assigned to units;

necessary to form the basis for a complete and immediate mobilization for the national defense in the event of a national emergency.

§ 3063. Basic branches

(a) The Secretary of the Army may assign members of the Army to its basic branches. The basic branches are—

(1) Infantry;
(2) Armor;
(3) Artillery;
(4) Corps of Engineers;
(5) Signal Corps;
(6) Adjutant General's Corps;
(7) Quartermaster Corps;
(8) Finance Corps;
(9) Ordnance Corps;
(10) Chemical Corps;
(11) Transportation Corps;
(12) Military Police Corps; and
(13) such other basic branches as the Secretary considers necessary.

(b) The Secretary may discontinue or consolidate basic branches of the Army for the duration of any war, or of any national emergency declared by Congress.

(c) The Secretary may not assign to a basic branch any commissioned officer appointed in a special branch.

§ 3064. Special branches

(a) The special branches of the Army consist of commissioned officers of the Regular Army appointed therein, other members of the Army assigned thereto by the Secretary of the Army, and the sections prescribed in this chapter. The special branches are—

(1) each corps of the Army Medical Service;

(2) the Judge Advocate General's Corps; and

(3) the Chaplains.

(b) The Secretary may not assign any officer of the Regular Army to a special branch.

§ 3065. Assignment and detail: officers assigned or detailed to basic and special branches

(a) Commissioned officers of the Army may be detailed as general staff officers and as inspectors general.

(b) Members of the Army may be detailed to duty in particular fields specified by the Secretary, including intelligence, counter-intelligence, and military government.

(c) Members of the Army appointed in or assigned to one branch may be detailed for duty with any other branch.

(d) Members of the Army while not on active duty may be assigned to any basic or special branch, or to such other branches or groups, and to such organizations, as the Secretary considers appropriate.

(e) No officer of the Army may be assigned to perform technical, scientific, or other professional duties unless he is qualified to perform those duties and meets professional qualifications at least as strict as those in effect on June 28, 1950. If the duties to which an officer is assigned involve professional work that is the same as or is similar to that usually performed in civil life by a member of a learned profession, such as engineering, law, medicine, or theology, the officer must have the qualifications, by education, training, or experience, equal to or similar to those usually required of members of that profession, unless the exigencies of the situation prevent.

§ 3066. Generals and lieutenant generals

(a) The President may designate positions of importance and responsibility in the Army to carry the grade of general or lieutenant general. He may assign to those positions officers of the Army on active duty in any grade above brigadier general. While he holds one of those positions an officer has the grade specified for the position if appointed thereto by and with the advice and consent of the Senate.

(b) The number of positions designated under subsection (a) may not be more than 15 percent of the number of general officers on active duty. Not more than 25 percent of those positions may be designated as positions to be held by officers in the grade of general.

(c) General officers on the active list of the Regular Army who

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are specifically authorized by law to hold any civil office under the United States, or any instrumentality thereof, are in addition to the numbers authorized by this section.

(d) Appointment to the grade of general or lieutenant general under subsection (a) does not vacate the regular or reserve grade held by the officer. When his appointment under that subsection terminates, he is entitled to resume any other grade that he may then be entitled to hold.

§ 3067. Army Medical Service

There is an Army Medical Service in the Army. The Army Medical Service consists of—

(1) the Surgeon General;
(2) the Assistant Surgeons General;
(3) the Medical Corps;
(4) the Dental Corps;
(5) the Veterinary Corps;
(6) the Medical Service Corps;
(7) the Army Nurse Corps; and
(8) the Women's Medical Specialist Corps.

§ 3068. Medical Service Corps: organization; Chief and assistant chiefs

(a) The Medical Service Corps consists of the Chief and assistant chiefs of that corps, officers in grades of second lieutenant through colonel, inclusive, and the following sections—

(1) the Pharmacy, Supply, and Administration Section;
(2) the Medical Allied Sciences Section;
(3) the Sanitary Engineering Section;
(4) the Optometry Section; and
(5) other sections considered necessary by the Secretary of the Army.

(b) The Secretary shall appoint the Chief of the Medical Service Corps from the officers of the Regular Army in that corps whose regular grade is above captain. The Chief serves during the pleasure of the Secretary. If he holds a lower regular grade, he is entitled to the rank, pay, and allowances of a colonel while so serving, without vacating his regular grade, and ranks above all other colonels in that corps.

(c) The Surgeon General shall designate assistant chiefs of the Medical Service Corps from commissioned officers of the Regular Army in that corps. Each assistant chief is chief of a section and is the Surgeon General's consultant on activities relating to that section.

§ 3069. Army Nurse Corps: Chief; appointment

The Army Nurse Corps consists of the Chief of that corps and officers in grades of second lieutenant through lieutenant colonel. The Secretary of the Army shall appoint the Chief from the officers of the Regular Army in that corps whose regular grade is above captain and who are recommended by the Surgeon General. The Chief serves during the pleasure of the Secretary, but not for more than four years. She may not be reappointed. Without vacating her regular grade, she is entitled to the rank, pay, and allowances of a colonel while so serving.

§ 3070. Women's Medical Specialist Corps: organization; Chief and assistant chiefs

(a) The Women's Medical Specialist Corps consists of the Chief and assistant chiefs of that corps, other officers in grades of second lieutenant to major, inclusive, and the following sections—

(1) the Dietitian Section;
(2) the Physical Therapist Section; and
(3) the Occupational Therapist Section.

(b) The Secretary of the Army shall appoint, from the officers of the Regular Army in the Women's Medical Specialist Corps, the Chief and three assistant chiefs of that corps. The Chief and the assistant chiefs serve during the pleasure of the Secretary. Without vacating their respective regular grades, the Chief is entitled to the rank, pay, and allowances of a colonel, and each assistant chief is entitled to the rank, pay, and allowances of a lieutenant colonel while so serving.

§ 3071. Women's Army Corps: Director; Deputy Director; other positions

(a) There is a Women's Army Corps in the Regular Army.

(b) The Secretary of the Army shall appoint, from the commissioned officers of the Regular Army in the Women's Army Corps, a Director and a Deputy Director of that corps, to serve during his pleasure, but normally not for more than four years. The Director is the adviser to the Secretary on Women's Army Corps matters. Without vacating her regular grade, the Director is entitled to the rank, pay, and allowances of a colonel while so serving, and the Deputy Director, if she has a lower regular grade, is entitled to the rank, pay, and allowances of a lieutenant colonel while so serving.

(c) The Secretary shall designate the positions that he finds necessary for the administration and training of the Women's Army Corps. He shall fill those positions from officers of that corps or from female members of the Army Reserve who are on active duty. Each person holding such a position serves during the pleasure of the Secretary. If she has a lower regular or reserve grade, she is entitled, while so serving and without vacating that grade, to the rank, pay, and allowances of a lieutenant colonel or major, as the Secretary determines.

(d) Only officers whose regular grade is lieutenant colonel are eligible for appointment under subsection (b), and only officers whose regular or reserve grade is above captain are eligible for designation under subsection (c).

§ 3072. Judge Advocate General's Corps

There is a Judge Advocate General's Corps in the Army. The Judge Advocate General's Corps consists of—

(1) the Judge Advocate General;
(2) the Assistant Judge Advocate General;
(3) three officers in the grade of brigadier general;
(4) commissioned officers of the Regular Army appointed therein; and
(5) other members of the Army assigned thereto by the Secretary of the Army.

§ 3073. Chaplains

There are chaplains in the Army. The Chaplains include—

(1) the Chief of Chaplains;

(2) commissioned officers of the Regular Army appointed as chaplains; and

(3) other officers of the Army appointed as chaplains in the Army.

§ 3074. Commands: territorial organization; engineer tactical units

(a) Except as otherwise prescribed by law, the Army shall be livided into such commands, forces, and organizations as may be prescribed by the Secretary of the Army.

(b) For Army purposes, the United States, the Territories, Commonwealths, and possessions, and other places in which the Army is stationed or is operating may be divided into such areas as may be directed by the Secretary. Officers of the Army may be assigned to command Army activities, installations, and personnel in those areas. In the discharge of the Army's functions or other functions authorized by law, officers so assigned have the duties and powers prescribed by the Secretary.

(c) Such part of the Corps of Engineers as the President directs shall be formed into tactical units organized as he prescribes.

§ 3075. Regular Army: composition

(a) The Regular Army is the component of the Army that consists of persons whose continuous service on active duty in both peace and war is contemplated by law, and of retired members of the Regular Army.

(b) The Regular Army includes—

(1) the officers and enlisted members of the Regular Army;

(2) the professors and cadets of the United States Military Academy; and

(3) the retired officers and enlisted members of the Regular Army.

§ 3076. Army Reserve: composition

The Army Reserve includes all Reserves of the Army who are not members of the Army National Guard of the United States.

§ 3077. Army National Guard of United States: composition

The Army National Guard of the United States is the reserve component of the Army that consists of—

(1) federally recognized units and organizations of the Army National Guard; and

(2) members of the Army National Guard who are also Reserves of the Army.

§ 3078. Army National Guard: when a component of Army

The Army National Guard while in the service of the United States is a component of the Army.

§ 3079. Army National Guard of United States: status when not in Federal service

When not on active duty, members of the Army National Guard of the United States shall be administered, armed, equipped, and trained in their status as members of the Army National Guard.

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CHAPTER 331.—STRENGTH

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§ 3201. Army: members on active duty

(a) The authorized strength of the Army in members on active duty, exclusive of—

(1) officer candidates;

(2) Reserves on active duty for training;

(3) members paid from appropriations for the Army National Guard or the Army Reserve; and

(4) Reserves ordered to active duty in an emergency;

is 837,000.

(b) The authorized daily average strength of the Army in members on active duty during the fiscal year, exclusive of—

(1) officer candidates;

(2) Reserves on active duty for training purposes only; and

(3) members employed in the Selective Service System;

is 837,000.

§ 3202. Army: officers in certain commissioned grades

(a) The authorized strength of the Army in officers on active duty in each of the following grades on the last day of each fiscal year, exclusive of officers on active duty for training only and officers serving with other departments or agencies on a reimbursable basis, is based on the total number of those officers authorized by the Secretary of the Army in all commissioned grades, as follows:

If the total number authorized is—	The authorized strength in grade is—			
	For general officers	For colonels	For lieutenant colonels	For majors
50,000	350	3,352	6,940	9,350
60,000	400	3,752	8,045	10,950
70,000	425	4,102	9,150	12,500
80,000	450	4,452	10,205	14,050
90,000	475	4,752	11,260	15,600
100,000	495	5,002	12,265	17,060
110,000	510	5,202	13,270	18,370
120,000	520	5,402	14,175	19,680
130,000	530	5,602	15,075	20,890
140,000	540	5,802	15,875	22,095
150,000	550	6,002	16,675	23,300

If the total number authorized by the Secretary is determined to be between two of the figures named in the first column of the table, the corresponding authorized strengths in grade are determined by mathematical interpolation between the respective authorized strengths named in the table. If it is determined to be more than 150,000, the Secretary shall fix the corresponding authorized strengths in grade in general conformity with the table.

(b) Not more than one-half of the general officer strength may be in grades above brigadier general.

(c) A vacancy in any grade may be filled by an appointment in any lower grade.

(d) In time of war, or of national emergency declared after May 5, 1954, by Congress or the President, the President may suspend the operation of any provision of this section.

§ 3203. Regular Army: members on active duty

The authorized strength of the Regular Army in members on active duty, exclusive of officer candidates, is 837,000 less the number of members of the Army on active duty who are neither members of the Regular Army nor members of the Army in the categories listed in section 3201 (a) (1)–(4) of this title.

§ 3204. Regular Army: commissioned officers on active list

The authorized strength of the Regular Army in commissioned officers on the active list is the sum of the numbers authorized by sections 3205, 3206, and 3207 of this title, the number of permanent professors of the United States Military Academy authorized by section 4331 of this title, and the numbers in designated categories specifically authorized by law as additional numbers.

§ 3205. Regular Army: commissioned officers on active list, exclusive of certain categories

The authorized strength of the Regular Army in commissioned officers on the active list, exclusive of—

(1) members of the Army Nurse Corps;

(2) members of the Women's Medical Specialist Corps;

(3) permanent professors of the United States Military Academy; and

(4) members in designated categories specifically authorized by law as additional numbers;

is 30,600.

§ 3206. Regular Army: commissioned officers on active list; Army Nurse Corps

(a) The authorized strength of the Army Nurse Corps in commissioned officers on the active list of the Regular Army is 2,009, or 6/1,000 of the authorized strength prescribed by section 3203 of this title, whichever is greater.

(b) Of the authorized strength of the Army Nurse Corps in commissioned officers on the active list of the Regular Army, not more than 7/1,000 may be in the regular grade of lieutenant colonel, and not more than 16/1,000 may be in the regular grade of major. The Secretary of the Army shall prescribe the authorized strength of the Army Nurse Corps in officers on the active list in the regular grade of captain.

§ 3207. Regular Army: commissioned officers on active list; Women's Medical Specialist Corps

(a) The authorized strength of the Women's Medical Specialist Corps in commissioned officers on the active list of the Regular Army is 356, or 9/10,000 of the authorized strength prescribed by section 3203 of this title, whichever is greater.

(b) Of the authorized strength of the Women's Medical Specialist Corps in commissioned officers on the active list of the Regular Army, not more than 5 percent may be in the regular grade of major. The Secretary of the Army shall prescribe the authorized strength of the Women's Medical Specialist Corps in officers on the active list in the regular grade of captain.

§ 3209. Regular Army: commissioned officers on active list; other branches; Women's Army Corps

(a) Except for the Army Nurse Corps and the Women's Medical Specialist Corps, the authorized strength of each branch in commissioned officers on the active list of the Regular Army is that prescribed by the Secretary of the Army. However, the strength so prescribed—

(1) for the Judge Advocate General's Corps, may not be less than 15/1,000 of the authorized strength of the Regular Army in commissioned officers on the active list; and

(2) for the Corps of Engineers, may not be less than 788.

(b) The authorized strength of the Women's Army Corps in commissioned officers on the active list of the Regular Army is that prescribed by the Secretary. However, the strength so prescribed may not be more than 2 percent of the authorized strength of the Regular Army in commissioned officers on the active list.

§ 3210. Regular Army: strength in grade; general officers

(a) The authorized strength of the Regular Army in general officers on the active list, exclusive of the number authorized for the Army Medical Service and the Chaplains, is 75/10,000 of the authorized strength of the Regular Army in commissioned officers on the active list, exclusive of the number of commissioned officers on the active list authorized for the Army Medical Service and the Chaplains. Of this authorized strength, not more than one-half may be in a regular grade above brigadier general.

(b) The authorized strength of each of the following branches—

(1) the Medical Corps;

(2) the Dental Corps;

(3) the Veterinary Corps; and

(4) the Chaplains;

in general officers on the active list of the Regular Army is 5/1,000 of the authorized strength of the branch concerned in commissioned officers on the active list of the Regular Army. Not more than one-half of the authorized strength in general officers in such a branch may be in a regular grade above brigadier general.

(c) The number of general officers authorized for the active list of the Regular Army by subsections (a) and (b) may not be more than 205. Of this total there may not be more than—

(1) 12 in the Medical Corps, of whom not more than 6 may be in a regular grade above brigadier general;

(2) 3 in the Dental Corps, of whom not more than 2 may be in a regular grade above brigadier general;

(3) 1 in the Veterinary Corps, in the regular grade of brigadier general;

(4) 1 in the Chaplains, in the regular grade of major general or brigadier general; and

(5) 188 on the active list of the Regular Army, exclusive of those authorized under clauses (1)–(4) of this subsection, of whom not more than 94 may be in a regular grade above brigadier general.

(d) When the application of the percentages and ratios specified in this section results in a fraction, a fraction of one-half or more is counted as one, and a fraction of less than one-half is disregarded.

(e) General officers on the active list of the Regular Army who are specifically authorized by law to hold any civil office under the United States, or any instrumentality thereof, are not counted in determining authorized strength under this section.

§ 3211. Regular Army: strength in grade; promotion-list officers

(a) Subject to subsection (b), the authorized strength of the Regular Army in officers in each regular grade on each of the promotion lists set forth in section 3296 of this title shall be as prescribed by the Secretary of the Army. A vacancy in any grade on a promotion list may be filled by an appointment in any lower grade.

(b) Each strength prescribed by the Secretary under subsection (a) shall be stated as a percentage of the strength authorized for the particular list, and the schedule of percentages may be different for each list. No schedule for a list may authorize, with respect to a grade, a percentage that is higher than the sum of (1) the figure fixed for the grade according to the following table, and (2) the amounts, if any, by which the percentages fixed by the Secretary for higher grades are less than the figures fixed according to that table:

Grade	Column 1 Medical Corps, Dental Corps, Veterinary Corps, Chaplains, Judge Advocate General's Corps	Column 2 Women's Army Corps	Column 3 All other promotion lists
	Percent	*Percent*	*Percent*
Colonel	[1] 8	[2]—	[1] 8
Lieutenant colonel	14	10	14
Major	19	[3] 19–31	19
Captain	23	[3] 23–35	23
First lieutenant	36	[3] 18–30	18
Second lieutenant	[2]—	[3] 18–30	18

[1] Colonels whose retirement is deferred under section 3921 (b) of this title are not included within this percentage.
[2] None may be authorized by the Secretary for this category.
[3] As determined by the Secretary, except that the column must total 100 percent.

§ 3212. Regular Army: strength in grade; temporary increases

The authorized strength in any regular grade, as prescribed by or under this chapter, is automatically increased to the minimum extent necessary to give effect to each appointment made in that grade under section 1211 (a), 3036, 3298, 3299, 3304, or 4353 of this title. An authorized strength so increased is increased for no other purpose, and while he holds that grade the officer whose appointment caused the increase is counted for the purpose of determining when other appointments, not under those sections, may be made in that grade.
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§ 3213. Regular Army: warrant officers on active list

The authorized strength of the Regular Army in warrant officers on the active list is 9,000.

§ 3214. Regular Army: enlisted members on active duty

The authorized strength of the Regular Army in enlisted members on active duty, exclusive of officer candidates, is 837,000 less the number of members of the Army on active duty who are neither enlisted members of the Regular Army nor members of the Army in the categories listed in section 3201 (a) (1)–(4) of this title.

§ 3215. Regular Army: Women's Army Corps; warrant officers on active list; enlisted members on active duty

(a) The authorized strength of the Women's Army Corps of the Regular Army in warrant officers on the active list is as prescribed by the Secretary of the Army. However, it may not be more than 2 percent of the authorized strength of the Regular Army in warrant officers on the active list.

(b) The authorized strength of the Women's Army Corps of the Regular Army in enlisted members on active duty is as prescribed by the Secretary. However, it may not be more than 2 percent of the authorized strength prescribed by section 3214 of this title.

§ 3216. Corps of Engineers: enlisted members on active duty

The authorized strength of the Corps of Engineers in enlisted members on active duty is as prescribed by the Secretary of the Army. However, it may not be less than 12,000.

§ 3221. Army Reserve

(a) Whenever the authorized strength of the Army Reserve is not prescribed by law, it shall be prescribed by the President.

(b) Subject to the authorized strength of the Army Reserve, the authorized strength of the Army Reserve in members in each grade is that which the Secretary of the Army 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 Army Reserve may be reduced in his reserve grade, without his consent, as a result of such a determination.

§ 3222. Army Reserve, exclusive of members on active duty

The authorized strength of the Army Reserve, exclusive of members who are included in the strength of 837,000 authorized in section 3201 (a) of this title for members of the Army on active duty, is 980,000.

§ 3223. Army Reserve: warrant officers

The Secretary of the Army may prescribe the authorized strength of the Army Reserve in warrant officers.

§ 3224. Army National Guard of United States

(a) Whenever the authorized strength of the Army National Guard of the United States is not prescribed by law, it shall be prescribed by the President.

(b) Subject to the authorized strength of the Army National Guard of the United States, the authorized strength of the Army National Guard of the United States in members in each grade is that which the Secretary of the Army determines to be necessary to provide for mobilization requirements. The Secretary shall review those determinations at least once each year and revise them if he considers it necessary. However, no member of the Army National Guard of the United States may be reduced in his reserve grade, without his consent, as a result of such a determination.

§ 3225. Army National Guard and Army National Guard of United States, exclusive of members on active duty

The authorized strength of the Army National Guard and the Army National Guard of the United States, exclusive of members who are included in the strength of 837,000 authorized in section 3201 (a) of this title for members of the Army on active duty, is 600,000. The strength authorized by this section shall be allocated among the States and Territories, Puerto Rico, the Canal Zone, and the District of Columbia.

CHAPTER 333.—ENLISTMENTS

Sec.

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3254. Army: during war or emergency.
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§ 3251. Definition

In this chapter "enlistment" means original enlistment or reenlistment.

§ 3252. Temporary enlistments

Temporary enlistments may be made only in the Army without specification of component.

§ 3253. Army: persons not qualified

(a) No person who is insane, intoxicated, or a deserter from an armed force, or who has been convicted of a felony, may be enlisted or mustered into the Army. However, the Secretary of the Army may authorize exceptions, in meritorious cases, for the enlistment or muster into the Army of deserters and persons convicted of felonies.

(b) No person whose service during his last term of enlistment was not honest and faithful may be reenlisted in the Army. However, the Secretary may authorize the reenlistment or muster into the Army of such a person if his conduct after that service has been good.

(c) In time of peace, no person may be accepted for original enlistment in the Army unless he is, or has made a legal declaration of intention to become, a citizen of the United States.

§ 3254. Army: during war or emergency

Except as provided in section 3256 of this title and except for enlistments as Reserves of the Army—

(1) temporary enlistments in the Army entered into in time of war or of emergency declared by Congress shall be for the duration of the war or emergency plus six months; and

(2) only persons at least 18 years of age and otherwise qualified under regulations to be prescribed by the Secretary of the Army are eligible for such enlistments.

§ 3255. Regular Army: recruiting campaigns

The Secretary of the Army shall conduct intensive recruiting campaigns to obtain enlistments in the Regular Army.

§ 3256. Regular Army: qualifications, term, grade

(a) Notwithstanding section 3254 (2) of this title, the Secretary of the Army may accept original enlistments in the Regular Army of qualified, effective, and able-bodied persons who are not less than 17 years of age in the case of male persons and not less than 18 years of age in the case of female persons, nor more than 35 years of age, for periods of two, three, four, five, or six years. However, no male person under 18 years of age, or female person under 21 years of age, may be originally enlisted without the written consent of his parent or guardian, if he has a parent or guardian entitled to his custody and control. Female persons may be enlisted in the Regular Army only in the Women's Army Corps.

(b) The Secretary may accept reenlistments in the Regular Army for periods of three, four, five, or six years. However, a person who last served in one of the highest three enlisted grades may be reenlisted for an unspecified period on a career basis. No age limitation applies to reenlistments. No enlisted member is entitled to be reenlisted for a period that would expire before the end of his current enlistment.

(c) An enlistment in the Regular Army in effect at the outbreak of a war or entered into during a war, unless sooner terminated by the President, continues in effect until six months after the termination of that war.

(d) Subject to subsection (e), a person is enlisted in the Regular Army in the grade prescribed by the Secretary.

(e) A person who, upon his discharge from the Regular Army, is recommended for reenlistment is entitled to be reenlisted in the grade held by him when discharged, if he applies therefor within a period to be specified by the Secretary, but not later than three months after his discharge. However, a person who has been discharged from the Regular Army because of the acceptance of his resignation is

not entitled, upon reenlistment, to the grade held by him when discharged.

(f) This section does not deprive a person of any right to be reenlisted in the Regular Army under any other provision of law.

§ 3258. Regular Army: reenlistment after service as an officer

Any former enlisted member of the Regular Army who has served on active duty as a reserve officer of the Army, or who was discharged as an enlisted member to accept a temporary appointment in the Army, is entitled to be reenlisted in the Regular Army in the enlisted grade that he held before his service as an officer, without loss of seniority or credit for service, if his service as an officer terminated honorably, and he applies for reenlistment within six months or such other period as the Secretary of the Army prescribes for exceptional circumstances after the termination of that service, regardless of the existence of a vacancy in his grade or of a physical disability incurred or having its inception in line of duty.

§ 3259. Army Reserve: transfer from Army National Guard of United States

Under such regulations as the Secretary of the Army may prescribe and with the consent of the governor or other appropriate authority of the State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia, whichever is concerned, an enlisted member of the Army National Guard of the United States may be transferred in grade to the Army Reserve. Upon transfer, he is eligible for promotion to the highest regular or reserve grade ever held by him in the Army, if his service has been honorable.

§ 3260. Army Reserve: transfer to upon withdrawal as member of Army National Guard

Unless discharged from his enlistment as a Reserve, an enlisted member of the Army National Guard of the United States who ceases to be a member of the Army National Guard becomes a member of the Army Reserve. An enlisted member who so becomes a member of the Army Reserve ceases to be a member of the Army National Guard of the United States.

§ 3261. Army National Guard of United States

(a) Except as provided in subsection (b), to become an enlisted member of the Army National Guard of the United States, a person must—

(1) be enlisted in the Army National Guard;

(2) subscribe to the oath set forth in section 304 of title 32; and

(3) be a member of a federally recognized unit or organization of the Army National Guard in the grade in which he is to be enlisted as a Reserve.

(b) A member of the Army Reserve who is enlisted in the Army National Guard in his reserve grade, and is a member of a federally recognized unit or organization thereof, becomes a memeber of the Army National Guard of the United States and ceases to be a member of the Army Reserve.

§ 3262. Extension of enlistment for members needing medical care or hospitalization

(a) An enlisted member of the Army 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 it is determined that recovery to that extent is impossible.

(b) This section does not prevent the retention in service, without his consent, of an enlisted member of the Army under section 3638 of this title.

CHAPTER 335.—APPOINTMENTS IN THE REGULAR ARMY

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§ 3281. Commissioned officer grades

The commissioned grades in the Regular Army are:

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

§ 3282. General officers: title of office

An officer holding an appointment as a general officer in the Regular Army may be called a general officer of the Regular Army. In addition, a general officer of the Regular Army in the Medical Corps, Dental Corps, Veterinary Corps, Judge Advocate General's Corps, or the Chaplains, may be called a general officer of that branch.

§ 3283. Commissioned officers: appointment without specification of branch; transfer between branches

(a) Appointments in commissioned grades in the Regular Army shall be made without specification of branch except in each of the special branches, in the Women's Army Corps, and as professors of the United States Military Academy.

(b) Commissioned officers appointed in the Regular Army without specification of branch shall be assigned, and may be transferred and reassigned, by the Secretary of the Army to branches other than the special branches and the Women's Army Corps, according to their professional qualifications and the needs of the Army.

§ 3284. Commissioned officers: appointment, how made

Appointments in commissioned grades in the Regular Army shall be made by the President, by and with the advice and consent of the Senate.

§ 3285. Commissioned officers: original appointment; qualifications

To be eligible for original appointment in a commissioned grade in the Regular Army, except under section 3294 (a) of this title, a person must—

(1) be a citizen of the United States;
(2) be at least 21 years of age;
(3) be of good moral character;
(4) be physically qualified for active service; and
(5) have such other qualifications as the Secretary of the Army may prescribe.

§ 3286. Commissioned officers: original appointment; age limitations

(a) No person may be originally appointed in a commissioned grade in the Regular Army, except under section 3291 or 3294 (a) of this title, if on the date of his appointment he has already passed his—

(1) thirty-fourth birthday, for a person appointed as a chaplain;

(2) thirty-second birthday, for a person appointed in the Medical Corps, Dental Corps, Veterinary Corps, or Judge Advocate General's Corps;

(3) thirtieth birthday, for a person appointed in the Medical Service Corps; or

(4) twenty-seventh birthday, for all other persons.

(b) The maximum ages specified in subsection (a) are increased by the period of active commissioned service in the Army after December 31, 1947, and performed after the appointee became 21 years of age and before his appointment. However, a maximum age is not so increased by more than five years.

§ 3287. Commissioned officers: original appointment; service credit

(a) For the purpose of determining grade, position on a promotion list, seniority in his grade in the Regular Army, and eligibility for promotion, a person originally appointed in a commissioned grade in the Regular Army, except a person appointed under section 3291 or 3294 (a) of this title, shall be credited at the time of his appointment with the active commissioned service in the Army after December 31, 1947, that he performed after becoming 21 years of age and before his appointment. However, not more than five years of service may be so credited.

(b) A person originally appointed in a commissioned grade in the Regular Army in one of the following branches, except a person appointed under section 3294 (a) of this title, shall be credited at the time of his appointment, in addition to the service with which he is credited under subsection (a), and for the same purposes, with the following service:

(1) Medical Corps—four years.

(2) Dental Corps—three years.

(3) Veterinary Corps—three years.

(4) The Chaplains—three years.

(5) Judge Advocate General's Corps—three years.

(c) Under such regulations as the Secretary of the Army may prescribe, a person who is originally appointed in a commissioned grade in the Regular Army in the Medical Service Corps, and who, at the time of appointment, holds a degree of doctor of philosophy or a comparable degree in a science allied to medicine, so recognized by the Surgeon General, may be credited at the time of his appointment, in addition to the service with which he is credited under subsection (a), and for the same purposes, with three years of service.

(d) Notwithstanding any other provision of law, no person who was a cadet at the United States Military Academy may be originally appointed in a commissioned grade in the Regular Army before the date on which his classmates at the Academy are graduated and appointed as officers. No person who was a cadet at, but did not graduate from, the Academy may be credited, upon appointment as a commissioned officer of the Regular Army, with longer service than that credited to any member of his class at the Academy whose service in the Army has been continuous since graduation.

(e) A graduate of the United States Military Academy who is originally appointed as a second lieutenant in the Regular Army under section 4353 (b) of this title is not entitled to any service credit under this section.

§ 3288. Commissioned officers: original appointment; determination of grade

Except as provided in section 3294 of this title, based upon the service credited under section 3287 of this title, the commissioned grade in which a person is originally appointed in the Regular Army is:

(1) For persons with less than three years of service—second lieutenant.

(2) For persons with at least three, but less than seven, years of service—first lieutenant.

(3) For persons with at least seven years of service—captain.

§ 3289. Commissioned officers; Medical Corps: original appointment; professional examination

No person may be originally appointed as a first lieutenant in the Regular Army in the Medical Corps until he passes an examination of his professional fitness before an examining board composed of at least three officers of the Medical Corps designated by the Secretary of the Army.

§ 3290. Commissioned officers; Medical Service Corps: original appointment; additional qualifications, grade

An original appointment in the Regular Army in the Medical Service Corps may be made only in the grade of second lieutenant, except as provided in section 3287 (c) of this title, and from the following persons:

(1) Members of the Regular Army.

(2) Reserves not in an inactive status.

(3) Graduates of an accredited school of pharmacy or optometry, or of a school or college who hold a degree in a science allied to medicine or any other degree approved by the Surgeon General.

§ 3291. Commissioned officers; Army Nurse Corps and Women's Medical Specialist Corps: original appointment; additional qualifications, grade

(a) An original appointment in the Regular Army in the Army Nurse Corps or the Women's Medical Specialist Corps may be made in the grade of—

(1) second lieutenant, from women who on the date of nomination have not already passed their twenty-seventh birthday, and who are not qualified for appointment in the grade of first lieutenant under clause (2); and

(2) first lieutenant, from women who on the date of nomination have not already passed their thirtieth birthday.

The maximum ages specified in this subsection are increased by the period of active commissioned service in the armed forces after December 31, 1947, but not by more than five years.

(b) To be eligible for appointment in the Army Nurse Corps under this section a woman must be a graduate of a hospital or university training school and a registered nurse.

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§ 3292. Commissioned officers; Judge Advocate General's Corps: original appointment; additional qualifications, grade

Original appointments in commissioned grades in the Regular Army in the Judge Advocate General's Corps may be made from the following:

(1) Officers of the Regular Army in other branches.

(2) Reserve commissioned officers assigned to the Judge Advocate General's Corps.

(3) Qualified civilian graduates of accredited law schools.

Commissioned officers of the Regular Army in other branches may be originally appointed in the Judge Advocate General's Corps in the grades of first lieutenant through colonel.

§ 3293. Commissioned officers; Chaplains: original appointment; examination

No person in civil life may be originally appointed as a chaplain in the Regular Army unless he has passed an examination prescribed by the President as to his moral, mental, and physical qualifications.

§ 3294. Commissioned officers; Medical and Dental Corps: original appointment; additional method authorized as exception to general procedure

(a) Notwithstanding sections 3285, 3286, and 3287 of this title, original appointments in the Regular Army may also be made in grades of captain through colonel in the Medical Corps and the Dental Corps, as the needs of the Army require. These appointments may be made only from qualified civilian doctors of medicine and dentists who are citizens of the United States and who have such other qualifications as the Secretary of the Army may prescribe.

(b) An officer appointed under subsection (a) shall be credited for promotion with the minimum number of years of service required for promotion of officers of the corps to the grade in which he is appointed.

§ 3295. Commissioned officers: original appointment; determination of place on promotion list.

The name of each person originally appointed in a commissioned grade in the Regular Army shall be placed on the applicable promotion list, if any, immediately below the junior officer of the same grade having the same or next longer service.

§ 3296. Promotion lists: promotion-list officer defined; determination of place upon transfer or promotion

(a) The names of all commissioned officers in grades below brigadier general on the active list of the Regular Army, except those of the Army Nurse Corps and the Women's Medical Specialist Corps, those in special categories otherwise excluded under law, and professors of the United States Military Academy, shall be carried on promotion lists in descending order of grade and rank in the Regular Army. These officers may be called "promotion-list officers".

(b) A separate promotion list shall be maintained for commissioned officers of the Regular Army in each of the following:

(1) The Chaplains.

(2) The Women's Army Corps.

(3) Each of the several branches of the Army Medical Service, except the Army Nurse Corps and the Women's Medical Specialist Corps.

(c) The names of all promotion-list officers not on a list maintained under subsection (b) shall be carried on the Army promotion list.

(d) If a promotion-list officer is transferred from one branch to another whose officers are carried on a different promotion list, his name shall be placed upon the promotion list to which he is transferred among the officers of his grade in accordance with seniority as determined under section 3574 (b) of this title.

(e) Unless specifically provided otherwise, upon the promotion of a promotion-list officer, his name shall be placed at the foot of the list of officers of his grade.

§ 3297. Selection boards

(a) Under such regulations as he may prescribe, the Secretary of the Army shall detail selection boards, to meet at times prescribed by him, to recommend promotion-list officers and brigadier generals of the Regular Army for promotion in the Regular Army. Each board shall be composed of at least five officers of the Regular Army who hold a regular or temporary grade above lieutenant colonel, and who are senior in regular grade to, and who outrank, any officer considered by that board. However, a selection board considering promotion-list officers of the Women's Army Corps under section 3300 (a) or (b) of this title may include officers of the Regular Army in that corps whose regular or temporary grades are above major.

(b) No selection board may serve longer than one year and no member may serve on two consecutive boards for promotions to the same grade, if the second board considers any officer considered but not recommended for promotion by the first.

(c) Each member of a selection board must swear that he will perform his duties without prejudice or partiality, having in view the special fitness of officers and the efficiency of the Army.

(d) Except as otherwise provided by law, promotion-list officers and brigadier generals of the Regular Army may be promoted to the regular grades of captain through major general only when recommended by a selection board. A recommendation for promotion must be made by the majority of the total membership of the board.

(e) Not later than 10 days after a board first meets, any officer eligible for consideration by that board is entitled to send a letter, through official channels, calling attention to matters of record in the Department of the Army concerning himself that he considers important. The letter may not contain any reflection upon the character, conduct, or motives of any officer, or criticism of any officer.

§ 3298. Commissioned officers: promotion to first lieutenant; effect of failure of promotion

(a) A promotion-list officer in the grade of second lieutenant shall be promoted to the regular grade of first lieutenant upon completing three years of service with which he is entitled to be credited for promotion. If a promotion-list officer in that grade is found to be not fully qualified, he shall be discharged under section 3814 of this title.

(b) Vacancies in the grade of first lieutenant on a promotion list may be filled by promoting second lieutenants on that list with less than three years of service, in order of seniority, under regulations prescribed by the Secretary of the Army.

§ 3299. Commissioned officers: promotion to captain, major, or lieutenant colonel

(a) Promotion-list officers shall be promoted to the regular grades of captain, major, and, except as provided in subsection (f), lieutenant colonel, under subsections (b) and (c), or eliminated from the active list under section 3303 of this title.

(b) Without regard to vacancies, each promotion-list officer whose regular grade is first lieutenant, captain, or major shall be considered by a selection board for promotion to the next higher regular grade, far enough in advance of the date on which he will complete 7, 14, or 21 years of service with which he is entitled to be credited for promotion, as the case may be, that, if recommended, he may be promoted on the date on which he will complete that service.

(c) Having in view the number of actual and anticipated vacancies on a promotion list in the regular grade of captain, major, or lieutenant colonel, the Secretary of the Army may direct a selection board to consider and recommend officers on that list for promotion to the next higher regular grade without regard to length of service. However, no officer may be considered for promotion under this section more than two years before the date on which it is anticipated that he will be promoted if recommended, and unless the same board considers all officers above him on that list who are not on a recommended list.

(d) The names of promotion-list officers recommended for promotion under this section shall be carried on permanent recommended lists of their grade and promotion list in the same order among themselves as on the applicable promotion list, and they shall be promoted in that order. A promotion may be made whenever there is a vacancy; but it is not mandatory that the authorized numbers be maintained in any grade on any promotion list.

(e) Whenever an officer is promoted under subsection (b), all officers in the same grade and on the same promotion list whose names are on the recommended list above that of the officer who must be promoted because of length of service shall be promoted at the same time and shall retain among themselves their existing seniority.

(f) Promotion-list officers of the Women's Army Corps may be promoted to the regular grade of lieutenant colonel only to fill vacancies in that grade and on that promotion list, and only when recommended by a selection board under regulations to be prescribed by the Secretary.

(g) A promotion-list officer who has been twice considered and not recommended for promotion to any one regular grade may not again be considered for promotion under this section.

§ 3300. Commissioned officers: promotion to captain, major, or lieutenant colonel; selection board procedure

(a) When promotion-list officers in the regular grade of first lieutenant, captain, or major are to be considered, under section 3299 of this title, by a selection board for promotion to the next higher regular

grade to fill existing or anticipated vacancies, the Secretary of the Army may direct the board to—

(1) consider officers in the specified grade in the order of their seniority on the promotion list concerned;

(2) recommend those who are fully qualified for promotion;

(3) pass over those not so qualified; and

(4) continue this procedure until the number of officers specified by him is recommended.

(b) When a promotion-list officer in the regular grade of first lieutenant, captain, or major must be considered under section 3299 of this title for promotion because of length of service, or because he is on a promotion list above an officer who must be considered for that reason, the Secretary may—

(1) furnish the board a list of officers to be considered for promotion to the grade concerned; and

(2) direct the board to recommend the officers on that list whom it considers fully qualified for promotion.

(c) Instead of the procedures set forth in subsection (a) or (b), the Secretary may furnish to the board a list of promotion-list officers to be considered and may direct it to recommend a number specified by him for promotion. The board shall recommend those officers whom it considers to be the best qualified. However, the number prescribed by the Secretary for recommendation must be at least 80 percent of those listed for consideration.

§ 3302. Commissioned officers; Medical, Dental, and Veterinary Corps: promotion to captain, major, or lieutenant colonel; professional examination

(a) No commissioned officer of the Medical Corps or the Veterinary Corps whose regular grade is below lieutenant colonel may be promoted in the Regular Army until he passes an examination of his professional fitness before an examining board composed of at least three commissioned officers of the Regular Army in the Medical Corps selected by the Secretary of the Army. No commissioned officer of the Dental Corps whose regular grade is below lieutenant colonel may be promoted in the Regular Army until he passes an examination of his professional fitness before an examining board composed of one commissioned officer of the Regular Army in the Medical Corps, and two commissioned officers of the Regular Army in the Dental Corps, selected by the Secretary. The examination shall be prescribed by the Secretary and shall be held at such time before the right to promotion accrues as may be in the best interest of the Army.

(b) If an officer of the Medical, Dental, or Veterinary Corps in the regular grade of first lieutenant or captain is found disqualified for promotion by the examining board, the Secretary shall detail a board of review to consider the findings of the examining board.

(c) A board of review shall be composed in the same manner as an examining board, except that its members must be senior in rank to the officer examined, and must not have served on the examining board that examined him.

(d) If the board of review concurs in the findings of the examining board, the officer shall be honorably discharged with one year's pay. If it does not concur in the findings, the officer shall be considered qualified and shall be promoted.

(e) An officer of the Medical, Dental, or Veterinary Corps in the regular grade of major who fails his first examination for promotion shall be suspended from promotion and reexamined as soon as practicable after one year from the date of his first examination. While he is so suspended from promotion, his name shall be removed from the recommended list and the years of service with which he is entitled to be credited for promotion purposes shall be reduced, if necessary, as provided in section 3303 (b) of this title.

(f) If on reexamination such a major is found qualified, his name shall be restored to the recommended list and he is eligible for promotion. If he is found disqualified for promotion, he shall be treated in the manner provided for deferred officers under section 3303 (d) of this title.

(g) While an officer is suspended from promotion under subsection (e), his right to promotion passes successively to the officers below him who are in the same grade and on the same promotion list, and who are or may become eligible for promotion.

(h) If the needs of the Army require that an officer entitled to promotion upon examination under subsection (a) be absent from a place where an examining board can be convened, the officer may be promoted, subject to examination as soon as practicable. However, if he is thereafter examined and found disqualified for that promotion, and if the proceedings are approved by the Secretary, he shall be treated as if he had been examined before promotion and had failed.

(i) If an officer who is found qualified for promotion under this section dies in line of duty after the occurrence of a vacancy that would entitle him to that promotion because of his seniority and before promotion, the President may issue, or have issued, an appropriate commission in the name of that officer. A commission issued under this subsection shall issue as of the date of the vacancy, and the officer's name shall be carried on the records of the Department of the Army as if he had served in the grade and branch in which posthumously commissioned, from the date of the vacancy to the date of his death. No person is entitled to any bonus, gratuity, pay, or allowance because of this subsection.

§ 3303. Commissioned officers: effect of failure of promotion to captain, major, or lieutenant colonel

(a) In this subtitle, "deferred officer" means a promotion-list officer considered for promotion to the grade of captain, major, or lieutenant colonel under section 3299 of this title, but not recommended for promotion.

(b) The years of service with which a deferred officer is entitled to be credited for promotion purposes shall be reduced so that one year after the date on which he would have been promoted had he been recommended by a selection board he will not have more than 7, 14, or 21 years of service, if in the grade of first lieutenant, captain, or major, as the case may be.

(c) A deferred officer shall be considered again by the next selection board considering officers of his grade and promotion list. If recommended by this board, his name shall be placed on the applicable recommended list with the other officers recommended by the board, in the same order among themselves as on the promotion list, but

below officers placed on that list by an earlier board. If a deferred officer is promoted upon the recommendation of the next board considering officers of his grade, his first failure does not count as a failure of selection when he is thereafter considered for promotion to another regular grade.

(d) A deferred officer who is not recommended by the next selection board considering officers of his grade and promotion list shall—

(1) if he is eligible, be retired under section 3913 of this title;

(2) if he is not eligible for retirement under section 3913 of this title, but is eligible for retirement under any other provision of law, be retired under that law on the date when he would have been retired under section 3913 of this title if he were eligible; or

(3) if he is not eligible for retirement under section 3913 of this title or any other provision of law, be honorably discharged on the date he would have been retired under section 3913 of this title if he were eligible, with severance pay computed by multiplying his years of service, but not more than 12, computed under section 3927 (a) of this title, by two months' basic pay of the grade in which he is serving on the date of his discharge.

(e) For the purposes of subsection (d) (3), 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.

§ 3304. Commissioned officers; Army Nurse Corps and Women's Medical Specialist Corps: promotion to first lieutenant, captain, major, or lieutenant colonel

(a) Commissioned officers of the Regular Army in the Army Nurse Corps and the Women's Medical Specialist Corps shall be promoted to the regular grade of first lieutenant upon completing the service prescribed for promotion of promotion-list officers to that grade.

(b) Commissioned officers of the Regular Army in the Army Nurse Corps and the Women's Medical Specialist Corps shall be promoted to the regular grade of captain or eliminated from the active list in the manner prescribed for promotion-list officers in sections 3299, 3300, and 3303 of this title.

(c) Under regulations to be prescribed by the Secretary of the Army, commissioned officers of the Regular Army in the Army Nurse Corps and the Women's Medical Specialist Corps shall be promoted to the regular grade of major, by selection, to fill vacancies in that grade.

(d) Under regulations to be prescribed by the Secretary, commissioned officers of the Regular Army in the Army Nurse Corps shall be promoted to the regular grade of lieutenant colonel, by selection, to fill vacancies in that grade.

§ 3305. Commissioned officers: promotion to colonel

(a) Having in view the number of actual and anticipated vacancies in any promotion list in the regular grade of colonel and the number of officers desired in that grade on that promotion list, the Secretary of the Army shall furnish to selection boards lists of officers in the regular grade of lieutenant colonel, in order of seniority in regular grade, to be considered by those boards. The Secretary may not furnish the name of any officer to the board unless he furnishes to it the names of all officers above that officer on that promotion list who are

not on a recommended list. He shall direct the boards to recommend a number prescribed by him for promotion to the grade of colonel. The list furnished may not contain the name of any officer who is on a recommended list for promotion to that grade. The board shall recommend the prescribed number of those officers whom it considers to be the best qualified.

(b) Whenever the Secretary considers that the number of officers in the regular grade of colonel in any of the branches on the Army promotion list is or may become seriously unbalanced, he may direct that, of the officers recommended, prescribed numbers be recommended for service in specified branches.

(c) The names of officers recommended for promotion to the regular grade of colonel shall be entered at the foot of, and carried on, the appropriate permanent recommended list for promotion to that grade in the same order among themselves as on the applicable promotion list. Officers shall be promoted in that order when there is a vacancy in that grade for that list. A vacancy in that grade may be filled at any time. It is not mandatory that the authorized numbers be maintained in the grade of colonel on any promotion list.

(d) The ratio of the number of officers on any promotion list who are named for consideration for promotion to the regular grade of colonel, to the number directed to be recommended, may be prescribed by the Secretary.

(e) No officer may be considered for promotion to the regular grade of colonel more than two years before the date on which it is anticipated that he will be promoted if recommended.

(f) An officer must complete at least one year of service in the regular grade of lieutenant colonel before being nominated for promotion to the regular grade of colonel.

§ 3306. Commissioned officers: promotion to brigadier general

(a) Having in view the number of actual and anticipated vacancies in the regular grade of brigadier general and the number of officers desired in that grade, the Secretary of the Army shall furnish to selection boards lists of officers in the regular grade of colonel, in order of seniority in regular grade, to be considered by those boards. He shall direct the boards to recommend a number prescribed by him for promotion to the grade of brigadier general, but he need not direct the recommendation of a number sufficient to maintain the authorized number for that grade. The list furnished may not contain the name of any officer who is on a recommended list for promotion to that grade. The Secretary may further direct that a specified number of those recommended be officers with experience qualifying them for service in or with specified branches. The board shall recommend the prescribed number of those officers whom it considers to be best qualified.

(b) The names of officers recommended for promotion to the regular grade of brigadier general shall be entered at the foot of, and carried on, the permanent recommended list for promotion to that grade, in the order to be determined by the Secretary.

(c) It an officer is recommended for promotion to the regular grade of brigadier general and is not removed from the list by the

President, he may be nominated and appointed as soon as a vacancy exists in the authorized number for that grade.

(d) The ratio of the number of officers on any promotion list who are named for consideration for promotion to the regular grade of brigadier general, to the number directed to be recommended, may be prescribed by the Secretary.

(e) No officer may be considered for promotion to the regular grade of brigadier general more than one year before the date on which it is anticipated that he will be promoted if recommended.

(f) An officer must complete at least one year of service in the regular grade of colonel before being nominated for promotion to the regular grade of brigadier general.

(g) This section does not apply to the appointment of chiefs or assistant chiefs of branches.

§ 3307. Commissioned officers: promotion to major general

(a) Having in view the number of actual and anticipated vacancies in the regular grade of major general and the number of officers desired in that grade, the Secretary of the Army shall furnish to selection boards lists of officers in the regular grade of brigadier general, in order of seniority in regular grade, to be considered by those boards. He shall direct the boards to recommend a number prescribed by him for promotion to the grade of major general, but he need not direct the recommendation of a number sufficient to maintain the authorized number for that grade. The list furnished may not contain the name of any officer who is on a recommended list for promotion to that grade. The Secretary may further direct that a specified number of those recommended be officers with experience qualifying them for service in or with specified branches. The board shall recommend the prescribed number of those officers whom it considers to be best qualified.

(b) The names of officers recommended for promotion to the regular grade of major general shall be entered at the foot of, and carried on, the permanent recommended list for promotion to that grade, in the order to be determined by the Secretary.

(c) If an officer is recommended for promotion to the regular grade of major general and is not removed from the list by the President, he may be nominated and appointed as soon as a vacancy exists in the authorized number for that grade.

(d) The ratio of the number of officers on any promotion list who are named for consideration for promotion to the regular grade of major general, to the number directed to be recommended, may be prescribed by the Secretary.

(e) No officer may be considered for promotion to the regular grade of major general more than one year before the date on which it is anticipated that he will be promoted if recommended.

(f) An officer must complete at least one year of service in the regular grade of brigadier general before being nominated for promotion to the regular grade of major general.

(g) This section does not apply to the appointment of chiefs or assistant chiefs of branches.

§ 3308. Commissioned officers: effect of removal from recommended list by President or failure of confirmation by Senate

The President may remove from a recommended list for promotion to any grade the name of any promotion-list officer or brigadier general of the Regular Army who in his opinion is not qualified for promotion. If an officer's name is so removed, or if the Senate does not consent to his appointment, he continues to be eligible as if he had not been considered for promotion and may be recommended by the next selection board considering officers of his grade. If he is promoted on the recommendation of that board, he has the same date of rank and place on the promotion list that he would have had if he had been promoted as a result of his original selection. If the second board considers but does not recommend an officer who would be subject to elimination for second failure of selection for promotion to the grade concerned, or if he again fails of promotion because his name is removed from the recommended list by the President or because the Senate does not consent to his appointment, he shall be eliminated from the active list under section 3303 of this title.

§ 3309. Commissioned officers: physical examination for promotion

(a) The President may prescribe a system of physical examination for all commissioned officers of the Regular Army in grades below brigadier general to determine their fitness for promotion in the Regular Army. Each examination shall be given before the right to promotion accrues.

(b) If the needs of the Army require that an officer entitled to promotion upon physical examination under subsection (a) be absent from a place where an examining board can be convened, the officer may be promoted subject to examination as soon as practicable. However, if he is thereafter examined and found physically disqualified for that promotion, and if the proceedings are approved by the Secretary of the Army, he shall be treated as if he had been examined before promotion and had failed.

(c) If a commissioned officer fails to pass the physical examination and is reported unfit for promotion, the officer next below him on a recommended list for promotion who has passed the examination and is otherwise qualified shall be promoted.

§ 3310. Warrant officers: original appointment; qualifications

Original appointments as warrant officers in the Regular Army shall be made from persons who have served on active duty at least one year in the Army.

§ 3311. Officers: female; limitations on appointment

Except for those appointed as commissioned officers in the Medical Corps, Dental Corps, Medical Service Corps, Veterinary Corps, Army Nurse Corps, or Women's Medical Specialist Corps, women may be appointed as officers in the Regular Army only in the Women's Army Corps.

§ 3312. Officers: acceptance of promotion

(a) An officer who is promoted in the Regular Army is considered to have accepted his promotion on the date of the order announcing it, unless he expressly declines the promotion. He is entitled to the pay and allowances of the higher grade from that date, unless entitled to them from an earlier date under another provision of law.

(b) An officer need not take the oath of office upon promotion if his service since last taking it has been continuous.

§ 3313. Suspension of laws for promotion or mandatory retirement or separation during war or emergency

In time of war, or of emergency declared by Congress or the President, the President may suspend the operation of any provision of law relating to promotion, or mandatory retirement or separation, of commissioned officers of the Regular Army.

CHAPTER 337.—APPOINTMENTS AS RESERVE OFFICERS

Sec.

3351. Officers: Army National Guard of United States.
3352. Officers; Army Reserve: transfer from Army National Guard of United States.
3354. Commissioned officers; Army Reserve: appointment of warrant officers and enlisted members of Army National Guard of United States.
3355. Commissioned officers; Army Reserve: appointment; R. O. T. C. graduates.
3357. Female commissioned officers; Army Reserve: for service in Army Nurse Corps or Women's Medical Specialist Corps.
3394. Officers: acceptance of promotion.
3395. During war.

§ 3351. Officers: Army National Guard of United States

(a) Upon being federally recognized, an officer of the Army National Guard shall be appointed as a Reserve for service as a member of the Army National Guard of the United States in the grade that he holds in the Army National Guard. However, an officer of the Army Reserve who is federally recognized as an officer of the Army National Guard becomes an officer of the Army National Guard of the United States and ceases to be an officer of the Army Reserve. The acceptance of an appointment as a Reserve for service as a member of the Army National Guard of the United States by an officer of the Army National Guard does not vacate his office in the Army National Guard.

(b) When an officer of the Army National Guard to whom temporary Federal recognition has been extended is appointed as a Reserve for service as a member of the Army National Guard of the United States, his appointment shall bear the date of the temporary recognition and shall be considered to have been accepted and effective on that date.

(c) When the Army National Guard of the United States is ordered to active duty, any officer of the Army National Guard who is not a Reserve of the Army may be appointed by the President as a Reserve for service as a member of the Army National Guard of the United States in the grade that he holds in the Army National Guard.

§ 3352. Officers; Army Reserve: transfer from Army National Guard of United States

(a) Under such regulations as the Secretary of the Army may prescribe, and with the consent of the governor or other appropriate authority of the State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia, whichever is concerned, an officer of the Army National Guard of the United States may be transferred in grade to the Army Reserve. Upon transfer, he is eligible for promotion to the highest regular or reserve grade ever held by him in the Army, if his service has been honorable.

(b) Unless discharged from his appointment as a Reserve, an officer of the Army National Guard of the United States whose Federal recognition as a member of the Army National Guard is withdrawn becomes a member of the Army Reserve. An officer who so becomes a member of the Army Reserve ceases to be a member of the Army National Guard of the United States.

§ 3354. Commissioned officers; Army Reserve: appointment of warrant officers and enlisted members of Army National Guard of United States

Notwithstanding any other provision of law, a warrant officer or enlisted member of the Army National Guard of the United States may without affecting that status or vacating his warrant or enlisted grade in the Army National Guard, be appointed as a reserve officer of the Army in the grade of first lieutenant or second lieutenant.

§ 3355. Commissioned officers; Army Reserve: appointment; R. O. T. C. graduates

The President alone may appoint any graduate of the junior or senior division of the Reserve Officers' Training Corps as a reserve commissioned officer for service in the Army Reserve, if that graduate—

(1) has satisfactorily completed the courses of military training prescribed for the senior division;

(2) has satisfactorily completed the further training prescribed in section 4385 of this title;

(3) has participated after graduation in the practical instruction prescribed by the Secretary of the Army;

(4) is at least 21 years of age; and

(5) agrees under written oath to serve the United States as a reserve officer for at least five years from the date of his appointment, unless he is sooner discharged.

§ 3357. Female commissioned officers; Army Reserve: for service in Army Nurse Corps or Women's Medical Specialist Corps

To be eligible for an appointment as a reserve officer for service in the Army Reserve in the Army Nurse Corps or the Women's Medical Specialist Corps, a person must be a woman at least 21 years of age.

§ 3394. Officers: acceptance of promotion

(a) An officer of the Army National Guard of the United States or Army Reserve who is promoted as a Reserve is considered to have accepted his promotion on the date of the order announcing it, unless he expressly declines the promotion. He is entitled to the pay and allowances of the higher grade from that date, unless entitled to them from an earlier date under another provision of law.

(b) An officer need not take the oath of office upon promotion if his service since last taking it has been continuous.

§ 3395. During war

In addition to appointments in time of war under chapter 339 of this title, appointments of reserve officers may be made in time of war.

CHAPTER 339.—TEMPORARY APPOINTMENTS

Sec.
3441. General rule.
3442. Commissioned officers; regular and reserve components: appointment in higher grade.
3443. Commissioned officers; Reserves: appointment in higher or lower grade.
3444. Commissioned officers: during war or emergency.
3445. Officers: additional appointments during war or emergency.
3446. Retention on active duty.
3447. Appointments in commissioned grade: how made; how terminated.
3448. Warrant officers: grades; appointment.
3449. Warrant officers: promotion.
3450. Warrant officers: suspension of laws for promotion or mandatory retirement or separation during war or emergency.
3451. Officers: acceptance of appointment in higher grade.

§ 3441. General rule

Temporary appointments may be made only in the Army without specification of component.

§ 3442. Commissioned officers; regular and reserve components: appointment in higher grade

(a) Whenever the number of officers of the Regular Army in any regular grade above second lieutenant is less than the number authorized, the vacancies may be filled by the appointment of qualified officers, as prescribed in subsection (c).

(b) Whenever, under authorization by Congress, the number of commissioned officers of the Regular Army on active duty plus the number of other commissioned officers of the Army ordered to active duty for a period of more than 30 days is more than the authorized strength of the Regular Army in commissioned officers on the active list, the Secretary of the Army shall determine the additional number of officers in each of the commissioned grades based upon the number of officers serving on active duty and the tasks being performed by the Army. Vacancies resulting from that determination may then be filled by the appointment of qualified officers, as prescribed in subsection (c).

(c) Subject to subsections (a) and (b), a regular commissioned officer, or a reserve commissioned officer who is serving on active duty, may be appointed in a temporary grade that is equal to or higher than his regular or reserve grade, without vacating any other grade held by him. Under regulations to be prescribed by the Secretary, appointments made under this subsection shall be made on

a fair and equitable basis. Selections shall be based upon ability and efficiency with regard being given to seniority and age.

§ 3443. Commissioned officers; Reserves: appointment in higher or lower grade

A reserve commissioned officer who is ordered to, or is serving on, active duty may be appointed, with his consent, in a temporary grade that is higher or lower than his reserve grade, without affecting his reserve grade.

§ 3444. Commissioned officers: during war or emergency

(a) In time of emergency declared by Congress or the President, and in time of war, the President may appoint any qualified person, including a person who is not a Regular or Reserve, in any temporary commissioned grade.

(b) An officer appointed under subsection (a) may be ordered to active duty for such period as the President prescribes.

(c) Unless sooner vacated, an appointment under subsection (a) is effective during the war or emergency in which it is made and for six months thereafter.

§ 3445. Officers: additional appointments during war or emergency

(a) In addition to appointments authorized under section 3442 of this title, in time of war or of national emergency declared by the President, a regular officer or a reserve warrant officer may be appointed in a temporary grade that is higher than his regular or reserve grade, without vacating that grade.

(b) In addition to appointments authorized under subsection (a) of this section, and sections 3442, 3443, and 3444 of this title, in time of war a person who holds no commissioned grade in the Regular Army may be appointed in any temporary commissioned grade.

(c) Unless sooner vacated, the appointment of an officer under subsection (b), except a member of the Regular Army, is effective during the war in which it is made and for six months thereafter.

(d) Each officer appointed under subsection (b) shall, unless he is a member of the Regular Army, be relieved from active duty, at his request, within six months after the termination of the war.

§ 3446. Retention on active duty

Notwithstanding any other provision of law, the President shall retain on active duty any disabled officer who has only a temporary appointment until his physical condition is such that he will not be further benefited by retention in a military hospital or in the Army.

§ 3447. Appointments in commissioned grade: how made; how terminated

(a) The appointment of a person under sections 3442, 3443, 3444, and 3445 of this title shall be made without reference to any other appointment that he may hold in the Army.

(b) Temporary appointments of commissioned officers in the Army shall be made by the President alone in grades below brigadier general, and by the President, by and with the advice and consent of the Senate, in general officer grades.

(c) The President may vacate at any time a temporary appointment in a commissioned grade.

§ 3448. Warrant officers: grades; appointment

(a) The temporary warrant officer grades in the Army are those prescribed for regular warrant officers by section 555 (a) of this title.

(b) Whenever, under authorization by Congress, the number of commissioned officers of the Army on active duty is more than the authorized strength of the Regular Army in commissioned officers on the active list, the Secretary of the Army shall determine the additional number needed in each of the warrant officer grades based on the number of warrant officers serving on active duty and the tasks being performed by the Army. The Secretary may appoint, by warrant, qualified persons as warrant officers to fill the vacancies resulting from that determination. Appointments under this subsection continue in effect during the pleasure of the Secretary. While holding such an appointment, a warrant officer may be ordered to active duty with any unit of the Army.

(c) A warrant officer appointed under subsection (b) is entitled—

(1) to count all periods of active duty under the appointment as warrant or enlisted service for all purposes; and

(2) to the benefits of all laws and regulations applicable to the retirement, pensions, and disability of members of the Army on active duty.

(d) If a person appointed under subsection (b) is a member of the Army at the time of his appointment, he may accept the appointment without prejudice to his existing status. Upon termination of his appointment he is entitled to the grade held at the time of that appointment.

§ 3449. Warrant officers: promotion

Temporary promotions in warrant officer grades shall be governed by such regulations as the Secretary of the Army may prescribe.

§ 3450. Warrant officers: suspension of laws for promotion or 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 promotion, or mandatory retirement or separation, of temporary warrant officers of the Army.

§ 3451. Officers: acceptance of appointment in higher grade

(a) An officer who is promoted to a temporary grade is considered to have accepted his promotion on the date of the order announcing it, unless he expressly declines the promotion. He is entitled to the pay and allowances of the higher grade from that date, unless entitled to them from an earlier date under another provision of law.

(b) An officer need not take the oath of office upon promotion if his service since last taking it has been continuous.

CHAPTER 341.—ACTIVE DUTY

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3491. Non-regular officers: status.
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3493. Army Reserve: commissioned officers with Corps of Engineers.
3495. Army National Guard of United States: status.
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§ 3491. Non-regular officers: status

A commissioned officer of the Army, other than of the Regular Army, who is on active duty in any commissioned grade has the rights and privileges, and is entitled to the benefits, provided by law for a commissioned officer of the Army Reserve—

(1) whose reserve grade is that in which the officer not of the Regular Army is serving;

(2) who has the same length of service as the officer not of the Regular Army; and

(3) who is on active duty in his reserve grade.

§ 3492. Members: service extension during war

Unless terminated at an earlier date by the President, the period of active service of any member of the Army is extended for the duration of any war in which the United States may be engaged and for six months thereafter.

§ 3493. Army Reserve: commissioned officers with Corps of Engineers

The President may order commissioned officers of the Army Reserve to active duty with the Corps of Engineers in such number and for such time as may be necessary for the performance of the functions of the Corps of Engineers.

§ 3495. Army National Guard of the United States: status

Members of the Army National Guard of the United States are not in active Federal service except when ordered thereto under law.

§ 3496. Army National Guard of United States: commissioned officers; duty in National Guard Bureau

(a) The President may, with their consent, order commissioned officers of the Army National Guard of the United States to active duty in the National Guard Bureau.

(b) The number of officers of the Army National Guard of the United States in any grade below brigadier general who are ordered to active duty in the National Guard Bureau may not be more than 40 percent of the number of officers of the Army in that grade authorized for duty in that Bureau.

§ 3497. Army National Guard of United States: members; status in which ordered into Federal service

Members of the Army National Guard of the United States ordered to active duty shall be ordered to duty as Reserves of the Army.

§ 3498. Army National Guard of United States: mobilization; maintenance of organization

During an initial mobilization, the organization of a unit of the Army National Guard of the United States ordered into active Federal service shall, so far as practicable, be maintained as it existed on the date of the order to duty.

§ 3499. Army National Guard in Federal service: status

Members of the Army National Guard called into Federal service are, from the time when they are required to respond to the call, subject to the laws and regulations governing the Army, except those applicable only to members of the Regular Army.

§ 3500. Army National Guard in Federal service: call

Whenever—

(1) the United States, or any of the Territories, Commonwealths, or possessions, is invaded or is in danger of invasion by a foreign nation;

(2) there is a rebellion or danger of a rebellion against the authority of the Government of the United States; or

(3) the President is unable with the regular forces to execute the laws of the United States;

the President may call into Federal service members and units of the Army National Guard of any State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia in such numbers as he considers necessary to repel the invasion, suppress the rebellion, or execute those laws. Orders for these purposes shall be issued through the governors of the States, the Territories, Puerto Rico, and the Canal Zone, and, in the District of Columbia, through the commanding general of the National Guard of the District of Columbia.

§ 3501. Army National Guard in Federal service: period of service; apportionment

(a) Whenever the President calls the Army National Guard of a State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia into Federal service, he may specify in the call the period of the service. Members and units called shall serve inside or outside the territory of the United States during the term specified, unless sooner relieved by the President. However, no member of the Army National Guard may be kept in Federal service beyond the term of his commission or enlistment.

(b) When the Army National Guard of a State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia is called into Federal service with the Army National Guard of another of those jurisdictions, the President may apportion the total number called on the basis of the populations of the jurisdictions affected by the call.

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§ 3502. Army National Guard in Federal service: physical examination

(a) Under regulations prescribed by the President, each member of the Army National Guard called into Federal service shall be examined as to physical fitness, without further commission or enlistment.

(b) Immediately before such a member is mustered out of Federal service he shall be examined as to physical fitness. The record of this examination shall be retained by the United States.

§ 3503. Retired commissioned officers: status

A retired commissioned officer of the Army who is on active duty is considered, for all purposes except promotion, to be an officer of the branch or organization to which he is assigned.

§ 3504. Retired members: limitations; grade

(a) The President may order any retired member of the Regular Army to active duty. He may assign a member ordered under this subsection to such duties as he considers necessary in the interests of national defense.

(b) When ordered to active duty, a retired commissioned officer of the Army any part of whose service was in the Corps of Engineers is eligible to fill any position required by law to be filled by a commissioned officer of the Corps of Engineers.

(c) Whenever any of the following persons is ordered to active duty, he shall be ordered in his retired grade:

(1) Any officer who served four years as Chief of the Medical Service Corps.

(2) Any officer who served two and one-half years as Chief of the Army Nurse Corps or as Chief or an assistant chief of the Women's Medical Specialist Corps.

(3) Any officer who served two and one-half years as Director or Deputy Director of the Women's Army Corps.

CHAPTER 343.—SPECIAL APPOINTMENTS, ASSIGNMENTS, DETAILS, AND DUTIES

Sec.

3531. Chief of Staff to President: appointment.
3532. Assistant to Comptroller of Department of Defense: detail, grade.
3533. Corps of Engineers: assignment or transfer of officers to duties involving civil functions.
3534. Engineer Commissioner of the District of Columbia; assistants: detail.
3535. Assistant to Chief of Engineers.
3536. Leader of Army Band: appointment.
3538. Geological Survey: detail of officers of Ordnance Corps.
3539. American National Red Cross: detail of officers of Army Medical Service.
3540. Educational institutions: detail of members of regular or reserve components as professors and instructors in military science and tactics.
3541. National Guard Bureau: assignment of officers of regular or reserve components.
3542. Chief and assistant chief of staff of divisions of Army National Guard in Federal service: detail.
3543. Aides: detail; number authorized.
3544. Duties: regular officers; performance of civil functions restricted.
3545. Duties: officers; superintendence of cooking for enlisted members.
3546. Duties: officers of Medical Corps, contract surgeons; attendance on families of members.
3547. Duties: chaplains; assistance required of commanding officers.
3548. Duties: warrant officers; limitations.

§ 3531. Chief of Staff to President: appointment

The President, by and with the advice and consent of the Senate, may appoint a general officer of the Army as the Chief of Staff to the President. Unless entitled to the rank, pay, and allowances of a grade above lieutenant general under another provision of law, an officer so appointed by and with the advice and consent of the Senate is entitled to the rank, pay, and allowances of a general, and is additional to the numbers otherwise authorized for that grade.

§ 3532. Assistant to Comptroller of Department of Defense: detail, grade

A colonel on the active list of the Regular Army who is detailed as special assistant to the Comptroller of the Department of Defense, has the grade of brigadier general while so serving, unless he is entitled to a higher grade.

§ 3533. Corps of Engineers: assignment or transfer of officers to duties involving civil functions

Officers of the Corps of Engineers may be assigned or transferred to and from duties involving the civil functions of the Corps of Engineers only upon the recommendation of the Chief of Engineers, and with the approval of the Secretary of the Army.

§ 3534. Engineer Commissioner of the District of Columbia; assistants: detail

(a) The President may detail an officer assigned to the Corps of Engineers whose grade is above first lieutenant, and who has served at least 15 years in the Corps of Engineers, to be the Engineer Commissioner of the District of Columbia. An officer so detailed may not be required to perform any other duty.

(b) The President may detail not more than three officers assigned to the Corps of Engineers who are junior to the Engineer Commissioner, to assist that officer in discharging his duties.

§ 3535. Assistant to Chief of Engineers

An officer assigned as Assistant to the Chief of Engineers in charge of civil works, including river and harbor and flood control improvements, is entitled to the rank, pay, and allowances of a brigadier general while so serving.

§ 3536. Leader of Army Band: appointment

(a) The Secretary of the Army may appoint the leader of the Army band from the warrant officers of the Regular Army. The leader serves during the pleasure of the Secretary and may be returned to his former status in the discretion of the Secretary.

(b) The leader of the Army band is entitled to the basic pay and allowances of a captain, and is entitled to be credited for pay purposes with all service that may be credited under section 233 of title 37.

(c) Upon retirement, the leader of the Army band has the grade of warrant officer, with the retired pay to which he would have been entitled had he not been appointed leader.

§ 3538. Geological Survey: detail of officers of Ordnance Corps

The Secretary of the Army may detail not more than two commissioned officers who are assigned to the Ordnance Corps to serve with the Geological Survey, if in his judgment that can be done without injury to the service.

§ 3539. American National Red Cross: detail of officers of Army Medical Service

(a) The President may detail not more than five commissioned officers of the Army Medical Service for duty with the Service to the Armed Forces Division of the American National Red Cross.

(b) The Secretary of the Army may detail a commissioned officer of the Medical Corps to be in charge of the first-aid department of the American National Red Cross.

§ 3540. Educational institutions: detail of members of regular or reserve components as professors and instructors in military science and tactics

(a) The President may detail regular or reserve members of the Army for duty as professors and assistant professors of military science and tactics, and as military instructors, at educational institutions where units of the Reserve Officers' Training Corps are maintained.

(b) The Secretary of the Army may detail regular or reserve members of the Army for duty as professors and assistant professors of military science and tactics, and as military instructors, at schools and colleges, other than those covered by section 4382 of this title, having a course of military training prescribed by him and having not less than 100 physically fit male students who are at least 14 years of age.

§ 3541. National Guard Bureau: assignment of officers of regular or reserve components

Except as provided in section 3496 (b) of this title, the President may assign to duty in the National Guard Bureau as many regular or reserve officers of the Army as he considers necessary.

§ 3542. Chief and assistant chief of staff of divisions of Army National Guard in Federal service: detail

The President may detail a regular or reserve officer of the Army as chief of staff, and a regular or reserve officer or an officer of the Army National Guard as assistant to the chief of staff, of any division of the Army National Guard that is in Federal service as an Army National Guard organization.

§ 3543. Aides: detail; number authorized

(a) Each major general of the Army is entitled to three aides selected by him from commissioned officers of the Army in any grade below major.

(b) Each brigadier general of the Army is entitled to two aides selected by him from commissioned officers of the Army in any grade below captain.

§ 3544. Duties: regular officers; performance of civil functions restricted

(a) No commissioned officer of the Regular Army may be—
(1) employed on civil works or internal improvements;
(2) allowed to be employed by an incorporated company; or
(3) employed as acting paymaster or disbursing agent of the Bureau of Indian Affairs;
if that employment requires him to be separated from his organization or branch, or interferes with the performance of his military duties.

(b) Except as otherwise provided by law, no commissioned officer on the active list of the Regular Army may hold a civil office by election or appointment, whether under the United States, a Territory or possession, or a State. The acceptance of such a civil office or the exercise of its functions by such an officer terminates his appointment in the Army.

§ 3545. Duties: officers; superintendence of cooking for enlisted members

The cooking for enlisted members of the Army shall be superintended by the officers of the organizations to which the members belong.

§ 3546. Duties: officers of Medical Corps, contract surgeons; attendance on families of members

Commissioned officers of the Medical Corps and contract surgeons shall, when practicable, attend the families of members of the Army who are on active duty, retired, or on the temporary disability retired list. Such attendance shall be free of charge.

§ 3547. Duties: chaplains; assistance required of commanding officers

(a) Each chaplain shall, when practicable, hold appropriate religious services at least once on each Sunday for the command to which he is assigned, and shall perform appropriate religious burial services for members of the Army who die while in that command.

(b) Each commanding officer shall furnish facilities, including necessary transportation, to any chaplain assigned to his command, to assist the chaplain in performing his duties.

§ 3548. Duties: warrant officers; limitations

Under regulations prescribed by the President, a warrant officer may be assigned to perform duties that necessarily include those normally performed by a commissioned officer.

CHAPTER 345.—RANK AND COMMAND

Sec.
3571. Rank: commissioned officers on active duty.
3572. Rank: commissioned officers serving under temporary appointments.
3573. Rank: commissioned officers in regular grades of brigadier general and major general; seniority list.
3574. Rank: commissioned officers in regular grades below brigadier general.
3575. Rank: warrant officers.
3576. Command: when different commands of Army and Marine Corps join.
3578. Command: commissioned officers of Army in same grade on duty at same place.

Sec.

3579. Command: commissioned officers of Army Medical Service.
3580. Command: commissioned officers of Women's Army Corps.
3581. Command: chaplains.
3582. Command: retired officers.

§ 3571. Rank: commissioned officers on active duty

(a) Commissioned officers of the Army on active duty in the same grade rank among themselves according to date of rank. The date of rank—

(1) for a regular officer serving in his regular grade, is that stated in his commission or letter of appointment;

(2) for a regular officer serving in a temporary grade, is his date of appointment in that grade, unless adjusted under section 3572 of this title; and

(3) for a reserve officer or an officer of the Army National Guard called into Federal service, is his date of entry on active duty, except that, if he previously served on active duty in the same or any higher grade, his date of rank precedes the date of his entry on active duty by the period of his active duty, and of his service under section 503, 504, or 505 of title 32, performed in the grade in which he was placed on active duty or in any higher grade.

(b) When the dates of rank prescribed by subsection (a) are the same, rank is determined by length of all active commissioned service in the Army and commissioned service under sections 503, 504, and 505 of title 32.

(c) When the dates of rank prescribed by subsection (a) and length of active commissioned service computed under subsection (b) are the same:

(1) Regular officers rank before reserve officers and officers of the Army National Guard.

(2) Regular officers rank among themselves according to sections 3573 and 3574 of this title.

(3) Reserve officers and officers of the Army National Guard rank among themselves according to age.

§ 3572. Rank: commissioned officers serving under temporary appointments

The President may, in accordance with the needs of the Army, adjust dates of rank of commissioned officers of the Army serving in temporary grades.

§ 3573. Rank: commissioned officers in regular grades of brigadier general and major general; seniority list

(a) The date of rank of an officer whose regular grade is brigadier general is the date of his appointment in that regular grade, if at the time of that appointment he held no temporary general officer grade. The date of rank of an officer whose regular grade is major general is the date of rank he held in the regular grade of brigadier general, if he held that grade at the time of his appointment in the regular grade of major general.

(b) If at the time of his appointment in his current regular grade such an officer held only a temporary general officer grade, his date of rank is the date of rank he held in that temporary grade, except that

if he was promoted to that temporary grade from the temporary grade of brigadier general his date of rank is the date of rank he held in the temporary grade of brigadier general.

(c) Notwithstanding subsections (a) and (b), the date of rank of such an officer may not be earlier than that of the junior general officer in the same regular grade who was appointed to that grade before him.

(d) The names of general officers of the Regular Army shall be carried on a seniority list in the order of seniority in both regular grade and date of rank as determined under subsection (a).

§ 3574. Rank: commissioned officers in regular grades below brigadier general

(a) Among commissioned officers of the same grade in the Regular Army who are on the same promotion list, rank in regular grade is determined by the order in which their names appear on that list.

(b) Among commissioned officers of the same grade in the Regular Army who are not on the same promotion list or not on a promotion list, rank in regular grade is determined—

(1) by date of rank;

(2) if the dates of rank are the same, by length of continuous active commissioned service in the Regular Army;

(3) if the dates of rank and length of continuous active commissioned service in the Regular Army are the same, by rank established at the time of original appointment in the Regular Army; and

(4) in other cases, by the Secretary of the Army.

(c) Rank among the graduates of each class at the United States Military Academy who, upon graduation, are appointed in the Regular Army shall be fixed under regulations prescribed by the Secretary.

§ 3575. Rank: warrant officers

Warrant officers rank next below second lieutenants and rank among themselves within each warrant officer grade under regulations to be prescribed by the Secretary of the Army.

§ 3576. Command: when different commands of Army and Marine Corps join

When different commands of the Army and the Marine Corps join or serve together, the officer highest in rank in the Army or the Marine Corps on duty there who is otherwise eligible to command commands all those forces, unless otherwise directed by the President.

§ 3578. Command: commissioned officers of Army in same grade on duty at same place

When two or more commissioned officers of the same grade who are otherwise eligible to command are on duty in the same area, field, command, or organization, the President may assign the command without regard to rank in that grade.

§ 3579. Command: commissioned officers of Army Medical Service

(a) A commissioned officer of the Army Medical Service, other than an officer of the Army Nurse Corps or Women's Medical Specialist Corps, is not entitled to exercise command because of his rank, except within the Army Medical Service.

(b) An officer of the Army Nurse Corps or Women's Medical Specialist Corps may exercise command only within her own branch, or over persons placed under her charge.

§ 3580. Command: commissioned officers of Women's Army Corps

The Secretary of the Army shall prescribe the military authority that commissioned officers of the Women's Army Corps may exercise.

§ 3581. Command: chaplains

A chaplain has rank without command.

§ 3582. Command: retired officers

A retired officer has no right to command except when on active duty.

CHAPTER 347.—THE UNIFORM

Sec.

3611. President may prescribe.
3612. Uniforms: disposition on discharge.

§ 3611. President may prescribe

The President may prescribe the uniform of the Army.

§ 3612. Uniforms: disposition on discharge

(a) Except as provided in subsections (b) and (c), when an enlisted member of the Army is discharged, the exterior articles of uniform in his possession that were issued to him, other than those articles 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 Army is discharged for bad conduct, undesirability, unsuitability, inaptitude, or otherwise than honorably, the exterior articles of uniform in his possession shall be retained by the Army for military use. However, when authorized by regulations prescribed by the Secretary of the Army, a suit of civilian outer clothing, and a civilian overcoat if necessary, costing together not more than $30, may be issued to that person.

(c) When an enlisted member of the Army National Guard who has been called into Federal service is released from that service, the exterior articles of uniform in his possession shall be accounted for as property issued to the Army National Guard of the State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia of whose Army National Guard he is a member, as prescribed in section 708 of title 32.

CHAPTER 349.—MISCELLANEOUS PROHIBITIONS AND PENALTIES

Sec.

3631. Dealing in quartermaster supplies prohibited.
3632. Members of Army: forfeiture of pay during absence from duty due to disease from intemperate use of alcohol or drugs.
3633. Commissioned officers: forfeiture of pay when dropped from rolls.
3634. Army band: may not be paid for performance outside Army post.
3635. Enlisted members: restriction on civilian employment.
3636. Enlisted members: pay and allowances not to accrue during suspended sentence of dishonorable discharge.
3637. Enlisted members: forfeiture of right to pension by deserters.
3638. Enlisted members: required to make up time lost.
3639. Enlisted members: officers not to use as servants.

§ 3631. Dealing in quartermaster supplies prohibited

No officer of the Quartermaster Corps and no officer performing the duties of an officer of that branch may—

(1) be directly or indirectly concerned, except on account of the United States, in the purchase or sale of any article procured, supplied, or sold by that branch, or in its custody; or

(2) take or apply to his own use any gain not allowed by law for transacting business connected with the duties of his office.

§ 3632. Members of Army: forfeiture of pay during absence from duty due to disease from intemperate use of alcohol or drugs

A member of the Army 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 Army, and are final and conclusive.

§ 3633. Commissioned officers: forfeiture of pay when dropped from rolls

A commissioned officer of the Army who is dropped from the rolls under section 1161 (b) of this title for absence without authority for three months forfeits all pay due or to become due.

§ 3634. Army band: may not be paid for performance outside Army post

No Army band or member thereof may receive remuneration for furnishing music outside the limits of an Army post in competition with local civilian musicians.

§ 3635. Enlisted members: restriction on civilian employment

No enlisted member of the Army 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.

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§ 3636. Enlisted members: pay and allowances not to accrue during suspended sentence of dishonorable discharge

Pay and allowances do not accrue to an enlisted member of the Army who is in confinement under sentence of dishonorable discharge, while the execution of the sentence to discharge is suspended.

§ 3637. Enlisted members: forfeiture of right to pension by deserters

An enlisted member of the Army who deserts forfeits all right to a pension that he might otherwise have acquired.

§ 3638. Enlisted members: required to make up time lost

An enlisted member of the Army who—

(1) deserts;

(2) is absent from his organization, station, or duty for more than one day without authority;

(3) is confined for more than one day while awaiting trial and disposition of his case, and whose conviction has become final;

(4) is confined for more than one day under a sentence that has become final; or

(5) is unable for more than one day to perform his duties because of intemperate use of drugs or alcoholic liquor, or because of disease or injury resulting from his misconduct;

is liable, after his return to full duty, to serve for a period that, when added to the period that he served before his absence from duty, amounts to the term of his enlistment.

§ 3639. Enlisted members: officers not to use as servants

No officer of the Army may use an enlisted member of the Army as a servant.

CHAPTER 351.—UNITED STATES DISCIPLINARY BARRACKS

Sec.

3661. Organization and administration.
3662. Training of prisoners.
3663. Parole; remission of sentence; restoration to duty.

§ 3661. Organization and administration

(a) Under regulations prescribed by the Secretary of the Army, the officer of the Army designated by him shall govern and control the United States Disciplinary Barracks at Fort Leavenworth, Kansas, and all offenders confined therein. There shall be at the United States Disciplinary Barracks a commandant and such other officers as may be necessary.

(b) The commandant of the United States Disciplinary Barracks—

(1) shall command the Barracks, and has custody of all offenders sent there for confinement;

(2) shall control and employ offenders as he considers best for their health and reformation and with a view to their honorable restoration to duty or reenlistment;

(3) shall make a record of the conduct of offenders; and

(4) may reduce the daily time of hard labor of offenders who by their industry and general good conduct earn the reduction.

(c) The enlisted members of the Army on duty at the United States Disciplinary Barracks shall be organized as infantry, with grades and organizational structure similar to infantry units of comparable size.

(d) The Secretary may designate all or part of any building under the control of the Department of the Army as a branch of the United States Disciplinary Barracks for the confinement of offenders whom it is impracticable to send to the United States Disciplinary Barracks. Branch disciplinary barracks are subject to the laws relating to the United States Disciplinary Barracks.

(e) The Secretary shall have made at the United States Disciplinary Barracks any supplies for the Army and the Air Force that can be economically and properly made there.

§ 3662. Training of prisoners

The Secretary of the Army—

(1) shall provide for the military training of offenders (A) who have been sent to the United States Disciplinary Barracks for confinement, (B) who were at the time of their offenses members of the Army, and (C) whose record and conduct indicate that, upon completing a course of military training, they may be worthy of honorable restoration to duty or of being permitted to reenlist;

(2) may provide for the organization of offenders selected for military training under clause (1) into disciplinary infantry units; and

(3) may provide for equipping those disciplinary units.

§ 3663. Parole; remission of sentence; restoration to duty

(a) The Secretary of the Army may provide a system of parole for offenders who are confined in the United States Disciplinary Barracks, and who were at the time of their offenses—

(1) members of the Army; or

(2) persons subject to chapter 47 of this title because (A) in the custody of, serving with, accompanying, or employed by the Army under section 802 (7)–(11) of this title (article 2 (7)–(11)), or (B) within an area under the control of the Secretary of the Army under section 802 (12) of this title (article 2 (12)).

(b) Whenever the Secretary considers that an offender sent to the Disciplinary Barracks merits that action, the Secretary may remit the unexecuted part of his sentence if he was at the time of his offense—

(1) a member of the Army; or

(2) a person subject to chapter 47 of this title because (A) in the custody of, serving with, accompanying, or employed by the Army under section 802 (7)–(11) of this title (article 2 (7)–(11)), or (B) within an area under the control of the Secretary of the Army under section 802 (12) of this title (article 2 (12)).

If the Secretary remits the unexecuted part of the sentence of an offender in the Disciplinary Barracks who at the time of his offense was an enlisted member of the Army, the Secretary may order his honorable restoration to active duty if he has not been discharged. If he has been discharged, the Secretary may authorize his reenlistment or, upon written application, order his restoration to the Army.

Such an order revives the enlistment contract for a period equal to that not previously served under it. So far as it relates to honorable restoration to active duty, this subsection applies to general prisoners confined elsewhere who were at the time of their offenses enlisted members of the Army.

CHAPTER 353.—MISCELLANEOUS RIGHTS AND BENEFITS

Sec.

3681. Army Register: regular officers; service to be listed.
3682. Service credit: officers; service as cadet not counted.
3683. Service credit: certain service as a nurse, woman medical specialist, or civilian employee of Army Medical Department to be counted.
3684. Service credit: regular enlisted members; service as an officer to be counted as enlisted service.
3685. Regular Army; Army Reserve: female members; definition of "dependents".
3686. Members of Army National Guard of United States: credit for service as members of Army National Guard.
3687. Compensation: members of Army other than of Regular Army; when same as that provided for members of Regular Army.
3688. Death gratuity.
3689. Assignments and allotments of pay.
3690. Exemption from arrest for debt: enlisted members.
3691. Flying officer rating: qualifications.
3692. Pilot rating in time of peace: qualifications.
3693. Replacement of certificate of discharge.

§ 3681. Army Register: regular officers; service to be listed

(a) The official Army Register shall include, with respect to each commissioned officer of the Regular Army—

(1) his lineal rank, listed by branch of the Army;

(2) all service as an officer of the Regular Army, and of the Regular Air Force;

(3) all enlisted service; and

(4) all non-regular service.

(b) The names of retired commissioned officers of the Regular Army shall be carried on the Army Register.

§ 3682. Service credit: officers; service as cadet not counted

In computing length of service for any purpose, no commissioned officer of the Army may be credited with service as a cadet at the United States Military Academy or as a midshipman at the United States Naval Academy, if he was appointed as a cadet or midshipman after August 24, 1912.

§ 3683. Service credit: certain service as a nurse, woman medical specialist, or civilian employee of Army Medical Department to be counted

In computing years of active service, there shall be credited for all purposes, except determination of grade, rank, and right to promotion in the Regular Army, the following service, in addition to any other service that may be credited—

(1) all active service performed in the Army Nurse Corps as it existed at any time before April 16, 1947;

(2) all active service performed in the Navy Nurse Corps as it existed at any time before April 16, 1947;

(3) all active service performed under an appointment under the Act of December 22, 1942, ch. 805, 56 Stat. 1072, or the Act of June 22, 1944, ch. 272, 58 Stat. 324; and

(4) all active full-time service, except as a student or apprentice, with the Medical Department of the Army as a civilian employee—

(A) in the dietetic or physical therapy categories, if the service was performed after April 6, 1917; or

(B) in the occupational therapy category, if the service was performed before appointment in the Army Nurse Corps or the Women's Medical Specialist Corps.

§ 3684. Service credit: regular enlisted members; service as an officer to be counted as enlisted service

An enlisted member of the Regular Army is entitled to count active service as an officer in the Army as enlisted service for all purposes.

§ 3685. Regular Army; Army Reserve: female members; definition of "dependents"

(a) Except as otherwise specifically provided, the husband of a female member of the Regular Army 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 female member of the Army 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.

§ 3686. Members of Army National Guard of United States: credit for service as members of Army National Guard

For the purposes of laws providing benefits for members of the Army National Guard of the United States and their dependents and beneficiaries—

(1) military training, duty, or other service performed by a member of the Army National Guard of the United States in his status as a member of the Army National Guard for which he is entitled to pay from the United States shall be considered military training, duty, or other service, as the case may be, in Federal service as a Reserve of the Army;

(2) full-time training or other full-time duty performed by a member of the Army National Guard of the United States in his status as a member of the Army National Guard under sections 316 and 503–505 of title 32 for which he is entitled to pay from the United States, or for which he has waived such pay, shall be considered active duty for training in Federal service as a Reserve of the Army; and

(3) inactive-duty training performed by a member of the Army National Guard of the United States in his status as a member of the Army National Guard, in accordance with regulations prescribed under section 502 of title 32 or other express

provision of law, shall be considered inactive-duty training in Federal service as a Reserve of the Army.

§ 3687. Compensation: members of Army other than of Regular Army; when same as that provided for members of Regular Army

A member of the Army, other than of the Regular Army, is entitled to the pay and allowances, pensions, and other compensation provided by law or regulation for a member of the Regular Army of corresponding grade and length of service, whenever—

(1) he is called or ordered to active duty (other than for training) for a period of more than 30 days, and is disabled in line of duty from disease while so employed; or

(2) he is called or 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.

§ 3688. Death gratuity

(a) The office or officer designated by the Secretary of the Army shall pay a death gratuity to the survivor named in subsection (b) of—

(1) each member of the Regular Army on active duty who dies from a disability incurred not as a result of his own misconduct; and

(2) each member of the Army, other than of the Regular Army, who dies from a disability or injury not the result of his misconduct incurred—

(A) while on active duty for a period of more than 30 days, if the death is caused by disease; or

(B) while on active duty or inactive duty training for any period, if the death is caused by injury.

The death gratuity shall be equal to six months' pay at the rate to which the member was entitled on the date of his death.

(b) The amount payable under subsection (a) shall be paid, immediately upon receipt of official notification of the death of the member, to the living person highest on the following list:

(1) The surviving spouse.

(2) His child or children, except a married child or an unmarried child over 21 years of age who was not a dependent of the deceased member.

(3) Any other dependent relative designated by the deceased member.

(4) Any dependent grandchild, parent, brother, sister, or grandparent of the deceased member whom the Secretary of the Army determines to have been dependent upon the deceased member.

(c) If a beneficiary dies before he receives the death gratuity, it shall be paid to the living beneficiary next in the order set forth in subsection (b).

(d) The determination of the Secretary as to dependency under subsection (b) (4) is conclusive upon the General Accounting Office.

(e) The Secretary shall, by regulation, require each member of the Army having no wife or eligible child to designate the dependent relative to whom the death gratuity shall be paid upon his death.

(f) Payments under subsection (a) (1) shall be made from funds appropriated for the pay of the Army.

§ 3689. Assignments and allotments of pay

(a) Under regulations prescribed by the Secretary of the Army, a commissioned officer of the Army may transfer or assign his pay account, when due and payable.

(b) A contract surgeon or contract dental surgeon, on duty in Alaska, Hawaii, the Philippine Islands, or Puerto Rico, may transfer or assign his pay account, when due and payable, under the regulations prescribed under subsection (a).

(c) No assignment of pay by an enlisted member of the Army is valid.

(d) The Secretary may allow any—

(1) member of the Army;

(2) contract surgeon; or

(3) permanent civilian employee of the Department of the Army on duty outside the United States;

to make allotments from his pay for the support of any of his relatives, or for any other purpose that the Secretary considers proper. If an allotment made under this subsection is paid to the allottee before the disbursing officer receives a notice of discontinuance from the officer required by regulation to furnish the notice, the amount of the allotment shall be credited to the disbursing officer. If an allotment is erroneously paid because the officer required by regulation to so report failed to report the death of the allotter or any other fact that makes the allotment not payable, the amount of the payment not recovered from the allottee shall, if practicable, be collected by the Chief of Finance from the officer who failed to make the report.

§ 3690. Exemption from arrest for debt: enlisted members

No enlisted member of the Army, while on active duty, may be arrested on mesne process or taken or charged in execution for any debt, unless it was contracted before his enlistment and amounted to at least $20 when first contracted.

§ 3691. Flying officer rating: qualifications

Only officers of the Army in the following categories may be rated as flying officers:

(1) Officers who have aeronautical ratings as pilots of service types of aircraft or as aircraft observers.

(2) Flight surgeons.

(3) Officers undergoing flight training.

(4) Officers who are members of combat crews, other than pilots of service types of aircraft, aircraft observers, and observers.

(5) In time of war, officers who have aeronautical ratings as observers.

§ 3692. Pilot rating in time of peace: qualifications

To be eligible to receive a rating as a pilot in time of peace, a member of the Army must pilot a heavier-than-air craft for at least 200 hours, of which 75 are alone, and must successfully complete the prescribed course.

§ 3693. Replacement of certificate of discharge

If satisfactory proof is presented that a person who was discharged honorably or under honorable conditions has lost his certificate of discharge from the Army or that it was destroyed without his procurement or connivance, the Secretary may give that person, or his surviving spouse, a certificate of that discharge, indelibly marked to show that it is a certificate in place of the lost or destroyed certificate. A certificate given under this subsection may not be accepted as a voucher for the payment of a claim against the United States for pay, bounty, or other allowance, or as evidence in any other case.

CHAPTER 355.—HOSPITALIZATION

Sec.

3721. Members of Army, other than of Regular Army.
3722. Members of R. O. T. C. and C. M. T. C.; members of Army not covered by section 3721 of this title.
3723. When Secretary may require.

§ 3721. Members of Army, other than of Regular Army

A member of the Army, other than of the Regular Army, is entitled to the hospital benefits provided by law or regulation for a member of the Regular Army of corresponding grade and length of service, whenever—

(1) he is called or ordered to active duty for a period of more than 30 days, and is disabled in line of duty from disease while so employed; or

(2) he is called or 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.

§ 3722. Members of R. O. T. C. and C. M. T. C.; members of Army not covered by section 3721 of this title

(a) Under such regulations as the President may prescribe, the following persons are entitled to the benefits of subsection (b):

(1) Each Reserve of the Army, and each officer who has no regular or reserve appointment and who is injured, or contracts a disease, in line of duty while on active duty in time of peace.

(2) Each member of the Army Reserve who is injured in line of duty while not on active duty and while voluntarily participating in an aerial flight in a Government-owned aircraft under proper authority and as an incident to training.

(3) Each member of the Reserve Officers' Training Corps, or person attending a Citizens' Military Training Camp, who is injured, or contracts a disease, in line of duty while traveling to or from, or while attending, a training camp under section 4385 or 4411 of this title.

(b) So far as any benefit named in this subsection is not provided for him under section 3721 of this title, any person named in subsection (a) is entitled to—

(1) the hospitalization, rehospitalization, and medical and surgical care in a hospital and at his home appropriate for the treatment of his injury or disease until the resulting disability cannot be materially improved by further hospitalization or treatment;

(2) the basic pay and allowances, whether in money or in kind, to which he was entitled at the time when the injury was incurred or the disease contracted, during the period of his hospitalization or rehospitalization, but not for more than a total of six months after the end of his prescribed tour of duty or training;

(3) subsistence during hospitalization or rehospitalization when he is not entitled to basic pay and allowances under clause (2); and

(4) necessary transportation incident to his hospitalization, rehospitalization, and return to his home when he is discharged from the hospital.

§ 3723. When Secretary may require

The Secretary of the Army may order the hospitalization, medical and surgical treatment, and domiciliary care, for as long as necessary, of any member of the Army on active duty, and may incur obligations with respect thereto, whether or not the member was injured, or contracted a disease, in line of duty, except in the case of a member treated in a private hospital, or by a civilian physician, while on leave of absence for more than 24 hours.

CHAPTER 357.—DECORATIONS AND AWARDS

Sec.

3741. Medal of honor: award.
3742. Distinguished-service cross: award.
3743. Distinguished-service medal: award.
3744. Medal of honor; distinguished-service cross; distinguished-service medal: limitations on award.
3745. Medal of honor; distinguished-service cross; distinguished-service medal: delegation of power to award.
3746. Silver star: award.
3747. Medal of honor; distinguished-service cross; distinguished-service medal; silver star: replacement.
3748. Medal of honor; distinguished-service cross; distinguished-service medal; silver star: availability of appropriations.
3749. Distinguished flying cross: award; limitations.
3750. Soldier's Medal: award; limitations.
3751. Service medals: issue; replacement; availability of appropriations.
3752. Medals: posthumous award and presentation.
3753. Civil War battle streamers.

§ 3741. Medal of honor: award

The President may award, and present in the name of Congress, a medal of honor to a person who, while a member of the Army and in action involving actual conflict with an enemy, distinguishes himself conspicuously by gallantry and intrepidity at the risk of his life above and beyond the call of duty.

§ 3742. Distinguished-service cross: award

The President may award a distinguished-service cross of appropriate design and a ribbon, together with a rosette or other device to be worn in place thereof, to a person who, while serving in any capacity with the Army, distinguishes himself by extraordinary heroism in connection with military operations against an armed enemy.

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§ 3743. Distinguished-service medal: award

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 a person who, while serving in any capacity with the Army, distinguishes himself by exceptionally meritorious service to the United States in a duty of great responsibility.

§ 3744. Medal of honor; distinguished-service cross; distinguished-service medal: limitations on award

(a) No more than one medal of honor, distinguished-service cross, or distinguished-service medal may be awarded to a person. However, for each succeeding act that would otherwise justify the award of such a medal or cross, the President may award a suitable bar or other device to be worn as he directs.

(b) No medal of honor, distinguished-service cross, distinguished-service medal, or device in place thereof, may be awarded to a person unless—

(1) the award is made within three years after the date of the act justifying the award;

(2) a statement setting forth the distinguished service and recommending official recognition of it was made within two years after the distinguished service; and

(3) it appears from records of the Department of the Army that the person is entitled to the award.

(c) No medal of honor, distinguished-service cross, distinguished-service medal, or device in place thereof, may be awarded or presented to a person whose service after he distinguished himself has not been honorable.

§ 3745. Medal of honor; distinguished-service cross; distinguished-service medal: delegation of power to award

The President may delegate his authority to award the medal of honor, distinguished-service cross, and distinguished-service medal, to a commanding general of a separate army or higher unit in the field.

§ 3746. Silver star: award

The President may award a silver star, three-sixteenths of an inch in diameter, for each citation for gallantry in action that does not warrant a medal of honor or distinguished-service cross, if the person earned the citation while serving in any capacity with the Army and it has been published in orders issued from the headquarters of a force that is the appropriate command of a general officer. The silver star shall be worn as the President directs.

§ 3747. Medal of honor; distinguished-service cross; distinguished-service medal; silver star: replacement

Any medal of honor, distinguished-service cross, distinguished-service medal, or silver star, or any bar, ribbon, rosette, or other device issued for wear with or in place of any of them, that is lost or destroyed, or becomes unfit for use, without fault or neglect of the person to whom it was awarded, shall be replaced without charge.

§ 3748. Medal of honor; distinguished-service cross; distinguished-service medal; silver star: availability of appropriations

The Secretary of the Army may spend, from any appropriation for contingent expenses of the Department of the Army, amounts necessary to provide medals and devices under sections 3741, 3742, 3743, 3744, 3746, 3747, and 3752 of this title.

§ 3749. Distinguished flying cross: award; limitations

(a) 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 Army, distinguishes himself by heroism or extraordinary achievement while participating in an aerial flight.

(b) Not more than one distinguished flying cross may be awarded to a person. However, for each succeeding act that would otherwise justify the award of such a cross, the President may award a suitable bar or other device to be worn as he directs.

(c) No distinguished flying cross, or device in place thereof, may be awarded or presented to a person whose service after he distinguished himself has not been honorable.

§ 3750. Soldier's Medal: award; limitations

(a) The President may award a decoration called the "Soldier's Medal", of appropriate design with accompanying ribbon, to any person who, while serving in any capacity with the Army, distinguishes himself by heroism not involving actual conflict with an enemy.

(b) Not more than one Soldier's Medal may be awarded to a person. However, for each succeeding act that would otherwise justify the award of such a medal, the President may award a suitable bar or other device to be worn as he directs.

§ 3751. Service medals: issue; replacement; availability of appropriations

(a) The Secretary of the Army shall procure, and issue without charge to any person entitled thereto, any service medal authorized for members of the Army after May 12, 1928, and any ribbon, clasp, star, or similar device prescribed as a part of that medal.

(b) Under such regulations as the Secretary may prescribe, any medal or other device issued under subsection (a) that is lost, destroyed, or becomes unfit for use, without fault or neglect of the owner, may be replaced at cost. However, if the owner is a member of the Army or the Air Force, the medal or device may be replaced without charge.

(c) The Secretary may spend, from any appropriation for the support of the Army, amounts necessary to provide medals and devices under this section.

§ 3752. Medals: posthumous award and presentation

(a) If a person dies before the award of a medal of honor, distinguished-service cross, distinguished-service medal, distinguished flying cross, or device in place thereof, to which he is entitled, the

award may be made and the medal or device presented to his representative, as designated by the President.

(b) If a person dies before an authorized service medal or device prescribed as a part thereof is presented to him under section 3751 of this title, it may be presented to his family.

§ 3753. Civil War battle streamers

If, under regulations prescribed by the Secretary of the Army, it is determined that a regiment or other unit of the Army is entitled to that honor, the regiment or unit may carry any appropriate Civil War battle streamer with its colors or standards.

CHAPTER 359.—SEPARATION FROM REGULAR ARMY FOR FAILURE TO MEET STANDARDS

Sec.

3781. Selection boards: composition; duties.
3782. Boards of inquiry: composition; duties.
3783. Boards of review: composition; duties.
3784. Removal of officer: action by Secretary of the Army upon recommendation.
3785. Rights and procedures.
3786. Officer considered for removal: voluntary retirement or honorable discharge; severance benefits.

§ 3781. Selection boards: composition; duties

The Secretary of the Army shall convene annually a selection board composed of five general officers. The selection board shall review the record of each commissioned officer on the active list of the Regular Army to determine whether he shall be required, because of failure to achieve the standards of performance to be prescribed by the Secretary by regulation, to show cause for his retention on the active list.

§ 3782. Boards of inquiry: composition; duties

(a) Boards of inquiry, each composed of three or more general officers, shall be convened, at such places as the Secretary of the Army may prescribe, to receive evidence and make findings and recommendations as to the fitness of officers to be retained on the active list of the Regular Army.

(b) A fair and impartial hearing before a board of inquiry shall be given to each officer required to show cause for retention under section 3781 of this title.

(c) If a board of inquiry recommends the retention of an officer, his case is closed. However, at any future time he may be again required to show cause for retention under section 3781 of this title.

(d) If a board of inquiry recommends the removal of an officer from the active list of the Regular Army, it shall send the record of its proceedings to a board of review.

§ 3783. Boards of review: composition; duties

(a) Boards of review, each composed of five or more general officers, shall be convened by the Secretary of the Army, at such times as he may prescribe, to review the cases of officers recommended by boards of inquiry for removal from the active list of the Regular Army, and to make recommendations as to the retention of those officers.

(b) If a board of review recommends the retention of an officer, his case is closed. However, at any future time he may be again required to show cause for retention under section 3781 of this title.

(c) If a board of review recommends the removal of an officer from the active list of the Regular Army, it shall send its recommendations to the Secretary for his action.

§ 3784. Removal of officer: action by Secretary of the Army upon recommendation

The Secretary of the Army may remove an officer from the active list of the Regular Army for any cause that he considers sufficient, if removal for that cause is recommended by a board of review under this chapter. The Secretary's action in such a case is final and conclusive.

§ 3785. Rights and procedures

(a) Each officer under consideration for removal from the active list of the Regular Army under this chapter shall be—

(1) notified in writing of the pendency of any proceeding for his removal;

(2) allowed reasonable time to prepare his defense;

(3) allowed to appear in person and by counsel at proceedings before a board of inquiry and a board of review; and

(4) allowed full access to, and furnished copies of, records relevant to his case at all stages of the proceeding.

(b) No person may be a member of more than one board convened under this chapter for the same officer.

§ 3786. Officer considered for removal: voluntary retirement or honorable discharge; severance benefits

(a) At any time during proceedings under this chapter and before the removal of an officer from the active list of the Regular Army, the Secretary of the Army may grant his request—

(1) for voluntary retirement, if he is otherwise qualified therefor; or

(2) for honorable discharge with severance benefits under subsection (b).

(b) Each officer removed from the active list of the Regular Army under this chapter shall—

(1) if on the date of removal he is eligible for voluntary retirement under any law, be retired in the grade and with the pay to which he would be entitled if retired at his request; or

(2) if on that date he is ineligible for voluntary retirement, be honorably discharged in the grade then held with severance pay equal to one month's basic pay at the rate to which he was entitled on the date of discharge, multiplied by the number of years of his active commissioned service, but not more than 12.

(c) For the purposes of subsection (b) (2), 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 361.—SEPARATION FOR VARIOUS REASONS

Sec.
3811. Army enlisted members: discharge certificate; limitations on discharge.
3812. Army enlisted members: during war or emergency; discharge.
3813. Army enlisted members: dependency discharge.
3814. Regular commissioned officers: discharge during three-year probationary period.
3815. Regular enlisted members: resignation of members enlisted on career basis; limitations.
3816. Regular enlisted members: minority discharge.
3818. Regular female members: termination of appointment or enlistment.
3820. Army National Guard of United States officers: discharge.

§ 3811. Army enlisted members: discharge certificate; limitations on discharge

(a) A discharge certificate shall be given to each lawfully inducted or enlisted member of the Army upon his discharge.

(b) No enlisted member of the Army may be discharged before his term of service expires, except—

(1) as prescribed by the Secretary of the Army;

(2) by sentence of a general or special court-martial; or

(3) as otherwise provided by law.

§ 3812. Army enlisted members: during war or emergency; discharge

A person enlisted under section 3254 of this title may be discharged at any time by the President, or otherwise according to law.

§ 3813. Army enlisted members: dependency discharge

The Secretary of the Army may discharge an enlisted member of the Army, if, after his enlistment or induction, members of his family become dependent upon him for care or support because of the death or disability of a member of that family.

§ 3814. Regular commissioned officers: discharge during three-year probationary period

The Secretary of the Army may discharge a regular commissioned officer who has less than three years of continuous service as a commissioned officer therein. However, such an officer may not be discharged because of his marriage, unless the marriage occurred within one year after the date of his original appointment.

§ 3815. Regular enlisted members: resignation of members enlisted on career basis; limitations

(a) Except as provided in subsection (b), a Regular who serves at least three years of an enlistment for an unspecified period under section 3256 (b) of this title may submit his resignation to the Secretary of the Army and shall be discharged within three months thereafter.

(b) The Secretary is not required to accept a resignation submitted under subsection (a)—

(1) until the member completes two years of service in his current overseas assignment, if the resignation is submitted after the member embarks for such an assignment or while he is stationed overseas;

(2) until two years after the member completes a course of instruction under section 4301 of this title, if he has taken such a course;

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(3) until six months after its submission, if the member is under investigation or in default concerning public property or funds;

(4) while the member is absent without leave or is serving a sentence of a court-martial; or

(5) during a war, or during a national emergency declared by Congress or the President.

§ 3816. Regular enlisted members: minority discharge

Upon the application of the parents or guardian of a regular enlisted member under 18 years of age who enlisted without the written consent of his parents or guardian, the Secretary of the Army shall discharge the member with the pay and form of discharge certificate to which his service entitles him.

§ 3818. Regular female members: termination of appointment or enlistment

(a) The Secretary of the Army may terminate—

(1) the appointment of a female commissioned officer of the Regular Army, under regulations prescribed by the President; or

(2) the appointment of a warrant officer, or the enlistment of an enlisted member, of the Women's Army Corps, Regular Army.

(b) The appointment of a commissioned officer may not be terminated under subsection (a) (1) by dismissal.

(c) An enlisted member of the Women's Army Corps whose enlistment is terminated under subsection (a) (2) shall be discharged from the Army.

§ 3820. Army National Guard of United States officers: discharge

(a) The Secretary may terminate the reserve appointment of an officer of the Army National Guard of the United States and withdraw his Federal recognition as an officer of the Army National Guard, if he has been absent without leave for three months.

(b) An officer of the Army National Guard of the United States whose Federal recognition as an officer of the Army National Guard is withdrawn under section 323 (b) of title 32 shall be discharged from his reserve appointment.

CHAPTER 363.—SEPARATION OR TRANSFER TO RETIRED RESERVE

[No present sections]

CHAPTER 365.—RETIREMENT FOR AGE

Sec.

3881. Age 50: regular commissioned officers below major; Army Nurse Corps and Women's Medical Specialist Corps.
3882. Age 55: regular commissioned officers above captain; Army Nurse Corps and Women's Medical Specialist Corps.
3883. Age 60: regular commissioned officers below major general.
3884. Age 60: regular major generals whose retirement has been deferred.
3885. Age 62: regular major generals.
3886. Age 64: regular major generals whose retirement has been deferred; permanent professors of United States Military Academy.

Sec.
3887. Computation of years of service: discretionary retirement; regular commissioned officers; Army Nurse Corps and Women's Medical Specialist Corps.
3888. Computation of years of service: mandatory retirement; regular commissioned officers.
3889. Computation of retired pay; law applicable.

§ 3881. Age 50: regular commissioned officers below major; Army Nurse Corps and Women's Medical Specialist Corps

The Secretary of the Army may retire a commissioned officer of the Army Nurse Corps or Women's Medical Specialist Corps—

(1) whose regular grade is below major;

(2) who has at least 20 years of service computed under section 3887 of this title; and

(3) who is at least 50 years of age.

§ 3882. Age 55: regular commissioned officers above captain; Army Nurse Corps and Women's Medical Specialist Corps

The Secretary of the Army may retire an officer of the Army Nurse Corps or Women's Medical Specialist Corps—

(1) whose regular grade is above captain;

(2) who has at least 20 years of service computed under section 3887 of this title; and

(3) who is at least 55 years of age.

§ 3883. Age 60: regular commissioned officers below major general

Unless retired or separated at an earlier date, each commissioned officer whose regular grade is below major general, other than a professor of the United States Military Academy, shall be retired when he becomes 60 years of age, except as provided by section 47a of title 5.

§ 3884. Age 60: regular major generals whose retirement has been deferred

Unless retired or separated at an earlier date, each commissioned officer whose regular grade is major general, and whose retirement under section 3923 of this title has been deferred under clause (1) of that section, shall be retired when he becomes 60 years of age, except as provided by section 47a of title 5.

§ 3885. Age 62: regular major generals

Unless retired or separated at an earlier date or unless retained under section 3923 (2) of this title, each commissioned officer whose regular grade is major general shall be retired when he becomes 62 years of age, except as provided by section 47a of title 5.

§ 3886. Age 64: regular major generals whose retirement has been deferred; permanent professors of United States Military Academy

Unless retired or separated at an earlier date, each commissioned officer whose regular grade is major general, and whose retirement under section 3923 of this title has been deferred under clause (2)

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of that section, and each permanent professor of the United States Military Academy, shall be retired when he becomes 64 years of age, except as provided by section 47a of title 5.

§ 3887. Computation of years of service: discretionary retirement; regular commissioned officers; Army Nurse Corps and Women's Medical Specialist Corps

For the purpose of determining whether a commissioned officer of the Army Nurse Corps or the Women's Medical Specialist Corps may be retired under section 3881 or 3882 of this title, and of computing her retired pay under section 3991 of this title, her years of service are computed by adding—

(1) all active service; and

(2) all other service in the Navy or Marine Corps that may be credited in determining the eligibility of an officer of the Navy or Marine Corps for retirement.

§ 3888. Computation of years of service; mandatory retirement; regular commissioned officers

For the purpose of computing the retired pay of a commissioned officer of the Regular Army retired under section 3883, 3884, 3885, or 3886 of this title, his years of service are the greater of—

(1) the years of service credited to him in computing his basic pay; or

(2) his years of service computed under clause (A), (B), (C), (D), or (E), whichever applies:

(A) For an officer appointed in the Regular Army before January 1, 1948, under the Act of December 28, 1945, ch. 601 (59 Stat. 663), the service credited to him under that act at the time of his appointment, plus his years of active commissioned service in the Regular Army after that appointment.

(B) For an officer appointed in the Women's Army Corps, Regular Army, under section 108 of the Women's Armed Services Integration Act of 1948 (62 Stat. 361), the service credited to her under that section at the time of her appointment, plus her years of active commissioned service in the Regular Army after that appointment.

(C) For a reserve judge advocate appointed in the Regular Army in the grade of captain in the Judge Advocate General's Department under section 24e of the National Defense Act as amended (53 Stat. 558)—

(i) his years of active commissioned service in the Army after becoming 21 years of age, after December 7, 1941, and before the date of that appointment; or

(ii) the number of days, months, and years by which his age at the time of that appointment exceeded 25 years;

whichever is greater, plus his years of active commissioned service in the Regular Army after that appointment.

(D) For an officer appointed in the Regular Army before December 31, 1947, other than an officer covered by clause (A) or (C), the sum of—

(i) his years of active commissioned service in the Regular Army after that appointment; and

(ii) his years of active commissioned service in the Army after becoming 21 years of age and after December 7, 1941, under any earlier appointment.

(E) For an officer appointed in the Regular Army after December 31, 1947, other than an officer covered by clause (B), the sum of—

(i) his years of active commissioned service in the Regular Army after that appointment; and

(ii) his years of active commissioned service in the Army after becoming 21 years of age and after December 31, 1947, under an earlier appointment.

§ 3889. Computation of retired pay: law applicable

A member of the Army retired under this chapter is entitled to retired pay computed under chapter 371 of this title.

CHAPTER 367.—RETIREMENT FOR LENGTH OF SERVICE

Sec.

3911. Twenty years or more: regular or reserve commissioned officers.
3912. Twenty years or more: regular commissioned officers; Army Nurse Corps and Women's Medical Specialist Corps.
3913. Twenty years or more: deferred officers not recommended for promotion.
3914. Twenty to thirty years: regular enlisted members.
3915. Twenty-five years: regular majors; Women's Army Corps.
3916. Twenty-eight years: promotion-list lieutenant colonels.
3917. Thirty years or more: regular enlisted members.
3918. Thirty years or more: regular commissioned officers.
3919. Thirty years or more: regular commissioned officers; excessive number.
3920. More than thirty years: permanent professors of United States Military Academy.
3921. Thirty years or five years in grade: promotion-list colonels.
3922. Thirty years or five years in grade: regular brigadier generals.
3923. Thirty-five years or five years in grade: regular major generals.
3924. Forty years or more: Army officers.
3925. Computation of years of service: voluntary retirement; regular enlisted members.
3926. Computation of years of service: voluntary retirement; regular and reserve commissioned officers.
3927. Computation of years of service: mandatory retirement; regular commissioned officers.
3928. Computation of years of service: voluntary retirement; regular commissioned officers; Army Nurse Corps and Women's Medical Specialist Corps.
3929. Computation of retired pay: law applicable.

§ 3911. Twenty years or more: regular or reserve commissioned officers

The Secretary of the Army may, upon the officer's request, retire a regular or reserve commissioned officer of the Army who has at least 20 years of service computed under section 3926 of this title, at least 10 years of which have been active service as a commissioned officer.

§ 3912. Twenty years or more: regular commissioned officers; Army Nurse Corps and Women's Medical Specialist Corps

The Secretary of the Army may, upon the officer's request, retire a commissioned officer of the Regular Army in the Army Nurse Corps or Women's Medical Specialist Corps who has at least 20 years of service computed under section 3928 of this title.

§ 3913. Twenty years or more: deferred officers not recommended for promotion

(a) A deferred officer who is not recommended for promotion under section 3303 (c) of this title, or an officer who is found disqualified for promotion under section 3302 (f) of this title, shall, if he has at least 20 years of service computed under section 3927 (a) of this title, be retired, except as provided by section 47a of title 5, one year and 30 days after the earlier of the following dates:

(1) The date of appointment to the grade concerned of the first officer junior to him on the list considered by the first selection board.

(2) The date on which he would have completed, for promotion purposes, 7, 14, or 21 years of service, if he is in the grade of first lieutenant, captain, or major, as the case may be, had his years of service not been reduced under section 3303 (b) of this title.

(b) Unless sooner retired or separated under another provision of law, a deferred officer who is not recommended for promotion under section 3303 (c) of this title, or an officer found disqualified for promotion under section 3302 (f) of this title, who is not eligible for retirement under subsection (a) of this section or any other provision of law, but is within two years of becoming entitled to retirement under subsection (a) or some other provision of law, shall be retained on the active list in his regular grade until so entitled to retire, and then retired.

§ 3914. Twenty to thirty years: regular enlisted members

Under regulations prescribed by the Secretary of the Army, a regular enlisted member of the Army who has at least 20, but less than 30, years of service computed under section 3925 of this title may, upon his request, be retired. He then becomes a member of the Army Reserve, and shall perform such active duty as may be prescribed under law, until his service computed under section 3925 of this title, plus his inactive service as a member of the Army Reserve, equals 30 years.

§ 3915. Twenty-five years: regular majors; Women's Army Corps

Unless retired or separated at an earlier date, each officer of the Women's Army Corps whose regular grade is major shall be retired, except as provided by section 47a of title 5, on the thirtieth day after she completes 25 years of service computed under section 3927 (a) of this title.

§ 3916. Twenty-eight years: promotion-list lieutenant colonels

(a) Unless retired or separated at an earlier date, each promotion-list officer in the regular grade of lieutenant colonel shall be retired, except as provided by section 47a of title 5, on the thirtieth day after he completes 28 years of service computed under section 3927 (a) of this title. However, if his name is carried on the list of officers recommended for appointment to the regular grade of colonel, he shall be retained on the active list while his name is so carried.

(b) The Secretary of the Army may defer the retirement under this section of—

(1) any promotion-list officer in the regular grade of lieutenant colonel in the Medical Corps, Dental Corps, Veterinary Corps, Medical Service Corps, or the Chaplains, but not later than the date on which he becomes 60 years of age;

(2) any officer in the grade of lieutenant colonel in the Women's Army Corps, Regular Army, until the thirtieth day after she completes 30 years of service computed under section 3927 (a) of this title; and

(3) any officer while serving as Director of the Women's Army Corps.

§ 3917. Thirty years or more: regular enlisted members

A regular enlisted member of the Army who has at least 30 years of service computed under section 3925 of this title shall be retired upon his request.

§ 3918. Thirty years or more: regular commissioned officers

A regular commissioned officer of the Army who has at least 30 years of service computed under section 3926 of this title may be retired upon his request, in the discretion of the President.

§ 3919. Thirty years or more: regular commissioned officers; excessive number

Whenever the Secretary of the Army believes that there are too many commissioned officers on the active list of the Regular Army, in any grade, who have at least 30 years of service computed under section 3927 (a) of this title, he may convene a board of at least five general officers of the Regular Army. The board shall consider all officers on the active list in that grade and with that service, and shall recommend officers by name for retirement, in the number specified by the Secretary. The Secretary may retire an officer so recommended.

§ 3920. More than thirty years: permanent professors of United States Military Academy

The Secretary of the Army may retire any permanent professor of the United States Military Academy who has more than 30 years of service as a commissioned officer.

§ 3921. Thirty years or five years in grade: promotion-list colonels

(a) Unless retired or separated at an earlier date, each promotion-list officer in the regular grade of colonel shall be retired, except as provided by section 47a of title 5, on the fifth anniversary of the date of his appointment in that regular grade, or on the thirtieth day after he completes 30 years of service computed under section 3927 (a) of

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this title, whichever is later. However, if his name is carried on the list of officers recommended for appointment to the regular grade of brigadier general, he shall be retained on the active list while his name is so carried.

(b) The Secretary of the Army may defer the retirement under this section of any promotion-list officer in the regular grade of colonel in the Medical Corps, Dental Corps, Veterinary Corps, Medical Service Corps, or the Chaplains, but not later than the date on which he becomes 60 years of age. The number of deferments in effect under this subsection for any one promotion list at any one time may not be more than 10 percent of the number of colonels authorized for that list.

§ 3922. Thirty years or five years in grade: regular brigadier generals

(a) Unless retired or separated at an earlier date, each officer in the regular grade of brigadier general, other than a professor of the United States Military Academy, shall be retired, except as provided by section 47a of title 5, on the fifth anniversary of the date of his appointment in that regular grade, or on the thirtieth day after he completes 30 years of service computed under section 3927 (a) of this title, whichever is later. However, if his name is carried on the list of officers recommended for appointment to the regular grade of major general, he shall be retained on the active list while his name is so carried.

(b) The Secretary of the Army may defer the retirement under this section of any brigadier general who is serving in a higher temporary grade, but not later than the date on which he becomes 60 years of age. Not more than five deferments under this subsection may be in effect at any one time.

§ 3923. Thirty-five years or five years in grade: regular major generals

Unless retired or separated at an earlier date, each officer in the regular grade of major general shall be retired, except as provided by section 47a of title 5, on the fifth anniversary of the date of his appointment in that regular grade, or on the thirtieth day after he completes 35 years of service computed under section 3927 (a) of this title, whichever is later. However, the Secretary of the Army may defer the retirement under this section of—

(1) any such major general, but not later than the date on which he becomes 60 years of age; and

(2) any such major general who is serving in a temporary grade above major general, or who is serving in a position that carries a grade above major general, but not later than the date on which he becomes 64 years of age; and not more than five deferments under this clause may be in effect at any one time.

§ 3924. Forty years or more: Army officers

(a) Except as provided in section 3786 of this title, a commissioned officer of the Army who has at least 40 years of service computed under section 3926 of this title shall be retired upon his request.

(b) Any warrant officer of the Army who has at least 40 years of service computed under section 3926 (a) of this title shall be retired upon his request.

§ 3925. Computation of years of service: voluntary retirement; regular enlisted members

(a) For the purpose of determining whether a regular enlisted member of the Army may be retired under section 3914 or 3917 of this title, and of computing his retired pay under section 3991 of this title, his years of service are computed by adding all active service in the armed forces and service computed under section 3683 of this title.
(b) Time required to be made up under section 3638 of this title may not be counted in determining years of service under subsection (a).

§ 3926. Computation of years of service: voluntary retirement; regular and reserve commissioned officers

(a) For the purpose of determining whether an officer of the Army may be retired under section 3911, 3918, or 3924 of this title, his years of service are computed by adding—

(1) all active service performed as a member of the Army or the Air Force;

(2) all service in the Navy or Marine Corps that may be included in determining the eligibility of an officer of the Navy or Marine Corps for retirement;

(3) all service computed under section 3683 of this title; and

(4) if an officer of the Regular Army, all active service performed as an officer of the Philippine Constabulary.

(b) For the purpose of determining whether a commissioned officer of the Regular Army in the Medical Corps may be retired under section 3911, 3918, or 3924 of this title, his years of service are computed by adding to his service under subsection (a) all service performed as a contract surgeon, acting assistant surgeon, or contract physician, under a contract to serve full time and to take and change station as ordered.

(c) For the purpose of determining whether a commissioned officer of the Regular Army in the Dental Corps may be retired under section 3911, 3918, or 3924 of this title, his years of service are computed by adding to his service under subsection (a) all service as a contract dental surgeon or acting dental surgeon.

§ 3927. Computation of years of service: mandatory retirement; regular commissioned officers

(a) For the purpose of determining whether a regular commissioned officer may be retired under section 3913, 3915, 3916, 3919, 3921, 3922, or 3923 of this title, his years of service are:

(1) For a commissioned officer appointed in the Regular Army before January 1, 1948, under the Act of December 28, 1945, ch. 601 (59 Stat. 663), the service credited to him under that act at the time of his appointment, plus his years of active commissioned service in the Regular Army after that appointment.

(2) For a commissioned officer appointed in the Women's Army Corps, Regular Army, under section 108 of the Women's Armed

Services Integration Act of 1948 (62 Stat. 361), the service credited to her under that section at the time of her appointment, plus her years of active commissioned service in the Regular Army after that appointment.

(3) For a reserve judge advocate appointed in the regular grade of captain in the Judge Advocate General's Department under section 24e of the National Defense Act, as amended (53 Stat. 558)—

(A) his years of active commissioned service in the Army after becoming 21 years of age, after December 7, 1941, and before the date of that appointment; or

(B) the number of days, months, and years by which his age at the time of that appointment exceeded 25 years;

whichever is greater, plus his years of active commissioned service in the Regular Army after that appointment.

(4) For a commissioned officer appointed in the Regular Army before December 31, 1947, other than an officer covered by clause (1) or (3), the sum of—

(A) his years of active commissioned service in the Regular Army after that appointment; and

(B) his years of active commissioned service in the Army after becoming 21 years of age and after December 7, 1941, under any earlier appointment.

(5) For a commissioned officer appointed in the Regular Army after December 31, 1947, other than an officer covered by clause (2), the sum of—

(A) his years of active commissioned service in the Regular Army after that appointment; and

(B) his years of active commissioned service in the Army after becoming 21 years of age and after December 31, 1947, under any earlier appointment.

(b) For the purpose of computing the retired pay of a commissioned officer of the Regular Army retired under section 3913, 3915, 3916, 3919, 3921, 3922, or 3923 of this title, his years of service are the greater of—

(1) the years of service credited to him in computing his basic pay; or

(2) his years of service computed under clause (1), (2), (3), (4), or (5) of subsection (a), whichever is applicable.

§ 3928. Computation of years of service: voluntary retirement; regular commissioned officers; Army Nurse Corps and Women's Medical Specialist Corps

For the purpose of determining whether a commissioned officer of the Army Nurse Corps or the Women's Medical Specialist Corps may be retired under section 3912 of this title, and of computing her retired pay under section 3991 of this title, her years of service are computed by adding—

(1) all active service; and

(2) all service in the Navy or Marine Corps that may be credited in determining the eligibility of an officer of the Navy or Marine Corps for retirement.

§ 3929. Computation of retired pay: law applicable

A member of the Army retired under this chapter is entitled to retired pay computed under chapter 371 of this title.

CHAPTER 369.—RETIRED GRADE

Sec.
3961. General rule.
3962. Higher grade for service in special positions: regular commissioned officers.
3963. Higher grade for service during certain periods: regular and reserve commissioned officers.
3964. Higher grade after 30 years of service: Army warrant officers; regular enlisted members.
3965. Restoration to former grade: regular warrant officers and enlisted members.
3966. Retired lists.

§ 3961. General rule

Unless entitled to a higher retired grade under some other provision of law, a Regular or Reserve of the Army who retires other than for physical disability retires in the regular or reserve grade that he holds on the date of his retirement.

§ 3962. Higher grade for service in special positions: regular commissioned officers

(a) Upon retirement, a commissioned officer of the Regular Army who has served (1) as Chief of Staff to the President, (2) as Chief of Staff of the Army, (3) as a senior member of the Military Staff Committee of the United Nations, or (4) in a position of importance and responsibility designated by the President to carry the grade of general or lieutenant general under section 3066 of this title may, in the discretion of the President, be retired, by and with the advice and consent of the Senate, in the highest grade held by him at any time on the active list.

(b) Upon retirement, a commissioned officer of the Regular Army who has served at least four years as chief or assistant chief of a branch is entitled to retire in the highest grade, prescribed for such an office, that he held while so serving.

(c) Upon retirement, a commissioned officer of the Regular Army who has served at least two and one-half years as Director or Deputy Director of the Women's Army Corps, Chief of the Army Nurse Corps, or Chief or an assistant chief of the Women's Medical Specialist Corps may, in the discretion of the President, be retired in the highest grade held by her while so serving, unless she is entitled to a higher retired grade under some other provision of law.

(d) Upon retirement, any permanent professor of the United States Military Academy whose grade is below brigadier general, and whose service as such a professor has been long and distinguished, may, in the discretion of the President, be retired in the grade of brigadier general.

§ 3963. Higher grade for service during certain periods: regular and reserve commissioned officers

(a) A regular commissioned officer who is retired, or a reserve commissioned officer who is retired or to whom retired pay is granted,

is entitled to a retired grade equal to the highest temporary grade in the Army in which he served on active duty satisfactorily, as determined by the Secretary of the Army, for not less than six months, after September 8, 1940, and before July 1, 1946.

(b) Upon retirement, a member of the Regular Army in the Army Nurse Corps or Women's Medical Specialist Corps who was (1) a member of the Army Nurse Corps established by the Act of July 9, 1918, ch. 143 (40 Stat. 879), (2) a female dietition or physical therapist appointed under the Act of December 22, 1942, ch. 805 (56 Stat. 1072), or (3) a female officer appointed under the Act of June 22, 1944, ch. 272 (58 Stat. 324), is entitled to a retired grade equal to the highest grade or relative rank in which she served on active duty satisfactorily, as determined by the Secretary, after September 8, 1940, and before July 1, 1946.

§ 3964. Higher grade after 30 years of service: Army warrant officers; regular enlisted members

Each warrant officer of the Army, and each enlisted member of the Regular Army, who is retired before or after this title is enacted is entitled, when his active service plus his service on the retired list totals 30 years, to be advanced on the retired list to the highest temporary grade in which he served on active duty satisfactorily, as determined by the Secretary of the Army, after September 8, 1940, and before July 1, 1946.

§ 3965. Restoration to former grade: regular warrant officers and enlisted members

Each retired warrant officer or enlisted member of the Regular Army who has been advanced on the retired list to a higher commissioned grade under section 3964 of this title, and who applies to the Secretary of the Army within three months after his advancement, shall, if the Secretary approves, be restored on the retired list to his former warrant-officer or enlisted status, as the case may be.

§ 3966. Retired lists

(a) The Secretary of the Army shall maintain a retired list, to be published annually in the official Army Register, containing the name of each retired commissioned officer of the Regular Army.

(b) The Secretary shall maintain a retired list, to be published annually in the official Army Register, containing the name of—

(1) each person entitled to retired pay under any law providing retired pay for commissioned officers of the Army, other than of the Regular Army; and

(2) each retired warrant officer or enlisted member of the Regular Army who is advanced to a commissioned grade.

(c) The Secretary shall maintain a retired list containing the name of each retired warrant officer of the Army.

(d) The Secretary shall maintain a retired list containing the name of each retired enlisted member of the Regular Army.

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CHAPTER 371.—COMPUTATION OF RETIRED PAY

Sec.

3991. Computation of retired pay.
3992. Recomputation of retired pay to reflect advancement on retired list.

§ 3991. Computation of retired pay

The monthly retired pay of a person entitled thereto under this subtitle is computed according to the following table. For each case covered by a section of this title named in the column headed "For sections", retired pay is computed by taking, in order, the steps prescribed opposite it in columns 1, 2, 3, and 4, as modified by the applicable footnotes. However, if a person would otherwise be entitled to retired pay computed under more than one pay formula of this table or the table in section 1401 of this title, he is entitled to be paid under the applicable formula that is most favorable to him. Section references below are to sections of this title.

Formula	For sections	Column 1 Take	Column 2 Multiply by	Column 3 Add	Column 4 Subtract
A	3881 3882 3912	Monthly basic pay to which member would be entitled if she were on active duty in her retired grade.	2½% of years of service credited to her under section 3887 or 3928, whichever is applicable.[4]		Excess over 75% of pay upon which computation is based.
B	3883 3884 3885 3886 3913 3915 3916 3919 3921 3922 3923	Monthly basic pay to which member would be entitled if he were on active duty in his retired grade.[1]	2½% of years of service credited to him under section 3888 or 3927 (b), whichever is applicable.[4]	Amount necessary to increase product of columns 1 and 2 to 50% of pay upon which computation is based.	Excess over 75% of pay upon which computation is based.
C	3911 3918 3920 3924	Monthly basic pay[2] of member's retired grade.[1]	2½% of years of service credited to him in determining basic pay.[4]		Excess over 75% of pay upon which computation is based.
D	3914	Monthly basic pay to which member was entitled on date when he applied for retirement.	2½% of years of service credited to him under section 3925.[4]	10% of product of columns 1 and 2 for extraordinary heroism in line of duty.[5]	Excess over 75% of pay upon which computation is based.
E	3917	Monthly basic pay[3] of member's retired grade.	2½% of years of service credited to him under section 3925.[4]		Excess over 75% of pay upon which computation is based.

[1] For the purposes of this subtitle, determine member's retired grade as if neither section 3962 (a) nor 3962 (d) applied.

[2] Compute at rates applicable on date of retirement and adjust to reflect later changes in applicable permanent rates. However, if member's retired grade is determined under section 3962 (c), 3963 (a), or 3963 (b), or if member has served four years as Chief of the Medical Service Corps, use pay to which member would be entitled if he were on active duty in his retired grade.

[3] Compute at rates applicable on date of retirement.

[4] Before applying percentage factor, credit a part of a year that is six months or more as a whole year, and disregard a part of a year that is less than six months.

[5] The Secretary of the Army's determination as to extraordinary heroism is conclusive for all purposes.

§ 3992. Recomputation of retired pay to reflect advancement on retired list

A member of the Army who is advanced on the retired list under section 3964 of this title is entitled to recompute his retired pay as follows:

Column 1 Take	Column 2 Multiply by	Column 3 Add	Column 4 Subtract
Monthly basic pay or base and longevity pay, as the case may be,[1] of grade to which member is advanced on retired list.	2½% of years of service credited to him under section 3925 of this title.[2]		Excess over 75% pay upon which computation is based.

[1] Compute at rates applicable on date of retirement.
[2] Before applying percentage factor, credit a part of a year that is six months or more as a whole year, and disregard a part of a year that is less than six months.

CHAPTER 373.—CIVILIAN EMPLOYEES

Sec.
4021. Appointment: professional and scientific services.
4022. Contract surgeons.
4023. Service club and library services.
4024. Expert accountant for Inspector General.
4025. Production of supplies and munitions: hours and pay of laborers and mechanics.

§ 4021. Appointment: professional and scientific services

(a) The Secretary of the Army may establish within the Department of the Army not more than 13 civilian positions to carry out research and development relating to the national defense, military 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.

§ 4022. Contract surgeons

(a) In an emergency the Surgeon General, with the approval of the Secretary of the Army, may employ as many contract surgeons as may be necessary.

(b) When a contract surgeon is in charge of an Army hospital, he has the same authority as a commissioned officer of the Medical Corps.

§ 4023. Service club and library services

Without regard to civil-service rules and regulations, the Secretary of the Army may employ in the service club and library services those civilians whose salaries are paid from appropriations for welfare and morale activities.

§ 4024. Expert accountant for Inspector General

The Secretary of the Army shall appoint an expert accountant to perform duties under the Inspector General.

§ 4025. Production of supplies and munitions: hours and pay of laborers and mechanics

During a national emergency declared by the President, the regular working hours of laborers and mechanics of the Department of the Army producing military supplies or munitions are 8 hours a day or 40 hours a week. However, under regulations prescribed by the Secretary of the Army these hours may be exceeded. Each laborer or mechanic who works more than 40 hours in a workweek shall be paid at a rate not less than one and one-half times the regular hourly rate for each hour in excess of 40.

PART III. TRAINING

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CHAPTER 401.—TRAINING GENERALLY

Sec.

4301. Members of Army: detail as students, observers, and investigators at educational institutions, industrial plants, and hospitals.
4302. Enlisted members of Army: schools.
4306. Service schools: leaves of absence for instructors.
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4313. National rifle matches and small-arms school: expenses.

§ 4301. Members of Army: detail as students, observers, and investigators at educational institutions, industrial plants, and hospitals

(a) The Secretary of the Army may detail members of the Army as students at such technical, professional, and other civilian educational institutions, or as students, observers, or investigators at such industrial plants, hospitals, and other places, as are best suited to enable them to acquire knowledge or experience in the specialties in which it is considered necessary that they perfect themselves.

(b) An officer, other than one of the Regular Army on the active list, who is detailed under subsection (a) shall be ordered to additional active duty immediately upon termination of the detail, for a period at least as long as the detail but not longer than four years. However, if the detail is for 90 days or less, the officer may be ordered to that additional duty only with his consent and in the discretion of the Secretary.

(c) No Reserve of the Army may be detailed as a student, observer, or investigator, or ordered to active duty under this section, without his consent and, if a member of the Army National Guard of the United States, without the approval of the governor or other appro-

priate authority of the State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia of whose Army National Guard he is a member.

(d) The Secretary may require, as a condition of a detail under subsection (a), that an enlisted member accept a discharge and be reenlisted in his component for at least three years.

(e) The total length of details of an enlisted member of the Army under subsection (a) during one enlistment may not exceed 50 percent of that enlistment.

(f) At no time may more than 8 percent of the authorized strength in commissioned officers, 8 percent of the authorized strength in warrant officers, or 2 percent of the authorized strength in enlisted members, of the Regular Army, or more than 8 percent of the actual strength in commissioned officers, 8 percent of the actual strength in warrant officers, or 2 percent of the actual strength in enlisted members, of the total of reserve components of the Army, be detailed as students under subsection (a). For the purposes of this subsection, the actual strength of each category of Reserves includes both members on active duty and those not on active duty.

(g) Expenses incident to the detail of members under this section shall be paid from any funds appropriated for the Department of the Army.

§ 4302. Enlisted members of Army: schools

(a) So far as consistent with the requirements of military training and service, and under regulations to be prescribed by the Secretary of the Army with the approval of the President, enlisted members of the Army shall be permitted to study and receive instruction to increase their military efficiency and to enable them to return to civilian life better equipped for industrial, commercial, and business occupations. Part of this instruction may be vocational education in agriculture or the mechanic arts. Civilian teachers may be employed to aid Army officers in this instruction.

(b) Schools for the instruction of enlisted members of the Army in the common branches of education, including United States history, shall be maintained at all posts at which members of the Army are stationed. The Secretary may detail members of the Army to carry out this subsection. The commander of each post where schools are maintained under this subsection shall provide a suitable room or building for school and religious purposes.

§ 4306. Service schools: leaves of absence for instructors

The officer in charge of an Army service school may grant a leave of absence for the period of the suspension of the ordinary academic studies, without reduction of pay or allowances, to any officer on duty exclusively as an instructor at the school.

§ 4307. Director of civilian markmanship: detail

The President may detail a commissioned officer of the Army or of the Marine Corps as director of civilian marksmanship, to serve under the direction of the Secretary of the Army.

§ 4308. Civilian rifle ranges: establishment; instruction

(a) The Secretary of the Army, under regulations approved by him upon the recommendation of the National Board for the Promotion of Rifle Practice, shall provide for—

(1) the construction, equipment, maintenance, and operation of indoor and outdoor rifle ranges and their accessories and appliances;

(2) the instruction of able-bodied citizens of the United States in marksmanship, and the employment of necessary instructors for that purpose;

(3) the promotion of practice in the use of rifled arms, the maintenance and management of matches or competitions in the use of those arms, and the issue of the arms, ammunition, targets, and other supplies and appliances, necessary for those purposes;

(4) the award to competitors of trophies, prizes, badges, and other insignia;

(5) the sale to members of the National Rifle Association, at cost, and the issue to clubs organized for practice with rifled arms, under the direction of the National Board for the Promotion of Rifle Practice, of the arms, ammunition, targets, and other supplies and appliances necessary for target practice;

(6) the maintenance of the National Board for the Promotion of Rifle Practice, including provision for its necessary expenses and those of its members;

(7) the procurement of necessary supplies, appliances, trophies, prizes, badges and other insignia, clerical and other services, and labor; and

(8) the transportation of employees, instructors, and civilians to give or receive instruction or to assist or engage in practice in the use of rifled arms, and the transportation and subsistence, or an allowance instead of subsistence, of members of teams authorized by the Secretary to participate in matches or competitions in the use of rifled arms.

(b) There is authorized to be appropriated annually the sum of $7,500 for the incidental expenses of the National Board for the Promotion of Rifle Practice, including books, pamphlets, badges, trophies, prizes, and medals.

§ 4309. Rifle ranges: recommendations to Congress; regulations

(a) The Secretary of the Army shall submit annually to Congress recommendations and estimates for the establishment and maintenance of indoor and outdoor rifle ranges under a plan to provide facilities for rifle practice in all sections of the country.

(b) All rifle ranges established under subsection (a) and all rifle ranges already constructed, in whole or in part with funds provided by the United States, may be used by members of the armed forces and by all able-bodied males capable of bearing arms, under regulations prescribed by the authorities controlling those ranges and approved by the Secretary.

§ 4310. Rifle instruction: detail of members of Army

(a) The President may detail regular or reserve officers and noncommissioned officers of the Army to duty as instructors at rifle ranges for training civilians in the use of military arms.

(b) The Secretary of the Army may detail enlisted members of the Army as temporary instructors in the use of the rifle to organized rifle clubs requesting that instruction.

§ 4311. Rifle instruction: issue of rifles and ammunition

The Secretary of the Army may provide for the issue of a reasonable number of standard military rifles, and such quantities of ammunition as are available, for use in conducting rifle practice at rifle ranges established under section 4309 of this title at which instructors have been detailed under section 4310 of this title.

§ 4312. National rifle and pistol matches: small-arms firing school

(a) An annual competition called the "National Matches" and consisting of rifle and pistol matches for a national trophy, medals, and other prizes shall be held as prescribed by the Secretary of the Army.

(b) The National Matches are open to members of the armed forces, National Guard, Reserve Officers' Training Corps, Air Force Reserve Officers' Training Corps, Citizens' Military Training Camps, Citizens' Air Training Camps, and rifle clubs, and to civilians.

(c) A small-arms firing school shall be held in connection with the National Matches.

(d) Competitions for which trophies and medals are provided by the National Rifle Association of America shall be held in connection with the National Matches.

§ 4313. National rifle matches and small-arms school: expenses

(a) Competitors at the National Matches under section 4312 of this title may draw not more than $1.50 a day as a subsistence allowance. If meals are furnished, a sum not to exceed $1.50 per man per day may be spent for that purpose while the contest is in progress.

(b) A travel allowance of five cents a mile may be paid to a civilian competitor instead of traveling expenses and subsistence while traveling, and the allowance for the return trip may be paid in advance.

CHAPTER 403.—UNITED STATES MILITARY ACADEMY

Sec.

4331. Superintendent; faculty; adjutant; chaplain.
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4355. Board of Visitors.

§ 4331. Superintendent; faculty; adjutant; chaplain

(a) There shall be at the United States Military Academy, at West Point, New York, in this chapter called the "Academy", the following—

(1) a Superintendent;

(2) a Dean of the Academic Board, who is a permanent professor;

(3) a Commandant of Cadets;

(4) two permanent professors of each of the following subjects—

(A) Electricity;
(B) English;
(C) Foreign Languages;
(D) Mathematics;
(E) Mechanics;
(F) Military Art and Engineering;
(G) Military Topography and Graphics;
(H) Physics and Chemistry; and
(I) Social Sciences;

(5) one permanent professor of each of the following subjects—

(A) Law; and
(B) Ordnance;

(6) a professor of Military Hygiene;

(7) an adjutant;

(8) a chaplain; and

(9) a director of music.

(b) Upon becoming the senior commissioned officer of the Medical Corps on duty at the Academy, an officer thereby becomes the professor of Military Hygiene.

§ 4332. Departments and professors: titles

(a) The Secretary of the Army may prescribe the titles of each of the departments of instruction and the professors of the Academy. However, the change of the title of a department or officer does not affect the status, rank, or eligibility for promotion or retirement of, or otherwise prejudice, a professor at the Academy.

(b) Upon becoming the senior professor in a department, a permanent professor thereby becomes the head of that department.

§ 4333. Superintendent; faculty: appointment and detail

(a) The Superintendent and the Commandant of Cadets of the Academy shall be detailed to those positions by the President from any branch of the Army. Other officers on duty at the Academy, except the permanent professors, may be detailed from any branch of the Army.

(b) The permanent professors of the Academy shall be appointed by the President, by and with the advice and consent of the Senate.

(c) No graduate of the Academy may be appointed or detailed to serve at the Academy as a professor or instructor, or as an assistant to a professor or instructor, within two years after his graduation.

§ 4334. Command and supervision

(a) The supervision and charge of the Academy is in the Department of the Army, under officers of the Army detailed to that duty by the Secretary of the Army.

(b) The immediate government of the Academy is under the Superintendent, who is also the commanding officer of the Academy and of the military post at West Point.

(c) The Commandant of Cadets is the immediate commander of the Corps of Cadets, and is in charge of the instruction of the Corps in tactics.

(d) The permanent professors exercise command only in the academic department of the Academy.

§ 4335. Dean of Academic Board

(a) The Dean of the Academic Board shall be appointed as an additional permanent professor from the permanent professors who have served as heads of departments of instruction at the Academy.

(b) The Dean of the Academic Board shall perform such duties as the Superintendent of the Academy may prescribe with the approval of the Secretary of the Army. The Dean has the regular grade of brigadier general while serving as such, with the benefits authorized for regular brigadier generals of the Army, except that his retirement age is that of a permanent professor of the Academy.

§ 4336. Permanent professors

A permanent professor of the Academy, other than the Dean of the Academic Board, who is the head of a department of instruction, or who has served as such a professor for more than six years, has the regular grade of colonel. However, a permanent professor appointed from the Regular Army has the regular grade of colonel after the date when he completes six years of service as a professor, or after the date when a promotion-list officer, junior to him on the promotion list on which his name was carried before his appointment as a professor, is promoted to the regular grade of colonel, whichever is earlier. All other permanent professors have the regular grade of lieutenant colonel.

§ 4337. Chaplain

There shall be a chaplain at the Academy, who must be a clergyman, appointed by the President for a term of four years. The chaplain is entitled to a salary of $5,482.80 a year, and to the same allowances for public quarters as are allowed to a captain, and to fuel and light for quarters in kind. The chaplain may be reappointed and, if reappointed, he is entitled to a salary of $6,714 a year and those allowances.

§ 4338. Director of music

(a) The director of music, who is also the leader of the Military Academy Band, has the rank prescribed by the Secretary of the Army and is entitled to the pay and allowances of a commissioned officer

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whose grade corresponds to that rank. In the computation of his pay, all his active service in the Army, including service as teacher or director of music, is counted as if it were commissioned service.

(b) At such time as the President may direct, the director of music shall be retired in the grade equal to the highest rank in which he served on active duty satisfactorily, as determined by the Secretary, for at least six months, and with the retired pay of an officer of the Army with the same grade and length of service counted under subsection (a). His dependents are entitled to the pensions, death gratuity, and other benefits provided for the dependents of an officer of the Regular Army with corresponding grade and length of service.

§ 4339. Organist and choirmaster; civilian instructors in departments of foreign languages and tactics: quarters, fuel, and light

(a) The organist and choirmaster of the Academy is entitled to public quarters when they are available, and to fuel and light when he occupies public quarters.

(b) The civilian instructors in the departments of foreign languages and tactics are entitled to public quarters and fuel and light therefor.

§ 4340. Quartermaster

The Secretary of the Army shall detail a commissioned officer of the Army as quartermaster for the Corps of Cadets. The quartermaster shall—

(1) buy and issue all supplies for the cadets;
(2) buy and issue all provisions for the mess; and
(3) supervise the mess.

§ 4341. Faculty and other officers: leaves of absence

The Superintendent of the Academy may grant a leave of absence for the period of the suspension of the ordinary academic studies, without deduction of pay or allowances, to a professor, assistant professor, instructor, or other officer of the Academy.

§ 4342. Cadets: appointment; numbers, territorial distribution

(a) The authorized strength of the Corps of Cadets of the Academy is as follows—

(1) eight cadets from each State, four nominated by each Senator from the State;

(2) four cadets from each congressional district, nominated by the Representative from the district;

(3) four cadets from each Territory, nominated by the Delegate in Congress from the Territory;

(4) four cadets from Puerto Rico, nominated by its Resident Commissioner;

(5) six cadets from the District of Columbia, nominated by its Commissioners;

(6) two cadets nominated by the Governor of the Canal Zone;

(7) 172 cadets from the United States at large, selected or nominated under subsection (e);

(8) 180 cadets from enlisted members of the Army and the Air Force, appointed under subsection (g); and

(9) in addition to the cadets authorized in clauses (1)–(8), any cadets appointed under subsection (h).

(b) All cadets are appointed by the President. An appointment is conditional until the cadet is admitted.

(c) No person may be nominated under clauses (1)–(5) of subsection (a), unless he is 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.

(d) To be eligible for nomination by the Governor of the Canal Zone, a person must be the son of a civilian residing in the Canal Zone, or of a civilian officer or employee of the United States or the Panama Canal Company residing in the Republic of Panama.

(e) Of the 172 cadets authorized to be appointed from the United States at large—

(1) 89 may be personally selected by the President;

(2) 3 may be nominated by the Vice President;

(3) 40 shall be nominated, under regulations prescribed by the Secretary of the Army, from honor graduates of the schools designated by the Department of the Army as honor military schools or by the Department of the Navy as honor naval schools; and

(4) 40, otherwise qualified for admission, may be 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.

(f) For the purposes of subsection (e) (4), a determination by the Veterans' Administration whether a death is service-connected is binding upon the Secretary of the Army.

(g) Of the 180 cadets authorized to be appointed from the enlisted members of the Army and the Air Force, 90 may be appointed from the Regular Army and the Regular Air Force, and 90 from the reserve components of the Army and the Air Force. For each vacancy to be filled from one of those categories, there may be selected to compete at an annual examination three candidates from that category who have served at least one year on active duty or in an active-duty training status, including training performed under sections 502, 503, 504, and 505 of title 32. Appointments to fill vacancies from those categories shall be made from candidates, in the order of their merit, making the highest grades on the examination. The Secretary of the Army and the Secretary of the Air Force shall prescribe regulations for the selection of candidates from their respective services.

(h) If he is otherwise qualified for admission the son of a person to whom the Medal of Honor has been awarded for an act performed while in the armed forces may be appointed a cadet from the United States at large.

§ 4343. Cadets: appointment; to bring Corps to full strength

If it is determined that, upon the admission of a new class to the Academy, the number of cadets at the Academy will be below the authorized number, the Secretary of the Army may nominate as many qualified alternates and other qualified candidates who competed for nomination and are recommended and found qualified by the Academic Board as are necessary to meet the needs of the Army and the Air Force, but not more than the authorized strength of the Corps of Cadets. At least two-thirds of those nominated under this section shall be selected from qualified alternates nominated by the persons named in clauses (1)–(6) of section 4342 (a), and clause (2) of section 4342 (e), of this title, and the remainder from qualified candidates holding competitive nominations under any other provision of law. An appointment under this section is an additional appointment and is not in place of an appointment otherwise authorized by law.

§ 4344. Selection of persons from Canada and American Republics

(a) Upon designation by the President, the Secretary of the Army may permit not more than 20 persons at any one time from Canada and the American Republics, other than the United States, to receive instruction at the Academy. However, not more than three persons from any one of those republics or from Canada may receive instruction under this section at any one time.

(b) A person receiving instruction under this section is entitled to the pay, allowances, and emoluments of a cadet appointed from the United States, and from the same appropriations. However, the mileage allowance payable to that person for travel to the Academy for initial admission is not limited to mileage for travel within the United States.

(c) 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 cadet at the Academy appointed from the United States. However, a person receiving instruction under this section is not entitled to an appointment in the United States Army by reason of his graduation from the Academy.

(d) A person receiving instruction under this section is not subject to section 4346 (d) of this title.

§ 4345. Selection of Filipinos

(a) The Secretary of the Army may permit not more than four Filipinos at any one time to receive instruction at the Academy. Of these, one may be designated by the President of the Republic of the Philippines for each entering class.

(b) A Filipino receiving instruction under this section is entitled to the pay, allowances, and emoluments of a cadet appointed from the United States, and from the same appropriations.

§ 4346. Cadets: requirements for admission

(a) To be eligible for admission to the Academy a candidate must be at least 17 years of age and must not have passed his twenty-second birthday on July 1 of the year in which he enters the Academy.

(b) To be admitted to the Academy, an appointee must show, by an examination held under regulations prescribed by the Secretary of the Army, that he is qualified in the subjects prescribed by the Secretary.

(c) A candidate designated as a principal or an alternate for appointment as a cadet shall appear for physical examination at a time and place designated by the Secretary.

(d) To be admitted to the Academy, an appointee must take and subscribe to the following oath—

"I, _____, do solemnly swear that I will support the Constitution of the United States, and bear true allegiance to the National Government; that I will maintain and defend the sovereignty of the United States, paramount to any and all allegiance, sovereignty, or fealty I may owe to any State or country whatsoever; and that I will at all times obey the legal orders of my superior officers, and the Uniform Code of Military Justice."

If a candidate for admission refuses to take this oath, his appointment is terminated.

§ 4347. Cadets; nominees: effect of redistricting of States

If as a result of redistricting a State the domicile of a cadet, 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 cadets 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 cadet or when he is finally separated from the Academy.

§ 4348. Cadets: agreement to serve as officer

Each cadet 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 Academy;

(2) accept an appointment and serve as a commissioned officer of the Regular Army or the Regular Air Force for at least the three years immediately after graduation; and

(3) accept an appointment as a commissioned officer as a Reserve for service in the Army Reserve or 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 cadet is a minor and has parents or a guardian, he may sign the agreement only with the consent of the parents or guardian.

§ 4349. Cadets: organization of Corps; service; instruction

(a) The Corps of Cadets shall be divided into companies, as directed by the Superintendent, for the purpose of military instruction. Each company shall be commanded by a commissioned officer of the Army.

(b) A cadet shall perform duties at such places and of such type as the President may direct.

(c) The course of instruction at the Academy is four years.

(d) The Secretary of the Army shall so arrange the course of studies at the Academy that cadets are not required to pursue their studies on Sunday.

(e) The Corps of Cadets shall be trained in the duties of members of the Army, shall be encamped at least three months in each year, and shall be trained in all duties incident to a camp.

§ 4350. Cadets: clothing and equipment

(a) The Secretary of the Army may prescribe the amount to be credited to a cadet, upon original admission to the Academy, for the cost of his initial issue of clothing and equipment. That amount shall be deducted from his pay. If a cadet is discharged before graduation while owing the United States for pay advanced for the purchase of required clothing and equipment, he shall turn in so much of his clothing and equipment of a distinctive 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.

(b) Under such regulations as the Secretary may prescribe, uniforms and equipment shall be furnished to a cadet at the Academy upon his request.

§ 4351. Cadets: deficiencies in conduct or studies; effect of failure on successor

(a) A cadet who is reported as deficient in conduct or studies and recommended to be discharged from the Academy may not, unless recommended by the Academic Board, be returned or reappointed to the Academy.

(b) Any cadet who fails to pass a required examination because he is deficient in any one subject of instruction is entitled to a reexamination of equal scope and difficulty in that subject, if he applies in writing to the Academic Board within 10 days after he is officially notified of his failure. The reexamination shall be held within 60 days after the date of his application. If the cadet passes the reexamination and is otherwise qualified, he shall be readmitted to the Academy. If he fails, he may not have another examination.

(c) The failure of a member of a graduating class to complete the course with his class does not delay the admission of his successor.

§ 4352. Cadets: hazing

(a) Subject to the approval of the Secretary of the Army, the Superintendent of the Academy shall issue regulations—

(1) defining hazing;

(2) designed to prevent that practice; and

(3) prescribing dismissal, suspension, or other adequate punishment for violations.

(b) If a cadet who is charged with violating a regulation issued under subsection (a), the penalty for which is or may be dismissal from the Academy, requests in writing a trial by a general court-martial, he may not be dismissed for that offense except under sentence of such a court.

(c) A cadet dismissed from the Academy for hazing may not be reappointed to the Corps of Cadets, and is ineligible for appointment

as a commissioned officer in a regular component of the Army, Navy, Air Force, or Marine Corps, until two years after the graduation of his class.

§ 4353. Cadets: degree and commission on graduation

(a) Under such conditions as the Secretary of the Army may prescribe, the Superintendent of the Academy may confer the degree of bachelor of science upon graduates of the Academy.

(b) Notwithstanding any other provision of law except section 541 of this title, a cadet who completes the prescribed course of instruction may, upon graduation, be appointed a second lieutenant in the Regular Army.

§ 4354. Buildings and grounds: memorial hall; buildings for religious worship

(a) The memorial hall at the Academy is a repository for statues, busts, mural tablets, portraits of distinguished and deceased officers and graduates of the Academy, paintings of battle scenes, trophies of war, and other objects that may tend to elevate the military profession. No object may be placed in this hall without the approval of two-thirds of the members of the Academic Board of the Academy by a recorded vote taken by ayes and nays.

(b) The Secretary of the Army may authorize any denomination, sect, or religious body to erect a building for religious worship on the West Point Military Reservation, if its erection will not interfere with the use of the reservation for military purposes and will be without expense to the United States. Such a building shall be removed, or its location changed, without compensation for it and without other expense to the United States, by the denomination, sect, or religious body that erected it, whenever in the opinion of the Secretary public or military necessity so requires.

§ 4355. Board of Visitors

(a) A Board of Visitors to the 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 Army, 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 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.

CHAPTER 405.—RESERVE OFFICERS' TRAINING CORPS

Sec.

4381. Advanced training: definition.
4382. Establishment and composition.
4383. Medical, dental, pharmacy, and veterinary students: admission.
4384. Courses of training.
4385. Training camps.
4386. Supplies and uniforms.
4387. Advanced training: compensation.

§ 4381. Advanced training: definition

In this chapter, "advanced training" means the training and instruction in military science and tactics offered in the senior division of the Reserve Officers' Training Corps to students who complete the two years' elective or compulsory course in that subject or are credited with equivalent training under section 4387 of this title.

§ 4382. Establishment and composition

(a) The President may establish and maintain in civil educational institutions a Reserve Officers' Training Corps having—

(1) a senior division at universities and colleges granting degrees, and at schools essentially military that do not confer academic degrees and that are designated as qualified by the Secretary of the Army; and

(2) a junior division at other public or private educational institutions.

(b) Each division shall consist of one or more units of the several branches of the Army in the strengths prescribed by the President.

(c) No unit may be established or maintained at an institution, unless—

(1) a commissioned officer of the Regular Army is detailed to it as professor of military science and tactics;

(2) the institution maintains under military instruction at least 100 physically fit male students for each infantry, armor, or

artillery unit, or at least 50 such students for each other unit, except that an infantry unit may be established and maintained at the University of Alaska if it maintains at least 50 such students under military instruction; and

(3) the authorities of the institution, other than a State university or a State institution required to provide military instruction under section 304 of title 7, agree to establish and maintain a two years' elective or compulsory course of military training as a minimum for its physically fit male students the completion of which is a prerequisite for the graduation of any student beginning the course unless he is relieved of this obligation under regulations prescribed by the Secretary.

(d) Only a person who is a citizen of the United States, who is at least 14 years of age, who is a student at an institution where a unit of the Corps is established, and whose condition shows that he is physically able to perform military duty or that he will be so on becoming of military age, is eligible to be a member of the Reserve Officers' Training Corps.

§ 4383. Medical, dental, pharmacy, and veterinary students: admission

(a) A medical, dental, pharmacy, or veterinary student may be admitted to a Medical, Dental, Medical Service, or Veterinary Corps unit of the Reserve Officers' Training Corps for a course of training consisting of 90 hours of instruction a year for four academic years.

(b) Under such conditions as the Secretary of the Army may prescribe, a medical, dental, pharmacy, or veterinary student who is a commissioned officer of a reserve component of the Army may be admitted to and trained in a Medical, Dental, Medical Service, or Veterinary Corps unit of the Reserve Officers' Training Corps.

§ 4384. Courses of training

The Secretary of the Army may prescribe standard courses of theoretical and practical military training for units of the Reserve Officers' Training Corps. No unit may be established or maintained at an institution unless it provides the course of military training prescribed by the Secretary, and unless its students who are taking that training devote to it an average of at least three hours a week during an academic year, except as prescribed under section 4383 of this title.

§ 4385. Training camps

(a) The Secretary of the Army may—

(1) maintain camps for the further practical instruction of members of the Reserve Officers' Training Corps;

(2) transport members of the Corps to and from the camps and furnish them subsistence while traveling to and from the camps or, instead of transportation and subsistence, pay them a travel allowance of five cents a mile by the shortest usually traveled route from the places from which they are authorized to proceed to the camp and return, and pay the allowance for the return trip in advance;

(3) furnish subsistence to members of the Corps while in camps;

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(4) furnish medical attendance and supplies to members of the Corps, and admit them to military hospitals at the camps;

(5) use members of the Regular Army, and such property of the United States as he considers necessary, for the training of the members of the Corps at the camps; and

(6) provide for the government of the camps.

(b) Except in time of actual or threatened hostilities, no camp may be maintained under subsection (a) (1) for more than six weeks in any one year.

(c) A member of the Reserve Officers' Training Corps, and any other person authorized by the Secretary to attend a camp authorized under subsection (a) (1) for students taking advanced training, is entitled, while attending that camp, to pay at the rate prescribed for enlisted members of the Army in pay grade E–1 (under 4 months).

§ 4386. Supplies and uniforms

(a) Under such conditions as he may prescribe, the Secretary of the Army may issue to institutions at which units of the Reserve Officers' Training Corps are maintained—

(1) public animals and forage for them;

(2) means of transportation, arms, ammunition, supplies, and tentage; and

(3) uniforms, except that he may pay commutation at a rate fixed by him annually instead of uniforms.

(b) The Secretary may authorize such expenditures as he considers necessary for the efficient maintenance of the Corps.

(c) The Secretary shall require, from each institution to which property is issued under subsection (a), a bond or other indemnity in such amount as he considers adequate, but not less than $5,000, for the care and safekeeping of all property so issued except uniforms, expendable articles, and supplies expended in operation, maintenance, and instruction. The Secretary may accept a bond without surety if the institution to which the property is issued furnishes to him satisfactory evidence of its financial responsibility.

§ 4387. Advanced training: compensation

(a) A member of the senior division of the Reserve Officers' Training Corps, including a member of a Medical, Dental, Medical Service, or Veterinary unit, is eligible for advanced training, and is entitled to an allowance for subsistence at such rate, not exceeding the cost of the garrison ration of the Army, as may be fixed by the Secretary of the Army, during the remainder of his service in the Reserve Officers' Training Corps, but not for more than two years, if he—

(1) has completed two academic years of training in the senior division or equivalent training under subsection (b);

(2) has been selected for advanced training by the head of the institution and the professor of military science and tactics;

(3) agrees in writing to continue in the Reserve Officers' Training Corps for the remainder of his course at the institution;

(4) agrees in writing to devote five hours a week to the military training prescribed by the Secretary or, if a member of a Medical, Dental, Medical Service, or Veterinary unit, to continue in training for the remainder of the course prescribed by section 4383 of this title; and

(5) agrees in writing to take a course, prescribed by the Secretary, at a training camp.

(b) Under such regulations as the Secretary may prescribe, in the determination of a member's eligibility for advanced training and entitlement to an allowance for subsistence under subsection (a), he may be credited with any military training that is substantially equivalent to that prescribed for admission to the advanced course and is received while he is—

(1) in the junior division of the Reserve Officers' Training Corps, or at an educational institution, and under—

(A) an officer of the Army detailed as a professor of military science and tactics; or

(B) a retired or reserve officer of the Army not on active duty who is employed by that institution, with the approval of the Secretary of the Army, as an instructor of military science and tactics;

(2) taking a course of instruction in the Air Force Reserve Officers' Training Corps;

(3) taking a course of instruction in the Naval Reserve Officers' Training Corps; or

(4) on active duty in the armed forces.

(c) A person selected for advanced training under this section may be allowed to delay the start of that training and to interrupt it, if, under the rules of the institution, there will be time enough after any delay or interruption and before graduation to complete the advanced training.

CHAPTER 407.—SCHOOLS AND CAMPS

Sec.

4411. Establishment: purpose.
4412. Operation.
4413. Transportation and subsistence during travel.
4414. Quartermaster and ordnance property: sales.

§ 4411. Establishment: purpose

The Secretary of the Army may maintain schools and camps for the military instruction and training of persons selected, upon their application, from warrant officers and enlisted members of the Army and civilians, to qualify them for appointment as reserve officers, or enlistment as reserve noncommissioned officers, for service in the Army Reserve.

§ 4412. Operation

In maintaining schools and camps established under section 4411 of this title, the Secretary of the Army may—

(1) prescribe the periods during which they will be operated;

(2) prescribe regulations for their administration;

(3) prescribe the courses to be taught;

(4) detail members of the Regular Army to designated duties relating to the camps;

(5) use necessary supplies and transportation;

(6) furnish uniforms, subsistence, and medical attendance and supplies to persons attending the camps; and

(7) authorize necessary expenditures from proper Army funds for—

(A) water;

(B) fuel;

(C) light;

(D) temporary structures, except barracks and officers' quarters;

(E) screening;

(F) damages resulting from field exercises;

(G) expenses incident to theoretical winter instruction of trainees; and

(H) other expenses incident to maintaining the camps.

§ 4413. Transportation and subsistence during travel

(a) There may be furnished to a person attending a school or camp established under section 4411 of this title, for travel to and from that school or camp—

(1) transportation and subsistence;

(2) transportation in kind and a subsistence allowance of one cent a mile; or

(3) a travel allowance of five cents a mile.

(b) The travel allowance for the return trip may be paid in advance.

(c) For the purposes of this section, distance is computed by the shortest usually traveled route, within such territorial limits as the Secretary of the Army may prescribe, from the authorized starting point to the school or camp and return.

§ 4414. Quartermaster and ordnance property: sales

The Secretary of the Army may sell to a person attending a school or camp established under section 4411 of this title quartermaster and ordnance property necessary for his proper equipment. Sales under this section shall be for cash.

PART IV. SERVICE, SUPPLY, AND PROCUREMENT

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CHAPTER 431.—INDUSTRIAL MOBILIZATION, RESEARCH, AND DEVELOPMENT

Sec.

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4507. Sale of ordnance and ordnance stores to designers.
4508. Tests of iron, steel, and other materials.

§ 4501. Industrial mobilization: orders; priorities; possession of manufacturing plants; violations

(a) In time of war or when war is imminent, the President, through the head of any department, may order from any person or organized manufacturing industry necessary products or materials of the type usually produced or capable of being produced by that person or industry.

(b) A person or industry with whom an order is placed under subsection (a), or the responsible head thereof, shall comply with that order and give it precedence over all orders not placed under that subsection.

(c) In time of war or when war is imminent, the President, through the head of any department, may take immediate possession of any plant that is equipped to manufacture, or that in the opinion of the Secretary of the Army is capable of being readily transformed into a plant for manufacturing, arms or ammunition, parts thereof, or necessary supplies for the Army, if the person or industry owning or operating the plant, or the responsible head thereof, refuses—

(1) to give precedence to the order as prescribed in subsection (b);

(2) to manufacture the kind, quantity, or quality of arms or ammunition, parts thereof, or necessary supplies, as ordered by the Secretary; or

(3) to furnish them at a reasonable price as determined by the Secretary.

(d) The President, through the Ordnance Corps, may manufacture products that are needed in time of war or when war is imminent, in any plant that is seized under subsection (c).

(e) Each person or industry from whom products or materials are ordered under subsection (a) is entitled to fair and just compensation. Each person or industry whose plant is seized under subsection (c) is entitled to a fair and just rental.

(f) Whoever fails to comply with this section shall be imprisoned for not more than three years and fined not more than $50,000.

§ 4502. Industrial mobilization: plants; lists; Board on Mobilization of Industries Essential for Military Preparedness

(a) The Secretary of the Army shall maintain a list of all privately owned plants in the United States, and the Territories, Commonwealths, and possessions, that are equipped to manufacture for the Army arms or ammunition, or parts thereof, and shall obtain complete information of the kinds of those products manufactured or capable of being manufactured by each of those plants, and of the equipment and capacity of each of those plants.

(b) The Secretary shall maintain a list of privately owned plants in the United States, and the Territories, Commonwealths, and possessions, that are capable of being readily transformed into factories for the manufacture of ammunition for the Army, and that have a capacity sufficient to warrant conversion into ammunition plants in time of war or when war is imminent, and shall obtain complete information as to the equipment of each of those plants.

(c) The Secretary shall prepare comprehensive plans for converting each plant listed pursuant to subsection (b) into a factory for the manufacture of ammunition or parts thereof.

(d) The President may appoint a nonpartisan Board on Mobilization of Industries Essential for Military Preparedness, and may provide necessary clerical assistance to organize and coordinate operations under this section and section 4501 of this title.

§ 4503. Research and development programs

The Secretary of the Army may conduct and participate in research and development programs relating to the Army, and may procure or contract for the use of facilities, supplies, and services that are needed for those programs. This section does not authorize the design or development of any prototype aircraft intended primarily for commercial use.

§ 4504. Procurement for experimental purposes

The Secretary of the Army may buy ordnance, signal, and chemical warfare supplies, including parts and accessories, and designs thereof, that he considers necessary for experimental or test purposes in the development of the best supplies that are needed for the national defense. Purchases under this section may be made inside or outside the United States, with or without competitive bidding, and by contract or otherwise. Chapter 137 of this title applies when such purchases are made in quantity.

§ 4505. Procurement of production equipment

The Secretary of the Army may make or procure gauges, dies, jigs, tools, fixtures, and other special aids and appliances, and specifications and drawings, necessary for the immediate manufacture of arms, ammunition, or special equipment that are necessary to equip the Army and are likely to be needed in time of war. Whenever he considers it in the best interest of the United States, the Secretary may procure any of those items without regard to laws prescribing competition in the procurement of supplies.

§ 4506. Sale, loan, or gift of samples, drawings, and information to contractors

The Secretary of the Army, under regulations to be prescribed by him, may sell, lend, or give such samples, drawings, and manufacturing or other information as he considers best for the national defense—

(1) to any contractor for Army supplies under approved production plans; and

(2) to any person likely to manufacture or supply Army supplies under such plans.

§ 4507. Sale of ordnance and ordnance stores to designers

The Secretary of the Army may sell to designers who are nationals of the United States serviceable ordnance and ordnance stores necessary in the development of designs for the armed forces.

§ 4508. Tests of iron, steel, and other materials

(a) The Secretary of the Army may authorize the use of the Army's machine for testing iron, steel, and other materials for industrial purposes, by any person upon payment of a suitable fee. The officer in charge of the test—

(1) shall require payment of fees for the tests authorized by this section in accordance with a table of fees approved by the Secretary;

(2) may require payment in advance;

(3) may spend the fees so received in making such tests; and

(4) shall fully report the tests and the expenditure of the fees to the Chief of Ordnance.

The table of fees shall be adjusted from time to time so as to defray the cost of the tests as fully as possible.

(b) The Chief of Ordnance shall consider any program of tests submitted by the American Society of Civil Engineers, and a record of the tests shall be furnished the Society for publication at its expense.

CHAPTER 433.—PROCUREMENT

Sec.

4531. Authorization.
4532. Factories and arsenals: manufacture at; abolition of.
4533. Army ration.
4534. Subsistence supplies: contract stipulations; place of delivery on inspection.
4535. Exceptional subsistence supplies: purchase without advertising.
4536. Equipment: post bakeries, schools, kitchens, and mess halls.
4537. Military surveys and maps: assistance of United States mapping agencies.
4538. Unserviceable ammunition: exchange and reclamation.
4539. Horses and mules.
4540. Architectural and engineering services.

§ 4531. Authorization

The Secretary of the Army may procure materials and facilities necessary to maintain and support the Army, its military organizations, and their installations and supporting and auxiliary elements, including—

(1) guided missiles;

(2) modern standard items of equipment;

(3) equipment to replace obsolete or unserviceable equipment;

(4) necessary spare equipment, materials, and parts; and

(5) such reserve of supplies as is needed to enable the Army to perform its mission.

This section does not authorize the design or development of any prototype aircraft intended primarily for commercial use.

§ 4532. Factories and arsenals: manufacture at; abolition of

(a) The Secretary of the Army shall have supplies needed for the Department of the Army made in factories or arsenals owned by the United States, so far as those factories or arsenals can make those supplies on an economical basis.

(b) The Secretary may abolish any United States arsenal that he considers unnecessary.

§ 4533. Army ration

Under the direction of the Secretary of the Army, any branch, office, or officer designated by him shall buy the components of the Army ration and items directed by the President to be issued in place thereof.

§ 4534. Subsistence supplies; contract stipulations; place of delivery on inspection

Each contract for subsistence supplies for the Army that is made on public notice must provide for complete delivery, on inspection, at a specified place.

§ 4535. Exceptional subsistence supplies: purchase without advertising

Exceptional articles of subsistence supplies that are for members of the Army, and for which they are to pay regardless of condition upon arrival, may, under regulations to be prescribed by the Secretary of the Army, be bought on the open market without advertising.

§ 4536. Equipment: post bakeries, schools, kitchens, and mess halls

Money necessary for the following items for the use of enlisted members of the Army may be spent from appropriations for regular supplies:

(1) Equipment for post bakeries.

(2) Furniture, textbooks, paper, and equipment for post schools.

(3) Tableware and mess furniture for kitchens and mess halls.

§ 4537. Military surveys and maps: assistance of United States mapping agencies

The Secretary of the Army may obtain the assistance of the United States Geological Survey, the Coast and Geodetic Survey, and other mapping agencies of the United States in—

(1) making topographic and other surveys;

(2) obtaining extra topographic data;

(3) making maps needed for military purposes;

(4) research and development of surveying by aerial photography; and

(5) developing methods of field reproduction.

§ 4538. Unserviceable ammunition: exchange and reclamation

(a) The Secretary of the Army may, by contract or otherwise, reclaim deteriorated and unserviceable ammunition and components, not suitable for exchange, by conversion to usable form as complete rounds or serviceable components, and pay all or part of the costs thereof through the exchange of deteriorated and unserviceable components.

(b) Subject to applicable regulations under section 486 of title 40, the Secretary may exchange deteriorated and unserviceable ammunition and components thereof for serviceable ammunition or components.

§ 4539. Horses and mules

If practicable, when horses and mules are needed they shall be bought in the open market at Army posts or stations, within maximum prices prescribed by the Secretary of the Army. No horse may be bought that does not meet the standards prescribed by Army regulations for cavalry or artillery horses, except when bought for remount purposes or as specifically authorized by another provision of law.

§ 4540. Architectural and engineering services

(a) Whenever he considers that it is advantageous to the national defense and that existing facilities of the Department of the Army are inadequate, the Secretary of the Army may, by contract or otherwise, employ the architectural or engineering services of any person outside that Department for producing and delivering designs, plans, drawings, and specifications needed for any public works or utilities project of the Department.

(b) The fee for any service under this section may not be more than 6 percent of the estimated cost, as determined by the Secretary, of the project to which it applies.

(c) Sections 1071–1153 of title 5 do not apply to employment under this section.

CHAPTER 435.—ISSUE OF SERVICEABLE MATERIAL TO ARMED FORCES

Sec.

4561. Rations.
4562. Clothing.
4563. Clothing: replacement when destroyed to prevent contagion.
4564. Navy and Marine Corps: camp equipment and transportation; when on shore duty with Army.
4565. Colors, standards, and guidons of demobilized organizations: disposition.

§ 4561. Rations

(a) The President may prescribe the components, and the quantities thereof, of the Army ration. He may direct the issue of equivalent articles in place of the prescribed components whenever, in his opinion, economy and the health and comfort of the members of the Army so require.

(b) Under the direction of the Secretary of the Army, the branch, office, or officer designated by him shall issue the components of the Army ration.

(c) An enlisted member of the Army on active duty is entitled to one ration daily. The emergency ration, when issued, is in addition to the regular ration.

(d) Fresh or preserved fruits, milk, butter, and eggs necessary for the proper diet of the sick in hospitals shall be provided under regulations prescribed by the Surgeon General and approved by the Secretary.

§ 4562. Clothing

The President may prescribe the quantity and kind of clothing to be issued annually to members of the Army.

§ 4563. Clothing: replacement when destroyed to prevent contagion

Upon the recommendation of the Surgeon General, the Secretary of the Army may order a gratuitous issue of clothing to any enlisted member of the Army who has had a contagious disease, and to any hospital attendant who attended him while he had that disease, to replace clothing destroyed by order of an officer of the Medical Corps to prevent contagion.

§ 4564. Navy and Marine Corps: camp equipment and transportation; when on shore duty with Army

While any detachment of the Navy or Marine Corps is on shore duty in cooperation with troops of the Army, the officer of the Army designated by the Secretary of the Army shall, upon the requisition of the officer of the Navy or Marine Corps in command of the detachment, issue rations and camp equipment, and furnish transportation, to that detachment.

§ 4565. Colors, standards, and guidons of demobilized organizations: disposition

(a) The Secretary of the Army may dispose of colors, standards, and guidons of demobilized organizations of the Army, as follows:

(1) Those brought into Federal service by the Army National Guard of a State may be returned to that State upon the request of its governor.

(2) Those that cannot be returned under clause (1) may, upon the request of its governor, be sent to the State that, as determined by the Secretary, furnished the majority of members of the organization when it was formed.

Those that cannot be returned or sent under clause (1) or (2) of this subsection shall be delivered to the Quartermaster General for such national use as the Secretary may direct.

(b) Title to colors, standards, and guidons of demobilized organizations of the Army remains in the United States.

(c) No color, standard, or guidon may be disposed of under this section unless provision satisfactory to the Secretary has been made for its preservation and care.

CHAPTER 437.—UTILITIES AND SERVICES

Sec.

4591. Utilities: proceeds from overseas operations.
4592. Radiograms and telegrams: forwarding charges due connecting commercial facilities.
4593. Quarters: heat and light.

§ 4591. Utilities: proceeds from overseas operations

During actual or threatened hostilities, proceeds from operating a public utility in connection with operations of the Corps of Engineers in the field overseas are available for that utility until the close of the fiscal year following that in which they are received.

§ 4592. Radiograms and telegrams: forwarding charges due connecting commercial facilities

In the operation of telegraph lines, cables, or radio stations, members of the Signal Corps may, in the discretion of the Secretary of the Army, collect forwarding charges due connecting commercial telegraph or radio companies for sending radiograms or telegrams over their lines. Under such regulations as the Secretary may prescribe, they may present a voucher to a disbursing officer for payment, or may file a claim with the General Accounting Office for the forwarding charge.

§ 4593. Quarters: heat and light

The heat and light necessary for the authorized quarters of members of the Army shall be furnished at the expense of the United States.

CHAPTER 439.—SALE OF SERVICEABLE MATERIAL

Sec.

4621. Quartermaster supplies: members of armed forces; veterans; executive or military departments and employees; prices.
4622. Rations: commissioned officers in field.
4623. Tobacco: enlisted members of Army.
4624. Medical supplies: civilian employees of Army; American National Red Cross; Soldiers' Home.
4625. Ordnance property: officers of armed forces; civilian employees of Army; American National Red Cross; educational institutions; homes for veterans' orphans.
4626. Aircraft supplies and services: foreign military or air attaché.
4627. Supplies: educational institutions.
4628. Airplane parts and accessories: civilian flying schools.
4629. Proceeds: disposition.

§ 4621. Quartermaster supplies: members of armed forces; veterans; executive or military departments and employees; prices

(a) The branch, office, or officer designated by the Secretary of the Army shall procure and sell, for cash or credit—

(1) articles specified by the Secretary of the Army or a person designated by him, to members of the Army; and

(2) items of individual clothing and equipment, to officers of the Army, under such restrictions as the Secretary may proscribe.

An account of sales on credit shall be kept and the amount due reported to any branch, office, or officer designated by the Secretary. Except for articles and items acquired through the use of working capital funds under sections 172–172j of title 5, sales of articles shall be at cost, and sales of individual clothing and equipment shall be at average current prices, including overhead, as determined by the Secretary.

(b) Subsistence supplies may be sold to members of the Army. The selling price of each article sold under this subsection is the invoice price of the last lot of that article that the officer making the sale received before the first day of the month in which the sale is made. Activities conducted under this subsection shall be consistent with sections 172–172j of title 5.

(c) The branch, office, or officer designated by the Secretary shall sell subsistence supplies to members of other armed forces at the prices at which like property is sold to members of the Army.

(d) The branch, office, or officer designated by the Secretary may sell serviceable quartermaster property, other than subsistence supplies, to an officer of another armed force for his use in the service, in the same manner as these articles are sold to an officer of the Army.

(e) A person who has been discharged honorably or under honorable conditions from the Army, Navy, Air Force, or 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, at the prices at which like property is sold to a member of the Army.

(f) Under such conditions as the Secretary may prescribe, exterior articles of uniform may be sold to a person who has been discharged from the Army honorably or under honorable conditions, at the prices at which like articles are sold to members of the Army. This subsection does not modify section 772, 773, or 3612 of this title.

(g) Whenever, under regulations to be prescribed by the Secretary, subsistence supplies are furnished to any branch of the Army or sold to employees of any executive department other than the Department of Defense, payment shall be made in cash.

(h) 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

(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 military activities.

However, sales to officers and employees inside the United States may be made only to those residing within military installations.

(i) Appropriations for subsistence of the Army may be applied to the purchase of subsistence supplies for sale to members of the Army on active duty for the use of themselves and their families.

§ 4622. Rations: commissioned officers in field

Commissioned officers of the Army serving in the field may buy rations for their own use, on credit, from any officer designated by the Secretary of the Army. Amounts due for these purchases shall be reported monthly to the officer of the Army designated by the Secretary.

§ 4623. Tobacco: enlisted members of Army

The Quartermaster Corps shall sell not more than 16 ounces of tobacco a month to an enlisted member of the Army on active duty who requests it.

§ 4624. Medical supplies: civilian employees of Army; American National Red Cross; Soldiers' Home

(a) Under regulations to be prescribed by the Secretary of the Army, a civilian employee of the Department of the Army who is stationed at an Army post may buy necessary medical supplies from the Army when they are prescribed by an officer of the Medical Corps on active duty.

(b) With the approval of the Secretary, the Army Medical Service may sell medical supplies to the American National Red Cross for cash.

(c) Any branch, office, or officer designated by the Secretary may sell medical and hospital supplies to the Soldiers' Home.

§ 4625. Ordnance property: officers of armed forces; civilian employees of Army; American National Red Cross; educational institutions; homes for veterans' orphans

(a) Any branch, office, or officer designated by the Secretary of the Army may sell articles of ordnance property to officers of other armed forces for their use in the service, in the same manner as those articles are sold to officers of the Army.

(b) Under such regulations as the Secretary may prescribe, ordnance stores may be sold to civilian employees of the Army and to the American National Red Cross.

(c) Articles of ordnance property may be sold to educational institutions and to State soldiers' and sailors' orphans' homes for maintaining the ordnance and ordnance stores issued to those institutions and homes.

§ 4626. Aircraft supplies and services: foreign military or air attaché

Under such conditions as he may prescribe, the Secretary of the Army may provide for the sale of fuel, oil, and other supplies for use in aircraft operated by a foreign military or air attaché accredited to the United States, and for the furnishing of mechanical service and other assistance to such aircraft. Shelter may be furnished to such aircraft, but only without charge.

§ 4627. Supplies: educational institutions

Under such regulations as the Secretary of the Army may prescribe, supplies and military publications procured for the Army may be sold to any educational institution to which an officer of the Army is detailed as professor of military science and tactics, for the use of its military students. Sales under this section shall be for cash.

§ 4628. Airplane parts and accessories: civilian flying schools

The Secretary of the Army may sell, to civilian flying schools at which personnel of the Department of the Army or the Department of the Air Force are receiving flight training under contracts requiring these schools to maintain and repair airplanes of the Army furnished to them for flight training, the spare parts and accessories needed for those repairs.

§ 4629. Proceeds: disposition

The proceeds of sales of the following shall be paid into the Treasury to the credit of the appropriation out of which they were purchased, and are available for the purposes of that appropriation:

(1) Exterior articles of uniform sold under section 4621 of this title.

(2) Supplies and military publications sold to educational institutions under section 4627 of this title.

(3) Fuel, oil, other supplies, and services for aircraft of a foreign military or air attaché sold under section 4626 of this title.

CHAPTER 441.—ISSUE OF SERVICEABLE MATERIAL OTHER THAN TO ARMED FORCES

Sec.

4651. Arms, tentage, and equipment: educational institutions not maintaining units of R. O. T. C.
4652. Rifles and ammunition for target practice: educational institutions having corps of cadets.
4653. Ordnance and ordnance stores: District of Columbia high schools.
4654. Quartermaster supplies: military instruction camps.
4655. Arms and ammunition: agencies and departments of the United States.
4656. Aircraft and equipment: civilian aviation schools.

§ 4651. Arms, tentage, and equipment: educational institutions not maintaining units of R. O. T. C.

Under such conditions as he may prescribe, the Secretary of the Army may issue arms, tentage, and equipment that he considers necessary for proper military training, to any educational institution at which no unit of the Reserve Officers' Training Corps is maintained, but which has a course in military training prescribed by the Secretary and which has at least 100 physically fit male students over 14 years of age.

§ 4652. Rifles and ammunition for target practice: educational institutions having corps of cadets

(a) The Secretary of the Army may lend, without expense to the United States, magazine rifles and appendages that are not of the existing service models in use at the time and that are not necessary for a proper reserve supply, to any educational institution having a uniformed corps of cadets of sufficient number for target practice. He may also issue 40 rounds of ball cartridges for each cadet for each range at which target practice is held, but not more than 120 rounds each year for each cadet participating in target practice.

(b) The institutions to which property is lent under subsection (a) shall use it for target practice, take proper care of it, and return it when required.

(c) The Secretary shall prescribe regulations to carry out this section, containing such other requirements as he considers necessary to safeguard the interests of the United States.

§ 4653. Ordnance and ordnance stores: District of Columbia high schools

The Secretary of the Army, under regulations to be prescribed by him, may issue to the high schools of the District of Columbia ordnance and ordnance stores required for military instruction and practice. The Secretary shall require a bond in double the value of the property issued under this section, for the care and safekeeping of that property and, except for property properly expended, for its return when required.

§ 4654. Quartermaster supplies: military instruction camps

Under such conditions as he may prescribe, the Secretary of the Army may issue, to any educational institution at which an Army officer is detailed as professor of military science and tactics, such quartermaster supplies as are necessary to establish and maintain a camp for the military instruction of its students. The Secretary shall require a bond in the value of the property issued under this section, for the care and safekeeping of that property and, except for property properly expended, for its return when required.

§ 4655. Arms and ammunition: agencies and departments of the United States

(a) Whenever required for the protection of public money and property, the Secretary of the Army may lend arms and their accouterments, and issue ammunition, to a department or independent agency of the United States, upon request of its head. Property lent or issued under this subsection may be delivered to an officer of the department or agency designated by the head thereof, and that officer shall account for the property to the Secretary of the Army. Property lent or issued under this subsection and not properly expended shall be returned when it is no longer needed.

(b) The department or agency to which property is lent or issued under subsection (a) shall transfer funds to the credit of the Department of the Army to cover the costs of—

(1) ammunition issued;

(2) replacing arms and accouterments that have been lost or destroyed, or cannot be repaired;

(3) repairing arms and accouterments returned to the Department of the Army; and

(4) making and receiving shipments by the Department of the Army.

§ 4656. Aircraft and equipment: civilian aviation schools

The Secretary of the Army, under regulations to be prescribed by him, may lend aircraft, aircraft parts, and aeronautical equipment and accessories that are required for instruction, training, and maintenance, to accredited civilian aviation schools at which personnel of the Department of the Army or the Department of the Air Force are pursuing a course of instruction and training under detail by competent orders, and at least one of which is designated by the Civil Aeronautics Authority for the training of Negro air pilots.

CHAPTER 443.—DISPOSAL OF OBSOLETE OR SURPLUS MATERIAL

Sec.

4681. Surplus war material: sale to States and foreign governments.
4682. Obsolete or excess material: sale to National Council of Boy Scouts of America.
4683. Obsolete or condemned rifles: loan to local units of recognized veterans' organizations.
4684. Surplus obsolete ordnance: sale to patriotic organizations.
4685. Obsolete ordnance: loan to educational institutions and State soldiers and sailors' orphans' homes.
4686. Obsolete ordnance: gift to State homes for soldiers and sailors.

§ 4681. Surplus war material: sale to States and foreign governments

Subject to regulations under section 486 of title 40, the Secretary of the Army may sell surplus war material and supplies, except food, of the Department of the Army, for which there is no adequate domestic market, to any State or to any foreign government with which the United States was at peace on June 5, 1920. Sales under this section shall be made upon terms that the Secretary considers expedient.

§ 4682. Obsolete or excess material: sale to National Council of Boy Scouts of America

Subject to regulations under section 486 of title 40, the Secretary of the Army, under such conditions as he may prescribe, may sell obsolete or excess material to the National Council of the Boy Scouts of America. Sales under this section shall be at fair value to the Department of the Army, including packing, handling, and transportation.

§ 4683. Obsolete or condemned rifles: loan to local units of recognized veterans' organizations

(a) The Secretary of the Army, under regulations to be prescribed by him, may—

(1) lend obsolete or condemned rifles (not more than 10), slings, and cartridge belts to any local unit of any national veterans' organization recognized by the Veterans' Administration, for use by that unit for funeral ceremonies of a member or former member of the armed forces, and for other ceremonial purposes; and

(2) issue and deliver to those units blank ammunition for those rifles—

(A) without charge, if it is to be used for ceremonies at national cemeteries; and

(B) without charge, except for packing, handling, and transportation, if it is to be used for other ceremonies.

(b) The Secretary may relieve a unit to which materials are lent under subsection (a), and the surety on its bond, from liability for loss or destruction of the material lent, if there is conclusive evidence that the loss or destruction did not result from negligence.

§ 4684. Surplus obsolete ordnance: sale to patriotic organizations

Subject to regulations under section 486 of title 40, any branch, office, or officer designated by the Secretary of the Army may sell, without advertisement and at prices that he considers reasonable—

(1) surplus obsolete small arms and ammunition and equipment for them, to any patriotic organization for military purposes; and

(2) surplus obsolete brass or bronze cannons, carriages, and cannon balls, for public parks, public buildings, and soldiers' monuments.

§ 4685. Obsolete ordnance: loan to educational institutions and State soldiers and sailors' orphans' homes

(a) Upon the recommendation of the governor of the State or Territory concerned, the Secretary of the Army, under regulations to be prescribed by him and without cost to the United States for transportation, may lend obsolete ordnance and ordnance stores to State and Territorial educational institutions and to State soldiers and sailors' orphans' homes, for drill and instruction. However, no loan may be made under this subsection to an institution to which ordnance or ordnance stores may be issued under any law that was in effect on June 30, 1906, and is still in effect.

(b) The Secretary shall require a bond from each institution or home to which property is lent under subsection (a), in double the value of the property lent, for the care and safekeeping of that property and, except for property properly expended, for its return when required.

§ 4686. Obsolete ordnance: gift to State homes for soldiers and sailors

Subject to regulations under section 486 of title 40, the Secretary of the Army may give not more than two obsolete bronze or iron cannons suitable for firing salutes to any home for soldiers or sailors established and maintained under State authority.

CHAPTER 445.—INQUESTS; DISPOSITION OF EFFECTS OF DECEASED PERSONS; CAPTURED FLAGS

Sec.

4711. Inquests.
4712. Disposition of effects of deceased persons by summary court-martial.
4713. Disposition of effects of deceased persons by Soldiers' Home.
4714. Collection of captured flags, standards, and colors.

§ 4711. Inquests

(a) When a person is found dead under circumstances that require investigation, at a place garrisoned by the Army and under the exclusive jurisdiction of the United States, the commanding officer shall direct a summary court-martial to investigate the circumstances of the death.

(b) In conducting an investigation under subsection (a), the summary court-martial may summon witnesses and examine them upon oath.

(c) The summary court-martial shall promptly submit to the commanding officer a report of the investigation and findings as to the cause of death.

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§ 4712. Disposition of effects of deceased persons by summary court-martial

(a) Upon the death of—

(1) a person subject to the court-martial jurisdiction of the Army or the Air Force at a place or command under the jurisdiction of the Army; or

(2) an inmate of the Soldiers' Home who dies in an Army hospital outside the District of Columbia when sent from the Home to that hospital for treatment;

the commanding officer of the place or command shall permit the legal representative or the surviving spouse of the deceased, if present, to take possession of the effects of the deceased that are then in camp or quarters.

(b) If there is no legal representative or surviving spouse present, the commanding officer shall direct a summary court-martial to collect the effects of the deceased that are then in camp or quarters.

(c) The summary court-martial may collect debts due the decedent's estate by local debtors, pay undisputed local creditors of the deceased to the extent permitted by money of the deceased in the court's possession, and shall take receipts for those payments, to be filed with the court's final report to the Department of the Army.

(d) As soon as practicable after the collection of the effects and money of the deceased, the summary court-martial shall send them at the expense of the United States to the living person highest on the following list who can be found by the court:

(1) Surviving spouse or legal representative.
(2) Son.
(3) Daughter.
(4) Father, if he has not abandoned the support of his family.
(5) Mother.
(6) Brother.
(7) Sister.
(8) Next of kin.
(9) Beneficiary named in the will of the deceased.

(e) If the summary court-martial cannot dispose of the effects under subsection (d) because there are no persons in those categories or because the court finds that the addresses of the persons are not known or readily ascertainable, the court may convert the effects of the deceased, except sabers, insignia, decorations, medals, watches, trinkets, manuscripts, and other articles valuable chiefly as keepsakes, into cash, by public or private sale, but not until 30 days after the date of death of the deceased.

(f) As soon as practicable after the effects have been converted into cash under subsection (e), the summary court-martial shall deposit all cash in the court's possession and belonging to the estate with the officer designated in regulations, and shall send a receipt therefor, together with any will or other papers of value, an inventory of the effects, and articles not permitted to be sold, to the executive part of the Department of the Army for transmission to the Soldiers' Home.

(g) The summary court-martial shall make a full report of the transactions under this section, with respect to the deceased, to the Department of the Army for transmission to the General Accounting

Office for action authorized in the settlement of accounts of deceased members of the Army.

§ 4713. Disposition of effects of deceased persons by Soldiers' Home

(a) The effects of a deceased person that the Department of the Army receives under section 4712 (f) of this title shall be delivered to the Soldiers' Home. The Home shall dispose of the effects as follows:

(1) A will or other paper involving property rights shall be promptly delivered to the proper court of record.

(2) If the heirs or legal representative of the deceased cannot sooner be ascertained, the Home shall retain the remaining effects until three years after the death of the deceased, and then, upon establishment of a right thereto to the satisfaction of the Home, it shall deliver them to the living person highest on the following list who can be found:

(A) Surviving spouse or legal representative.
(B) Son.
(C) Daughter.
(D) Father, if he has not abandoned the support of his family.
(E) Mother.
(F) Brother.
(G) Sister.
(H) Next of kin.
(I) Beneficiary named in the will of the deceased.

(b) After three years from the date of death, the Home may sell the effects to which a right has not been established by the heirs or legal representative, except decorations, medals, and citations, by public or private sale, as it considers most advantageous.

(c) After five years from the date of death, the Home shall dispose of effects that are not sold under subsection (b) and to which a right has not been established by the heirs or legal representative of the deceased, including decorations, medals, and citations, in the manner that it considers most appropriate in the public interest. It may retain them; deliver them to the Veterans' Administration, a State or other military home, a museum, or other appropriate institution; or destroy them if the Board of Commissioners of the Home determines that they are valueless.

(d) The net proceeds received by the Home from the sale of the deceased's effects shall be covered into the Treasury to the credit of the fund called the "Soldiers' Home permanent fund (trust fund)", and the principal of the fund so increased shall draw interest at 3 percent a year, payable quarterly to the treasurer of the Home.

(e) A claim for the net proceeds of the sale of the deceased's effects may be filed with the General Accounting Office at any time within six years after the date of his death, for action under section 2771 of this title. If not so filed, such a claim may not be considered by a court or the General Accounting Office.

(f) A claim allowed by the General Accounting Office under subsection (e) shall be certified to the treasurer of the Home for payment from the Soldiers' Home permanent fund (trust fund) in the amount

found due, including accrued interest. No claim may be allowed or paid in excess of the net proceeds, including accrued interest, of the estate covered into the Treasury under subsection (d).

§ 4714. Collection of captured flags, standards, and colors

The Secretary of the Army shall have sent to him all flags, standards, and colors taken by the Army from enemies of the United States.

CHAPTER 447.—TRANSPORTATION

Sec.

4741. Control and supervision.
4742. Control of transportation systems in time of war.
4743. Officers: use of transportation.
4744. Persons and supplies: sea transportation.
4745. Civilian passengers and commercial cargoes: transports in trans-Atlantic service.
4746. Civilian personnel in Alaska.
4747. Passengers and merchandise to Guam: sea transport.
4748. Motor vehicles: for members on permanent change of station.
4749. Property: for United States surveys.

§ 4741. Control and supervision

The transportation of members, munitions of war, equipment, military property, and stores of the Army throughout the United States shall be under the immediate control and supervision of the Secretary of the Army and agents appointed or designated by him.

§ 4742. Control of transportation systems in time of war

In time of war, the President, through the Secretary of the Army, may take possession and assume control of all or part of any system of transportation to transport troops, war material, and equipment, or for other purposes related to the emergency. So far as necessary, he may use the system to the exclusion of other traffic.

§ 4743. Officers: use of transportation

Under such conditions as the Secretary of the Army may prescribe, officers of the Army may, in the performance of their duties, use means of transportation provided for the Army and its supplies.

§ 4744. Persons and supplies: sea transportation

Whenever the Secretary of the Army considers that space is available, the following persons and supplies may be transported on vessels operated by Army transport agencies or, within bulk space allocations made to the Department of the Army, on vessels operated by any military transport agency of the Department of Defense:

(1) Members of the Navy, Marine Corps, or Coast Guard.

(2) Officers and employees of the Department of the Army, the Department of the Navy, the Department of the Air Force, or the Coast Guard.

(3) Supplies of the Department of the Navy.

(4) Members of Congress.

(5) Other officers of the United States traveling on official business.

(6) Officers and employees of the Territory of Hawaii.

(7) Secretaries and supplies of the Armed Services Department of the Young Men's Christian Association.

(8) Officers and employees of the Commonwealth of Puerto Rico on official business.

(9) The families of persons described in clauses (1), (2), (4), (5), (6), and (8).

However, a person described in clause (8) or (9) may be so transported only if the transportation is without expense to the United States.

§ 4745. Civilian passengers and commercial cargoes: transports in trans-Atlantic service

(a) Whenever space is unavailable on commercial lines and is available (1) on vessels operated by Army transport agencies, or (2) within bulk space allocations made to the Department of the Army on vessels operated by any transport agency of the Department of Defense, civilian passengers and commercial cargo may, in the discretion of the Secretary of the Army and the chairman of the Federal Maritime Board, be transported on those vessels. Rates for transportation under this section may not be less than those charged by commercial lines for the same kinds of service.

(b) Amounts received under this section shall be covered into the Treasury as miscellaneous receipts.

§ 4746. Civilian personnel in Alaska

Persons residing in Alaska who are and have been employed there by the United States for at least two years, and their families, may be transported on vessels or airplanes operated by Army transport agencies or, within bulk space allocations made to the Department of the Army, on vessels or airplanes operated by any military transport agency of the Department of Defense, if—

(1) the Secretary of the Army considers that accommodations are available;

(2) the transportation is without expense to the United States;

(3) the transportation is limited to one round trip between Alaska and the United States during any two-year period, except in an emergency such as sickness or death; and

(4) in case of travel by air—

(A) the Civil Aeronautics Board has not certified that commercial air carriers of the United States that can handle the transportation are operating between Alaska and the United States; and

(B) the transportation cannot be reasonably handled by a United States commercial air carrier.

§ 4747. Passengers and merchandise to Guam: sea transport

Whenever space is available, passengers, and merchandise produced in the United States, or the Territories, Commonwealths, and possessions, and consigned to residents and mercantile firms of Guam, may be transported to Guam on vessels operated by Army transport agencies or, within bulk space allocations made to the Department of the Army, on vessels operated by any transport agency of the Department of Defense, under regulations and at rates to be prescribed by the Secretary of the Army.

§ 4748. Motor vehicles: for members on permanent change of station

When a member of the Army is ordered to make a permanent change of station, one motor vehicle owned by him and for his personal use may be transported to his new station on a vessel owned by the United States.

§ 4749. Property: for United States surveys

Under regulations governing the transportation of Army supplies, any branch, office, or officer designated by the Secretary of the Army shall receive, transport, and be responsible for property turned over by the officers or agents of any United States survey, for the National Museum or for a department of the United States or field office thereof. The amount paid by the Army for transportation under this section shall be refunded to the Army by the National Museum or the department to which the property is consigned.

CHAPTER 449.—REAL PROPERTY

Sec.

4771. Acceptance of donations: land for mobilization, training, supply base, or aviation field.
4772. Reservation and use for air base or testing field.
4774. Construction of quarters: limitations on space and cost.
4775. Quarters: officers.
4776. Emergency construction: fortifications.
4777. Permits: military reservations; landing ferries, erecting bridges, driving livestock.
4778. Licenses: military reservations; erection and use of buildings; Young Men's Christian Association.
4779. Use of public property.

§ 4771. Acceptance of donations: land for mobilization, training, supply base, or aviation field

The Secretary of the Army may accept for the United States a gift of—

(1) land that he considers suitable and desirable for a permanent mobilization, training, or supply station; and

(2) land that he considers suitable and desirable for an aviation field, if the gift is from a citizen of the United States and its terms authorize the use of the property by the United States for any purpose.

§ 4772. Reservation and use for air base or testing field

When ordered by the President—

(1) unappropriated public land may be reserved from entry for an air base, or a field for tests and experiments, for the Army; and

(2) such land and other property of the United States may be designated and used for either of those purposes.

§ 4774. Construction of quarters: limitations on space and cost

(a) In the construction of family quarters from appropriated funds for members of the Army, the following are the maximum limitations on net floor area for each unit:

Grade	Square feet
General officer	2,100
Colonel	1,670
Major or lieutenant colonel	1,400
Officer below major	1,250
Enlisted member	1,080

In this section, "net floor area" means the 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

(2) 10 percent for quarters of the commanding officer of any station, base, or other installation, based on the grade authorized for that position.

(c) The maximum limitations for family quarters constructed from appropriated funds for civilians are the same as those for members of the Army of comparable responsibility, grade, and pay, as determined by the Secretary of the Army.

(d) Except when built by members of the Army, no permanent barrack, quarters, building, or other permanent structure may be built unless a detailed estimate of its cost has been submitted to Congress and a specific appropriation has been made therefor. No one may build such a structure without specific authority of Congress if the cost is more than $100,000.

(e) A limitation upon the cost of quarters built for members of the Army 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; and

(3) grading and drainage.

§ 4775. Quarters: officers

If there are quarters belonging to the United States at a post or station, the post quartermaster may assign them as follows:

Grade	Number of rooms
Lieutenant general	10
Major general	9
Brigadier general	8
Colonel	7
Lieutenant colonel	6
Major	5
Captain	4
First lieutenant	3
Second lieutenant	2

If such quarters exist, he may assign no other quarters to commissioned officers.

§ 4776. Emergency construction: fortifications

If in an emergency the President considers it urgent, a temporary fort or fortification may be built on private land if the owner consents in writing. In such a case, section 175 of title 50 does not apply.

§ 4777. Permits: military reservation; landing ferries, erecting bridges, driving livestock

Whenever the Secretary of the Army considers that it can be done without injury to the reservation or inconvenience to the military forces stationed there, he may permit—

(1) the landing of ferries at a military reservation;
(2) the erection of bridges on a military reservation; and
(3) the driving of livestock across a military reservation.

§ 4778. Licenses: military reservations; erection and use of buildings; Young Men's Christian Association

Under such conditions as he may prescribe, the Secretary of the Army may issue a revocable license to the International Committee of Young Men's Christian Associations of North America to erect and maintain on military reservations, inside the United States and the Territories, Commonwealths, and possessions, buildings needed by that organization for the promotion of the social, physical, intellectual, and moral welfare of the members of the Army on those reservations.

§ 4779. Use of public property

(a) When the economy of the Army so requires, the Secretary of the Army shall establish military headquarters in places where suitable buildings are owned by the United States.

(b) The Secretary shall assign suitable space for postal purposes at each military post where there is a post office.

(c) No money appropriated for the support of the Army may be spent for post gardens or Army exchanges. However, this does not prevent Army exchanges from using public buildings or public transportation that, in the opinion of the office or officer designated by the Secretary, are not needed for other purposes.

CHAPTER 451.—MILITARY CLAIMS

Sec.
4801. Definition.
4802. Damage by United States vessels; towage and salvage of United States vessels.
4803. Admiralty claims by United States.
4804. Salvage claims by United States.
4805. Reports to Congress.
4806. Settlement or compromise: final and conclusive.

§ 4801. Definition

In this chapter, "settle" means consider, ascertain, adjust, determine, and dispose of a claim, whether by full or partial allowance or by disallowance.

§ 4802. Damage by United States vessels; towage and salvage of United States vessels

(a) Under the direction of the Secretary of Defense, the Secretary of the Army may settle or compromise a claim against the United States for—

(1) damage caused by a vessel of, or in the service of, the Department of the Army; or

(2) compensation for towage and salvage service, including contract salvage, rendered to a vessel of, or in the service of, the Department of the Army.

(b) If a claim under subsection (a) is settled or compromised for $500,000 or less, the Secretary of the Army may pay it. If it is settled or compromised for more than $500,000, he shall certify it to Congress.

(c) In any case where the amount to be paid is not more than $1,000, the Secretary of the Army may delegate his authority under subsection (a) to any person in the Department of the Army designated by him.

§ 4803. Admiralty claims by United States

(a) Under the direction of the Secretary of Defense, the Secretary of the Army 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 Army 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 amount to be received by the United States is not more than $500,000.

(b) In exchange for payment of an amount found to be due the United States under subsection (a), the Secretary of the Army 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 of the Army may delegate his authority under subsections (a) and (b) to any person in the Department of the Army designated by him.

§ 4804. Salvage claims by United States

Under the direction of the Secretary of Defense, the Secretary of the Army may settle, or compromise, and receive payment of a claim by the United States for salvage services performed by the Department of the Army for any vessel. Amounts received under this section shall be covered into the Treasury.

§ 4805. Reports to Congress

The Secretary of the Army shall report to the Committees on Armed Services of the Senate and the House of Representatives within 20 days after paying a claim in an amount over $3,000 under

section 4802 of this title, or receiving payment of a claim under section 4803 or 4804 of this title. 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. The Secretary shall also report to Congress at each session all amounts paid or received under those sections during the period covered by the report. However, 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.

§ 4806. Settlement or compromise: final and conclusive

Notwithstanding any other provision of law, upon acceptance of payment the settlement or compromise of a claim under section 4802 or 4803 of this title is final and conclusive.

CHAPTER 453.—ACCOUNTABILITY AND RESPONSIBILITY

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4831. Custody of departmental records and property.
4832. Property accountability: regulations.
4833. Accountability for public money: disbursing officers; agent officers.
4834. Fidelity bonds: accountable officers; Quartermaster Corps.
4835. Reports of survey.
4836. Individual equipment: unauthorized disposition.
4837. Settlement of accounts: deductions from pay.
4838. Settlement of accounts: affidavit of company commander.
4839. Settlement of accounts: oaths.
4840. Final settlement of officer's accounts.

§ 4831. Custody of departmental records and property

The Secretary of the Army has custody and charge of all books, records, papers, furniture, fixtures, and other property under the lawful control of the executive part of the Department of the Army.

§ 4832. Property accountability: regulations

The Secretary of the Army may prescribe regulations for the accounting for Army property and the fixing of responsibility for that property.

§ 4833. Accountability for public money: disbursing officers; agent officers

Under such regulations as the Secretary of the Army may prescribe, any officer of the Army accountable for public money may intrust it to another officer of the Army to make disbursements as his agent. Both the officer to whom money is intrusted under this section, and the officer who intrusts the money to him, are pecuniarily responsible for that money to the United States.

§ 4834. Fidelity bonds: accountable officers; Quartermaster Corps

(a) Before entering upon the duties of his office, each commissioned officer of the Quartermaster Corps shall give a good and sufficient bond to the United States to account faithfully for all public money and property received by him. A bond required by this subsection shall be in the amount directed by the Secretary of the Army, but the President may at any time direct that the amount be increased.

However, the Secretary may excuse an officer of the Quartermaster Corps who is not accountable for public money or property from giving bond.

(b) The Quartermaster General is not liable for money or property received by a subordinate officer of the Quartermaster Corps.

§ 4835. Reports of survey

(a) Under such regulations as the Secretary of the Army may prescribe, any officer of the Army designated by him may act upon reports of surveys and vouchers pertaining to the loss, spoilage, unserviceability, unsuitability, or destruction of or damage to property of the United States under the control of the Department of the Army.

(b) Action taken under subsection (a) is final, except that action holding a person pecuniarily liable for loss, spoilage, destruction, or damage is not final until approved by the Secretary or an officer of the Army designated by him.

§ 4836. Individual equipment: unauthorized disposition

(a) No enlisted member of the Army may sell, lend, pledge, barter, or give any clothing, arms, or equipment furnished him by the United States to any person other than a member of the Army, or an officer of the United States, authorized to receive it.

(b) If a member of the Army has disposed of property in violation of subsection (a) and it is in the possession of a person who is neither a member of the Army, nor an officer of the United States, authorized to receive it, that person has no right to or interest in the property, and any civil or military officer of the United States may seize it, wherever found. Possession of such property furnished by the United States to a member of the Army, by a person who is neither a member of the Army nor an officer of the United States, is prima facie evidence that it has been disposed of in violation of subsection (a).

(c) If an officer who seizes property under subsection (b) is not authorized to retain it for the United States, he shall deliver it to a person who is authorized to retain it.

§ 4837. Settlement of accounts: deductions from pay

(a) An amount due the United States from an enlisted member of the Army for articles sold to the member on credit under section 4621 (a) (1) of this title shall be deducted from the next pay due that member after the sale is reported to the Chief of Finance. An amount due the United States from an enlisted member of the Army for tobacco sold to him by the United States under section 4623 of this title shall be deducted from his pay in the manner provided for the settlement of clothing accounts.

(b) Under regulations to be prescribed by the Secretary of the Army, any amount that an enlisted member is administratively determined to owe the United States or any of its instrumentalities may be deducted from his pay in monthly installments. However, after the deduction of pay forfeited by the sentence of a court-martial, if any, or otherwise authorized by law to be withheld, the deductions authorized by this section may not reduce the pay actually received for any month to less than one-third of his basic pay for that month.

(c) Subject to subsection (b), an amount due the United States

from an enlisted member may be deducted from his pay on final statement, or from his savings on his clothing allowance.

(d) If he considers it in the best interest of the United States, the Secretary may have remitted or cancelled any part of an enlisted member's indebtedness to the United States or any of its instrumentalities remaining unpaid before, or at the time of, that member's honorable discharge.

(e) The amount of any damage, or cost of repairs, to arms or equipment caused by the abuse or negligence of a member of the Army who had the care of, or was using, the property when it was damaged shall be deducted from his pay.

(f) If, upon final settlement of the accounts of a commissioned officer of the Army charged with the issue of an article of military supply, there is a deficiency of that article, or if an article of military supply with whose issue a commissioned officer is charged is damaged, the value of the lost article or the amount of the damage shall be charged against the officer and deducted from his monthly pay, unless he shows to the satisfaction of the Secretary, by one or more affidavits setting forth the circumstances, that he was not at fault.

(g) An amount due the United States from an officer of the Army for rations bought on credit, and for articles bought on credit under section 4621 (a) (1) of this title, shall be deducted from the next pay due that officer after the sale is reported.

§ 4838. Settlement of accounts: affidavit of company commander

In the settlement of the accounts of the commanding officer of a company for clothing and other military supplies, his affidavit may be received to show—

(1) that vouchers or company books were lost;

(2) anything tending to prove that any apparent deficiency of those articles was caused by unavoidable accident, or by loss in actual service without his fault; or

(3) that all or part of the clothing and supplies was properly used.

The affidavit may be used as evidence of the facts set forth, with or without other evidence, as determined by the Secretary of the Army to be just and proper under the circumstances.

§ 4839. Settlement of accounts: oaths

The Secretary of the Army may detail any employee of the Department of the Army to administer oaths required by law in the settlement of an officer's accounts for clothing and other military supplies. An oath administered under this section shall be without expense to the person to whom it is administered.

§ 4840. Final settlement of officer's accounts

Before final payment upon discharge may be made to an officer of the Army who has been accountable or responsible for public property, he must obtain a certificate of nonindebtedness to the United States from each officer to whom he was accountable or responsible for property. He must also make an affidavit, certified by his com-

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

Sec.

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

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(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

Sec.
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

Sec.

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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Sec.
5138. Bureau of Medicine and Surgery: Dental Division; Chief; functions.
5139. Bureau of Medicine and Surgery: Chief of the Medical Service Corps.
5140. Bureau of Medicine and Surgery: Nurse Corps, Director.
5141. Bureau of Naval Personnel: Chief of Naval Personnel; Deputy Chief of Naval Personnel.
5142. Bureau of Naval Personnel: Chief of Chaplains.
5143. Bureau of Naval Personnel: Assistant Chief for Women.
5144. Bureau of Ordnance: Chief; Deputy Chief.
5145. Bureau of Ships: Chief; Deputy Chief; Division Heads.
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 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.

§ 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

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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 preeminent 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

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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.

5201. Commandant: appointment; term; emoluments.
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.

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(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

Sec.

5401. Regular Navy: enlisted members.
5402. Regular Marine Corps: total; enlisted members.
5403. Navy: line officers on the active list.
5404. Navy: staff corps officers on the active list.
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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 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 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 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 22/100 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 22/100 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

Sec.

5441. Prescribed number; vacancies.
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5454. Computations: rule when fraction occurs in final result.
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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—$3^{64}/_{100}$ percent.

(2) Lieutenant commander—$8^{62}/_{100}$ 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—$3^{64}/_{100}$ percent.

(2) Major—$8^{62}/_{100}$ 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—$^{75}/_{100}$ of 1 percent.

(2) Captain—6 percent.

(3) Commander—12 percent.

(4) Lieutenant commander—18 percent.

(5) Lieutenant—$24^{75}/_{100}$ percent.

(6) Lieutenant (junior grade) and ensign combined—$38^{50}/_{100}$ 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—$3^{64}/_{100}$ percent.

(2) Lieutenant commander—$8^{62}/_{100}$ percent.

(3) Lieutenant—$7^{77}/_{100}$ percent.

(4) Lieutenant (junior grade) and ensign combined—$6^{4}/_{100}$ 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—$^{75}/_{100}$ of 1 percent.

(2) Colonel—6 percent.

(3) Lieutenant colonel—12 percent.

(4) Major—18 percent.

(5) Captain—$24^{75}/_{100}$ percent.

(6) First lieutenant and second lieutenant combined—$38^{50}/_{100}$ 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.

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(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—$3^{64}/_{100}$ percent.

(2) Major—$8^{62}/_{100}$ percent.

(3) Captain—$7^{72}/_{100}$ percent.

(4) First lieutenant and second lieutenant combined—$6^{4}/_{100}$ 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, 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 7/10 of 1 percent and 1 9/10 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

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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

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§ 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.
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§ 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 5706 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

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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.

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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

Sec.

5941. Assignment to command: regulations.
5942. Aviation commands: eligibility.
5943. Naval shipyards.
5944. Marine Corps officers: limitation on power to command.
5945. Staff corps officers: limitation on power to command.
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5950. Exemption from Supply Corps duties.
5951. Continuation of authority after loss of vessel or aircraft.
5952. Marine Corps organizations on vessels: authority of officers.
5953. Executive officer: assignment: authority.
5954. Command: when different commands of Marine Corps and Army or Air Force join.
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

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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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6012. Additional regulations for Marine Corps.
6013. Enlisted grades and ratings: authority to establish.
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6034. Regulations for retired pay based on service in the Reserve.

§ 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

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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

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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

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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; unform 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

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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

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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

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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 2½ 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

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, not withstanding 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 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 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 2½ 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.

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§ 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 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.

(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 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.

(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

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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 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.

§ 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 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.

§ 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

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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.

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§ 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

Sec.
7041. Function.
7042. Superintendent; assistants.
7043. Academic Dean.
7044. Civilian teachers: number; compensation.
7045. Officers of Army, Air Force, and Coast Guard: admission.
7046. Officers of foreign countries: admission.
7047. Conferring of degrees on graduates.

§ 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

Sec.

7081. Civilian member; definition; exceptions.
7082. Deferred annuity policy required.
7083. Annuity premium to be paid by monthly installments; government reimbursement.
7084. Age of retirement.
7085. Computation of life annuity.
7086. Physical disability retirement.
7087. Election of annuity for self and beneficiary.
7088. Regulations.

§ 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

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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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CHAPTER 631.—SECRETARY OF THE NAVY: MISCELLANEOUS POWERS AND DUTIES

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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 authroity 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 seagoing 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

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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 Sates 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.

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§ 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

(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.

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§ 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.

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

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§ 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.

7651. Scope of chapter.
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7653. Court in which proceedings brought.
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7678. Interfering with delivery, custody, or sale of prize property.
7679. Powers of district court over prize property notwithstanding appeal.
7680. Appeals and amendments in prize causes.
7681. Reciprocal privileges to cobelligerent.

§ 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 depositary 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 depositary 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 depositary 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 depositary 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 depositary.

§ 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 depositary 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

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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 depositary 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 depositary 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 depositary 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) ½ 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 depositary, 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

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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

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CHAPTER 803.—DEPARTMENT OF THE AIR FORCE

Sec.

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§ 8011. Department of the Air Force: seal

The Secretary of the Air Force shall have a seal for the Department of the Air Force. The design of the seal must be approved by the President. Judicial notice shall be taken of the seal.

§ 8012. Secretary of the Air Force: powers and duties; delegation by; compensation

(a) There is a Secretary of the Air Force appointed from civilian life by the President, by and with the advice and consent of the Senate. The Secretary is the head of the Department of the Air Force.

(b) The Secretary is responsible for and has the authority necessary to conduct all affairs of the Department of the Air Force, including—

(1) functions necessary or appropriate for the training, operations, administration, logistical support and maintenance, welfare, preparedness, and effectiveness of the Air Force, including research and development; and

(2) such other activities as may be prescribed by the President or the Secretary of Defense as authorized by law.

He shall perform such other duties relating to Air Force affairs, and conduct the business of the Department in such manner, as the President or the Secretary of Defense may prescribe.

(c) The Secretary may assign such of his functions, powers, and duties as he considers appropriate to the Under Secretary of the Air Force and to the Assistant Secretaries of the Air Force. Officers of the Air Force shall, as directed by the Secretary, report on any matter to the Secretary, the Under Secretary, or an Assistant Secretary.

(d) The Secretary or, as he may prescribe, the Under Secretary or an Assistant Secretary shall supervise all matters relating to—

(1) the procurement activities of the Department of the Air Force;

(2) planning for the mobilization of materials and industrial organizations essential to the wartime needs of the Air Force; and

(3) activities of the reserve components of the Air Force.

(e) The Secretary, as he considers appropriate, may assign, detail, and prescribe the duties of the members of the Air Force and civilian personnel of the Department of the Air Force.

(f) The Secretary may prescribe regulations to carry out his functions, powers, and duties under this title.

(g) The compensation of the Secretary is $18,000 a year.

§ 8013. Under Secretary of the Air Force; Assistant Secretaries of the Air Force

(a) There are an Under Secretary of the Air Force and four Assistant Secretaries of the Air Force in the Department of the Air Force. The Under Secretary and the Assistant Secretaries shall be appointed from civilian life by the President, by and with the advice and consent of the Senate. The Secretary of the Air Force shall designate one Assistant Secretary as Assistant Secretary of the Air Force for Financial Management. He may also designate that Assistant Secretary as Comptroller of the Air Force.

(b) The compensation of the Under Secretary and of the Assistant Secretaries is that prescribed by law for assistant secretaries of executive departments.

§ 8014. Comptroller of the Air Force: appointment; functions

(a) Subject to the authority, direction, and control of the Secretary of Defense, the Secretary of the Air Force shall have the following matters in the Department of the Air Force 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 Air Force and a Deputy Comptroller of the Air Force in the Department of the Air Force. They shall be appointed by the Secretary of the Air Force. 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 Air Force, the Comptroller is responsible for the matters in the Department of the Air Force 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 Air Force, the Under Secretary, or an Assistant Secretary. However, this subsection does not prevent the Comptroller from having concurrent responsibility to the Chief of Staff, the Vice Chief of Staff, or a Deputy Chief of Staff, if the Secretary so prescribes.

§ 8017. Secretary of the Air Force: successors to duties

(a) If the Secretary of the Air Force dies, resigns, is removed from office, is absent, or is disabled, the person who is highest on the following list, and who is not absent or disabled, shall perform the duties of the Secretary until the President, under section 6 of title 5, directs another person to perform those duties or until the absence or disability ceases:

(1) The Under Secretary of the Air Force.
(2) The Assistant Secretaries of the Air Force in order of their length of service as such.
(3) The Chief of Staff.

(b) Performance of the duties of the Secretary by the Chief of Staff or any officer of the Air Force designated under section 6 of title 5 shall not be considered as the holding of a civil office within the meaning of section 8544 (b) of this title.

CHAPTER 805.—THE AIR STAFF

Sec.

8031. Composition: assignment and detail of members of Air Force and civilians.
8032. General duties.
8033. Reserve components of Air Force; policies and regulations for government of: functions of National Guard Bureau with respect to Air National Guard.
8034. Chief of Staff: appointment; duties.
8035. Vice Chief of Staff; Deputy Chiefs of Staff: succession to duties of Chief of Staff and Vice Chief of Staff.

§ 8031. Composition: assignment and detail of members of Air Force and civilians

(a) There is in the executive part of the Department of the Air Force an Air Staff consisting of—

(1) The Chief of Staff;

(2) the Vice Chief of Staff;

(3) not more than five Deputy Chiefs of Staff;

(4) other members of the Air Force assigned or detailed to the Air Staff; and

(5) civilians in the Department of the Air Force assigned or detailed to the Air Staff.

(b) The Air Staff shall be organized in such manner, and its members shall perform such duties and have such titles, as the Secretary may prescribe.

(c) Not more than 2,800 officers of the Air Force may be assigned or detailed to permanent duty in the executive part of the Department of the Air Force. However, this limitation does not apply in time of war, or of national emergency declared by Congress, or whenever the President finds that it is in the national interest to increase the number of officers in the executive part of the Department. The Secretary shall report quarterly to Congress the number of officers in the executive part of the Department of the Air Force and the justification therefor.

(d) No commissioned officer who is assigned or detailed to duty in the executive part of the Department of the Air Force may serve for a tour of duty of more than four years. However, the Secretary may extend such a tour of duty if he makes a special finding that the extension is necessary in the public interest. No officer may be assigned or detailed to duty in the executive part of the Department of the Air Force within two years after relief from that duty, except upon a special finding by the Secretary that the assignment or detail is necessary in the public interest. This subsection does not apply in time of war, or of national emergency declared by Congress.

§ 8032. General duties

(a) The Air Staff shall furnish professional assistance to the Secretary, the Under Secretary, and the Assistant Secretaries of the Air Force, and the Chief of Staff.

(b) The Air Staff shall—

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(1) prepare such plans for the national security, for employment of the Air Force for that purpose, both separately and in conjunction with the land and naval forces, and for recruiting, organizing, supplying, equipping, training, serving, mobilizing, and demobilizing the Air Force, as will assist in the execution of any power, duty, or function of the Secretary or the Chief of Staff;

(2) investigate and report upon the efficiency of the Air Force and its preparation for military operations;

(3) prepare detailed instructions for the execution of approved plans and supervise the execution of those plans and instructions;

(4) act as agent of the Secretary and the Chief of Staff in coordinating the action of all organizations of the Department of the Air Force; and

(5) perform such other duties, not otherwise assigned by law, as may be prescribed by the Secretary.

§ 8033. Reserve components of Air Force; policies and regulations for government of: functions of National Guard Bureau with respect to Air National Guard

(a) Each policy or regulation affecting the following subjects shall be prepared by a committee of officers of the appropriate division or divisions of the Air Staff and of an equal number of officers of the Air National Guard of the United States:

(1) The organization or distribution of the Air National Guard of the United States.

(2) The organization, distribution, or training of the Air National Guard.

(b) The members of each committee under subsection (a) who are officers of the Air National Guard of the United States must be selected from lists of officers of that component who are suitable for that duty, submitted by the governors of the States and Territories of whose Air National Guard they are members, respectively, and by the commanding general of the District of Columbia National Guard for the District of Columbia.

(c) Each policy or regulation affecting the organization, distribution, training, appointment, assignment, promotion, or discharge of members of the Air Force Reserve shall be prepared by a committee of officers of the appropriate divisions of the Air Staff and of an equal number of officers of the Air Force Reserve.

(d) Each policy or regulation affecting the Air Force Reserve and either the Air National Guard of the United States or the Air National Guard shall be prepared by a committee composed of equal numbers of officers of the Regular Air Force, of the Air National Guard of the United States, and of the Air Force Reserve.

(e) There shall be not less than 10 officers of the Air National Guard of the United States and the Air Force Reserve on duty with the Air Staff, one-half of whom shall be from each of those components. These officers shall be considered as additional members of the Air Staff while on that duty.

(f) The Chief of Staff shall—

(1) send the statements of policies and regulations prepared under this section to the Secretary of the Air Force;

(2) advise him with regard thereto; and

(3) after action on those policies and regulations by the Secretary, act as the agent of the Secretary in carrying them into effect.

(g) In addition to the functions and duties performed by it for the Department of the Army, the National Guard Bureau shall perform similar functions and duties for the Department of the Air Force, and shall be the channel of communication between the Department of the Air Force and the States and Territories, Puerto Rico, the Canal Zone, and the District of Columbia on all matters affecting the Air National Guard.

§ 8034. Chief of Staff: appointment; duties

(a) The Chief of Staff shall be appointed by the President, by and with the advice and consent of the Senate, from the general officers of the Air Force. He serves during the pleasure of the President, but not for more than four years unless reappointed by the President, by and with the advice and consent of the Senate.

(b) The Chief of Staff, while so serving, has the grade of general without vacating his regular or reserve grade, and is counted as one of the officers authorized to serve in a grade above lieutenant general under section 8066 of this title.

(c) Except as otherwise prescribed by law and subject to section 8012 (c) and (d) of this title, the Chief of Staff performs his duties under the direction of the Secretary of the Air Force, and is directly responsible to the Secretary for the efficiency of the Air Force, its preparedness for military operations, and plans therefor.

(d) The Chief of Staff shall—

(1) preside over the Air Staff;

(2) send the plans and recommendations of the Air Staff to the Secretary, and advise him with regard thereto;

(3) after approval of the plans or recommendations of the Air Staff by the Secretary, act as the agent of the Secretary in carrying them into effect;

(4) exercise command over the air defense command, the strategic air command, the tactical air command, and such other major commands as may be established under section 8074 (c) of this title;

(5) supervise all other members and organizations of the Air Force;

(6) perform the duties prescribed for him by sections 141 and 171 of this title and other provisions of law; and

(7) perform such other military duties, not otherwise assigned by law, as are assigned to him by the President.

§ 8035. Vice Chief of Staff; Deputy Chiefs of Staff: succession to duties of Chief of Staff and Vice Chief of Staff

(a) The Vice Chief of Staff and the Deputy Chiefs of Staff shall be general officers detailed to those positions.

(b) If the Chief of Staff is absent or disabled or if that office is vacant, the officer who is highest on the following list and who is not absent or disabled shall, unless otherwise directed by the President, perform the duties of the Chief of Staff until a successor is appointed or the absence or disability ceases:

(1) The Vice Chief of Staff.

(2) The Deputy Chiefs of Staff in order of seniority.

(c) If the Vice Chief of Staff is absent or disabled or if that office is vacant, the senior Deputy Chief of Staff who is not absent or disabled shall, unless otherwise directed by the Secretary of the Air Force, perform the duties of the Vice Chief of Staff until a successor is designated or the absence or disability ceases.

CHAPTER 807.—THE AIR FORCE

Sec.

8061. Regulations.
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§ 8061. Regulations

The President may prescribe regulations for the government of the Air Force.

§ 8062. Policy; composition; aircraft authorization

(a) It is the intent of Congress to provide an Air Force that is capable, in conjunction with the other armed forces, of—

(1) preserving the peace and security, and providing for the defense, of the United States, the Territories, Commonwealths, and possessions, and any areas occupied by the United States;

(2) supporting the national policies;

(3) implementing the national objectives; and

(4) overcoming any nations responsible for aggressive acts that imperil the peace and security of the United States.

(b) There is a United States Air Force within the Department of the Air Force.

(c) In general, the Air Force includes aviation forces both combat and service not otherwise assigned. It shall be organized, trained, and equipped primarily for prompt and sustained offensive and defensive air operations. It is responsible for the preparation of the air forces necessary for the effective prosecution of war except as otherwise assigned and, in accordance with integrated joint mobilization plans, for the expansion of the peacetime components of the Air Force to meet the needs of war.

(d) The Air Force consists of—

(1) the Regular Air Force, the Air National Guard of the United States, the Air National Guard while in the service of the United States, and the Air Force Reserve;

(2) all persons appointed or enlisted in, or conscripted into, the Air Force without component; and

(3) all Air Force units and other Air Force organizations, with their installations and supporting and auxiliary combat, training, administrative, and logistic elements; and all members of the Air Force, including those not assigned to units;

necessary to form the basis for a complete and immediate mobilization for the national defense in the event of a national emergency.

(e) Subject to subsection (f) of this section and chapter 831 of this title, the authorized strength of the Air Force is 70 Regular Air Force groups and such separate Regular Air Force squadrons, reserve groups, and supporting and auxiliary regular and reserve units as required.

(f) There are authorized for the Air Force 24,000 serviceable aircraft or 225,000 airframe tons of serviceable aircraft, whichever the Secretary of the Air Force considers appropriate to carry out this section. This subsection does not apply to guided missiles.

§ 8066. Generals and lieutenant generals

(a) The President may designate positions of importance and responsibility in the Air Force to carry the grade of general or lieutenant general. He may assign to those positions officers of the Air Force on active duty in any grade above brigadier general. While he holds one of those positions an officer has the grade specified for the position if appointed thereto by and with the advice and consent of the Senate.

(b) The number of positions designated under subsection (a) may not be more than 15 percent of the number of general officers on active duty. Not more than 25 percent of those positions may be designated as positions to be held by officers in the grade of general.

(c) General officers on the active list of the Regular Air Force who are specifically authorized by law to hold any civil office under the United States, or any instrumentality thereof, are in addition to the numbers authorized by this section.

(d) Appointment to the grade of general or lieutenant general under subsection (a) does not vacate the Regular or Reserve grade held by the officer. When his appointment under that subsection terminates, he is entitled to resume any other grade that he may then be entitled to hold.

§ 8067. Designation: officers to perform certain professional functions

(a) Medical functions in the Air Force shall be performed by commissioned officers of the Air Force who are qualified under regulations prescribed by the Secretary of the Air Force in conformity with section 8289 or 8294 of this title, and who are designated as medical officers.

(b) Dental functions in the Air Force shall be performed by commissioned officers of the Air Force who are qualified under regulations prescribed by the Secretary in conformity with section 8294 of this title, and who are designated as dental officers.

(c) Veterinary functions in the Air Force shall be performed by commissioned officers of the Air Force who are qualified under regulations prescribed by the Secretary, and who are designated as veterinary officers.

(d) Medical service functions in the Air Force shall be performed by commissioned officers of the Air Force who are qualified under regulations prescribed by the Secretary, and who are designated as medical service officers.

(e) Nursing functions in the Air Force shall be performed by female commissioned officers of the Air Force who are qualified under regulations prescribed by the Secretary in conformity with section 8291 of this title, and who are designated as Air Force nurses.

(f) Medical specialist functions in the Air Force shall be performed by female commissioned officers of the Air Force who are qualified under regulations prescribed by the Secretary, and who are designated as women medical specialists.

(g) Judge advocate functions in the Air Force shall be performed by commissioned officers of the Air Force who are qualified under regulations prescribed by the Secretary, and who are designated as judge advocates.

(h) Chaplain functions in the Air Force shall be performed by commissioned officers of the Air Force who are qualified under regulations prescribed by the Secretary in conformity with section 8293 of this title, and who are designated as chaplains.

(i) Other functions in the Air Force requiring special training or experience shall be performed by members of the Air Force who are qualified under regulations prescribed by the Secretary, and who are designated as being in named categories.

§ 8071. Temporary grade of colonel in the Air Force: appointment of women

The President may appoint one female Air Force officer to be on active duty in the temporary grade of colonel in the Air Force for four years, unless the appointment is sooner terminated. However, except for a female officer retired in the grade of colonel and recalled to active duty in that grade, only one appointment may be in effect at a time. This section does not limit the authority to promote women designated under section 8067 of this title to the temporary grade of colonel.

§ 8072. Judge Advocate General: appointment; duties

(a) There is a Judge Advocate General in the Air Force, who is appointed by the President, by and with the advice and consent of the Senate, from officers of the Air Force. The term of office is four years, but may be sooner terminated or extended by the President. An appointee who holds a lower regular grade shall be appointed in the regular grade of major general.

(b) The Judge Advocate General of the Air Force shall be appointed from those officers who at the time of appointment 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.

(c) The Judge Advocate General shall, in addition to other duties prescribed by law—

(1) receive, revise, and have recorded the proceedings of courts of inquiry and military commissions; and

(2) perform such other legal duties as may be directed by the Secretary of the Air Force.

§ 8074. Commands: territorial organization

(a) There are in the Air Force the following major commands:

(1) An air defense command.

(2) A strategic air command.
(3) A tactical air command.

(b) The Secretary of the Air Force may establish additional commands and organizations in the interest of efficiency and economy of operation.

(c) For the duration of any war or any national emergency declared by Congress or the President, the Secretary may establish new major commands in place of the major commands named in subsection (a), or he may consolidate or discontinue those major commands.

(d) For Air Force purposes, the United States, its Territories, its possessions, and other places in which the Air Force is stationed or is operating, may be divided into such areas as directed by the Secretary. Officers of the Air Force may be assigned to command Air Force activities, installations, and personnel in those areas. In the discharge of the Air Force's functions or other functions authorized by law, officers so assigned have the duties and powers prescribed by the Secretary.

§ 8075. Regular Air Force: composition

(a) The Regular Air Force is the component of the Air Force that consists of persons whose continuous service on active duty in both peace and war is contemplated by law, and of retired members of the Regular Air Force.

(b) The Regular Air Force includes—

(1) the officers and enlisted members of the Regular Air Force;

(2) the professors and cadets at the United States Air Force Academy; and

(3) the retired officers and enlisted members of the Regular Air Force.

§ 8076. Air Force Reserve: composition

The Air Force Reserve is a reserve component of the Air Force to provide a reserve for active duty. It consists of the members of the officers' section of the Air Force Reserve and of the enlisted section of the Air Force Reserve. It includes all Reserves of the Air Force who are not members of the Air National Guard of the United States.

§ 8077. Air National Guard of United States: composition

The Air National Guard of the United States is the reserve component of the Air Force that consists of—

(1) federally recognized units and organizations of the Air National Guard; and

(2) members of the Air National Guard who are also Reserves of the Air Force.

§ 8078. Air National Guard: when a component of Air Force

The Air National Guard while in the service of the United States is a component of the Air Force.

§ 8079. Air National Guard of United States: status when not in Federal service

When not on active duty, members of the Air National Guard of the United States shall be administered, armed, equipped, and trained in their status as members of the Air National Guard.

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CHAPTER 831. STRENGTH

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§ 8201. Air Force: members on active duty

(a) The authorized strength of the Air Force in members on active duty, exclusive of—

(1) officer candidates;

(2) aviation cadets;

(3) Reserves on active duty for training;

(4) members paid from appropriations for the Air National Guard or the Air Force Reserve; and

(5) Reserves ordered to active duty in an emergency;

is 502,000.

(b) The authorized daily average strength of the Air Force in members on active duty during the fiscal year, exclusive of—

(1) officer candidates;

(2) Reserves on active duty for training purposes only; and

(3) members employed in the Selective Service System;

is 502,000.

§ 8202. Air Force: officers in certain commissioned grades

(a) The authorized strength of the Air Force in officers on active duty in each of the following grades on the last day of each fiscal year, exclusive of officers on active duty for training only and officers serving with other departments or agencies on a reimbursable basis, is based on the actual strength of the Air Force in those officers, as follows:

If the actual strength [1] is—	The authorized strength in grade is—			
	For general officers	For colonels	For lieutenant colonels	For majors
50,000	312	3,133	6,065	9,455
60,000	324	3,540	6,822	11,298
70,000	336	3,857	7,427	13,125
80,000	349	4,107	7,920	14,936
90,000	363	4,299	8,316	16,740
100,000	380	4,440	8,620	18,530
110,000	398	4,750	9,350	20,295
120,000	416	5,020	10,056	22,056
130,000	434	5,273	10,725	23,803
140,000	452	5,484	11,368	25,536
150,000	470	5,665	12,000	27,255
160,000	478	5,842	12,608	28,976
170,000	486	5,974	13,175	30,685
180,000	495	6,075	13,716	32,328

[1] As determined by the Secretary of the Air Force.

If the actual strength is determined to be between two of the figures named in the first column of the table, the corresponding authorized strengths in grade are determined by mathematical interpolation between the respective authorized strengths named in the table. If it is determined to be more than 180,000, the Secretary shall fix the corresponding authorized strengths in grade in general conformity with the table.

(b) Not more than one-half of the general officer strength may be in grades above brigadier general.

(c) A vacancy in any grade may be filled by an appointment in any lower grade.

(d) In time of war, or of national emergency declared after May 5, 1954, by Congress or the President, the President may suspend the operation of any provision of this section.

§ 8203. Regular Air Force: members on active duty

The authorized strength of the Regular Air Force in members on active duty, exclusive of officer candidates and aviation cadets, is 502,000 less the number of members of the Air Force on active duty who are neither members of the Regular Air Force nor members

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of the Air Force in the categories listed in section 8201 (a) (1)–(5) of this title.

§ 8204. Regular Air Force: commissioned officers on active list

The authorized strength of the Regular Air Force in commissioned officers on the active list is the sum of the number authorized by section 8205 of this title, the number of permanent professors of the United States Air Force Academy authorized by section 9331 of this title, and the numbers in designated categories specifically authorized by law as additional numbers.

§ 8205. Regular Air Force: commissioned officers on active list, exclusive of certain categories

The authorized strength of the Regular Air Force in commissioned officers on the active list, exclusive of permanent professors of the United States Air Force Academy and members in designated categories specifically authorized by law as additional numbers, is 27,500.

§ 8206. Regular Air Force: commissioned officers on active list; Air Force nurses

(a) The authorized strength in Air Force nurses on the active list of the Regular Air Force is 549, or 6/1,000 of the authorized strength prescribed by section 8203 of this title, whichever is greater.

(b) Of the authorized strength of the Air Force in Air Force nurses on the active list of the Regular Air Force, not more than 7/1,000 may be in the regular grade of lieutenant colonel, and not more than 16/1,000 may be in the regular grade of major. The Secretary of the Air Force shall prescribe the authorized strength of the Air Force in Air Force nurses on the active list in the regular grade of captain. This subsection does not apply when there is a promotion list prescribed for Air Force nurses under section 8296 (b) of this title.

§ 8207. Regular Air Force: commissioned officers on active list; women medical specialists

(a) The authorized strength in women medical specialists on the active list of the Regular Air Force is 53, or 9/10,000 of the authorized strength prescribed in section 8203 of this title, whichever is greater.

(b) Of the authorized strength in women medical specialists on the active list of the Regular Air Force, not more than 5 percent may be in the regular grade of major. The Secretary of the Air Force shall prescribe the authorized strength in women medical specialists on the active list in the regular grade of captain. This subsection does not apply when there is a promotion list prescribed for women medical specialists under section 8574 of this title.

§ 8208. Regular Air Force: commissioned officers on active list; female commissioned officers, other than those designated under section 8067 of this title to perform professional functions

(a) The authorized strength in female commissioned officers on the active list of the Regular Air Force, other than those designated under section 8067 of this title to perform professional functions, is as prescribed by the Secretary of the Air Force. However, it may not be

more than 2 percent of the authorized strength of the Regular Air Force in commissioned officers on the active list.

(b) The authorized strength of female commissioned officers on the active list in the regular grade of lieutenant colonel, other than those designated under section 8067 of this title to perform professional functions, is as prescribed by the Secretary. However, it may not be more than 10 percent of the authorized strength in female commissioned officers on the active list, other than those designated under section 8067 of this title to perform professional functions.

§ 8209. Regular Air Force: commissioned officers on active list; special categories

Except for Air Force nurses and women medical specialists, the authorized strength of the Regular Air Force in commissioned officers on the active list in each of the categories of officers designated under section 8067 of this title is as prescribed by the Secretary of the Air Force.

§ 8210. Regular Air Force: strength in grade; general officers

(a) The authorized strength of the Regular Air Force in general officers on the active list, exclusive of the number authorized for the categories named in subsection (b), is 75/10,000 of the authorized strength of the Regular Air Force in commissioned officers on the active list, exclusive of the number of commissioned officers on the active list authorized in each of the categories named in subsection (b) and exclusive of medical service officers. Of this authorized strength, not more than one-half may be in a regular grade above brigadier general.

(b) The authorized strength of each of the following categories—

(1) medical officers;

(2) dental officers;

(3) veterinary officers; and

(4) chaplains;

in general officers on the active list of the Regular Air Force is 5/1,000 of the authorized strength of the category concerned in commissioned officers on the active list of the Regular Air Force. Not more than one-half of the authorized strength in general officers in such a category may be in a regular grade above brigadier general.

(c) The number of general officers authorized for the active list of the Regular Air Force by subsections (a) and (b) may not be more than 156. Of this total there may not be more than—

(1) 4 medical officers, of whom not more than 2 may be in a regular grade above brigadier general;

(2) 1 dental officer, in the regular grade of brigadier general;

(3) 1 chaplain, in the regular grade of brigadier general;

(4) 150 on the active list of the Regular Air Force, exclusive of those authorized under clauses (1)–(3) of this subsection, of whom not more than 75 may be in a regular grade above brigadier general.

(d) When the application of the percentages and ratios specified in this section results in a fraction, a fraction of one-half or more is counted as one, and a fraction of less than one-half is disregarded.

(e) General officers on the active list of the Regular Air Force who are specifically authorized by law to hold any civil office under the United States, or any instrumentality thereof, are not counted in determining authorized strength under this section.

§ 8211. Regular Air Force: strength in grade; promotion-list officers

(a) Subject to subsection (b), the authorized strength of the Regular Air Force in officers in each regular grade on each of the promotion lists authorized by section 8296 of this title shall be as prescribed by the Secretary of the Air Force. A vacancy in any grade on a promotion list may be filled by an appointment in any lower grade.

(b) Each strength prescribed by the Secretary under subsection (a) shall be stated as a percentage of the strength authorized for the particular list, and the schedule of percentages may be different for each list. No schedule for a list may authorize, with respect to a grade, a percentage that is higher than the sum of (1) the figure fixed for the grade according to the following table, and (2) the amounts, if any, by which the percentages fixed by the Secretary for higher grades are less than the figures fixed according to that table:

Grade	Column 1 Medical, dental, and veterinary officers, chaplains, and judge advocates	Column 2 All other promotion lists
	Percent	*Percent*
Colonel	[1] 8	[1] 8
Lieutenant colonel	14	14
Major	19	19
Captain	23	23
First lieutenant	36	18
Second lieutenant	([2])—	18

[1] Colonels whose retirement is deferred under section 8921 (b) of this title are not included within this percentage.

[2] None may be authorized by the Secretary for this category.

§ 8212. Regular Air Force: strength in grade; temporary increases

The authorized strength in any regular grade, as prescribed by or under this chapter, is automatically increased to the minimum extent necessary to give effect to each appointment made in that grade under section 1211 (a), 8298, 8299, 8304, or 9353 of this title. An authorized strength so increased is increased for no other purpose, and while he holds that grade the officer whose appointment caused the increase is counted for the purpose of determining when other appointments, not under those sections, may be made in that grade.

§ 8213. Regular Air Force: warrant officers on active list

The authorized strength of the Regular Air Force in warrant officers on the active list is 4,800.

§ 8214. Regular Air Force: enlisted members on active duty

The authorized strength of the Regular Air Force in enlisted members on active duty, exclusive of officer candidates and aviation cadets, is 502,000 less the number of members of the Air Force on active

duty who are neither enlisted members of the Regular Air Force nor members of the Air Force in the categories listed in section 8201 (a) (1)–(5) of this title.

§ 8215. Regular Air Force: female warrant officers on active list; female enlisted members on active duty

(a) The authorized strength of the Regular Air Force in female warrant officers on the active list is as prescribed by the Secretary of the Air Force. However, it may not be more than 2 percent of the authorized strength of the Regular Air Force in warrant officers on the active list.

(b) The authorized strength of the Regular Air Force in female enlisted members on active duty is as prescribed by the Secretary. However, it may not be more than 2 percent of the authorized strength of the Regular Air Force in enlisted members prescribed by section 8214 of this title.

§ 8221. Air Force Reserve

(a) Whenever the authorized strength of the Air Force Reserve is not prescribed by law, it shall be prescribed by the President.

(b) Subject to the authorized strength of the Air Force Reserve, the authorized strength of the Air Force Reserve in members in each grade is that which the Secretary of the Air Force determines to be necessary to provide for mobilization requirements. The Secretary shall review those determinations at least once each year and revise them if he considers it necessary. However, no member of the Air Force Reserve may be reduced in his reserve grade, without his consent, as a result of such a determination.

§ 8222. Air Force Reserve, exclusive of members on active duty

The authorized strength of the Air Force Reserve, exclusive of members who are included in the strength of 502,000 authorized in section 8201 (a) of this title for members of the Air Force on active duty, is 500,000.

§ 8223. Air Force Reserve: warrant officers

The Secretary of the Air Force may prescribe the authorized strength of the Air Force Reserve in warrant officers.

§ 8224. Air National Guard of United States

(a) Whenever the authorized strength of the Air National Guard of the United States is not prescribed by law, it shall be prescribed by the President.

(b) Subject to the authorized strength of the Air National Guard of the United States, the authorized strength of the Air National Guard of the United States in members in each grade is that which the Secretary of the Air Force determines to be necessary to provide for mobilization requirements. The Secretary shall review those determinations at least once each year and revise them if he considers it necessary. However, no member of the Air National Guard of the United States may be reduced in his reserve grade, without his consent, as a result of such a determination.

§ 8225. Air National Guard and Air National Guard of United States, exclusive of members on active duty

The authorized strength of the Air National Guard and the Air National Guard of the United States, exclusive of members who are included in the strength of 502,000 authorized in section 8201 (a) of this title for members of the Air Force on active duty, is 150,000. The strength authorized by this section shall be allocated among the States and Territories, Puerto Rico, the Canal Zone, and the District of Columbia.

CHAPTER 833.—ENLISTMENTS

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§ 8251. Definition

In this chapter "enlistment" means original enlistment or reenlistment.

§ 8252. Temporary enlistments

Temporary enlistments may be made only in the Air Force without specification of component.

§ 8253. Air Force: persons not qualified

(a) No person who is insane, intoxicated, or a deserter from an armed force, or who has been convicted of a felony, may be enlisted or mustered into the Air Force. However, the Secretary of the Air Force may authorize exceptions, in meritorious cases, for the enlistment or muster into the Air Force of deserters and persons convicted of felonies.

(b) No person whose service during his last term of enlistment was not honest and faithful may be reenlisted in the Air Force. However, the Secretary may authorize the reenlistment or muster into the Air Force of such a person if his conduct after that service has been good.

(c) In time of peace, no person may be accepted for original enlistment in the Air Force unless he is, or has made a legal declaration of intention to become, a citizen of the United States.

§ 8254. Air Force: during war or emergency

Except as provided in section 8256 of this title and except for enlistments as Reserves of the Air Force—

(1) temporary enlistments in the Air Force entered into in time of war or of emergency declared by Congress shall be for the duration of the war or emergency plus six months; and

(2) only persons at least 18 years of age and otherwise qualified under regulations to be prescribed by the Secretary of the Air Force are eligible for such enlistments.

§ 8255. Regular Air Force: recruiting campaigns

The Secretary of the Air Force shall conduct intensive recruiting campaigns to obtain enlistments in the Regular Air Force.

§ 8256. Regular Air Force: qualifications, term, grade

(a) Notwithstanding section 8254 (2) of this title, the Secretary of the Air Force may accept original enlistments in the Regular Air Force of qualified, effective, and able-bodied persons who are not less than 17 years of age in the case of male persons and not less than 18 years of age in the case of female persons, nor more than 35 years of age, for periods of two, three, four, five, or six years. However, no male person under 18 years of age, or female person under 21 years of age, may be originally enlisted without the written consent of his parent or guardian, if he has a parent or guardian entitled to his custody and control.

(b) The Secretary may accept reenlistments in the Regular Air Force for periods of three, four, five, or six years. However, a person who last served in one of the highest three enlisted grades may be reenlisted for an unspecified period on a career basis. No age limitation applies to reenlistments. No enlisted member is entitled to be reenlisted for a period that would expire before the end of his current enlistment.

(c) An enlistment in the Regular Air Force in effect at the outbreak of a war or entered into during a war, unless sooner terminated by the President, continues in effect until six months after the termination of that war.

(d) Subject to subsection (e), a person is enlisted in the Regular Air Force in the grade prescribed by the Secretary.

(e) A person who, upon his discharge from the Regular Air Force, is recommended for reenlistment is entitled to be reenlisted in the grade held by him when discharged, if he applies therefor within a period to be specified by the Secretary, but not later than three months after his discharge. However, a person who has been discharged from the Regular Air Force because of the acceptance of his resignation is not entitled, upon reenlistment, to the grade held by him when discharged.

(f) This section does not deprive a person of any right to be reenlisted in the Regular Air Force under any other provision of law.

§ 8257. Regular Air Force: aviation cadets; qualifications, grade, limitations

(a) The grade of aviation cadet is a special enlisted grade in the Regular Air Force.

(b) Any male citizen of the United States may be enlisted as an aviation cadet, if he is otherwise qualified.

(c) Any male enlisted member of the Regular Air Force who is otherwise qualified may be designated, with his consent, as an aviation cadet by the Secretary of the Air Force.

(d) Except in time of war or of emergency declared by Congress, at least 20 percent of the aviation cadets designated in each fiscal year shall be selected from members of the Regular Air Force or the Regular Army who are eligible and qualified. No person may be enlisted or designated as an aviation cadet unless—

(1) he agrees in writing that, upon his successful completion of the course of training as an aviation cadet, he will accept a commission as second lieutenant in the Air Force Reserve, and will serve on active duty as such for a period of three years, unless sooner released; and

(2) if under 21 years of age, he has the consent of his parent or guardian to his agreement.

§ 8258. Regular Air Force: reenlistment after service as an officer

Any former enlisted member of the Regular Air Force who has served on active duty as a reserve officer of the Air Force, or who was discharged as an enlisted member to accept a temporary appointment in the Air Force, is entitled to be reenlisted in the Regular Air Force in the enlisted grade that he held before his service as an officer, without loss of seniority or credit for service, if his service as an officer terminated honorably and he applies for reenlistment within six months or such other period as the Secretary of the Air Force prescribes for exceptional circumstances, after the termination of that service, regardless of the existence of a vacancy in his grade or of a physical disability incurred or having its inception in line of duty.

§ 8259. Air Force Reserve: transfer from Air National Guard of United States

Under such regulations as the Secretary of the Air Force may prescribe, and with the consent of the governor or other appropriate authority of the State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia, whichever is concerned, an enlisted member of the Air National Guard of the United States may be transferred in grade to the Air Force Reserve. Upon transfer, he is eligible for promotion to the highest regular or reserve grade ever held by him in the Air Force, if his service has been honorable.

§ 8260. Air Force Reserve: transfer to upon withdrawal as member of Air National Guard

Unless discharged from his enlistment as a Reserve, an enlisted member of the Air National Guard of the United States who ceases to be a member of the Air National Guard becomes a member of the Air Force Reserve. An enlisted member who so becomes a member of the Air Force Reserve ceases to be a member of the Air National Guard of the United States.

§ 8261. Air National Guard of United States

(a) Except as provided in subsection (b), to become an enlisted member of the Air National Guard of the United States, a person must—

(1) be enlisted in the Air National Guard;

(2) subscribe to the oath set forth in section 304 of title 32; and

(3) be a member of a federally recognized unit or organization of the Air National Guard in the grade in which he is to be enlisted as a Reserve.

(b) A member of the Air Force Reserve who enlists in the Air National Guard in his reserve grade, and is a member of a federally recognized unit or organization thereof, becomes a member of the Air National Guard of the United States and ceases to be a member of the Air Force Reserve.

§ 8262. Extension of enlistment for members needing medical care or hospitalization

(a) An enlisted member of the Air Force 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 it is determined that recovery to that extent is impossible.

(b) This section does not prevent the retention in service, without his consent, of an enlisted member of the Air Force under section 8638 of this title.

CHAPTER 835.—APPOINTMENTS IN THE REGULAR AIR FORCE

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§ 8281. Commissioned officer grades

The commissioned grades in the Regular Air Force are:

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

§ 8284. Commissioned officers: appointment, how made

Appointments in commissioned grades in the Regular Air Force shall be made by the President, by and with the advice and consent of the Senate.

§ 8285. Commissioned officers: original appointment; qualifications

To be eligible for original appointment in a commissioned grade in the Regular Air Force, except under section 8294 (a) of this title, a person must—

(1) be a citizen of the United States;
(2) be at least 21 years of age;
(3) be of good moral character;
(4) be physically qualified for active service; and
(5) have such other qualifications as the Secretary of the Air Force may prescribe.

§ 8286. Commissioned officers: original appointment; age limitations

(a) No person may be originally appointed in a commissioned grade in the Regular Air Force, except under section 8291 or 8294 (a) of this title, if on the date of his appointment he has already passed his—

(1) thirty-fourth birthday, for a person appointed with a view to designation as a chaplain;
(2) thirty-second birthday, for a person appointed with a view to designation as a medical officer, dental officer, veterinary officer, or judge advocate;
(3) thirtieth birthday, for a person appointed with a view to designation as a medical service officer; or
(4) twenty-seventh birthday, for all other persons.

(b) The maximum ages specified in subsection (a) are increased by the period of active commissioned service in the Air Force, and in the Army, after December 31, 1947, and performed after the appointee

became 21 years of age and before his appointment. However, a maximum age is not so increased by more than five years.

§ 8287. Commissioned officers: original appointment; service credit

(a) For the purpose of determining grade, position on a promotion list, seniority in his grade in the Regular Air Force, and eligibility for promotion, a person originally appointed in a commissioned grade in the Regular Air Force, except a person appointed under section 8294 (a) of this title, shall be credited, at the time of his appointment, with the active commissioned service in the Air Force, and in the Army, after December 31, 1947, that he performed after becoming 21 years of age and before his appointment. However, not more than five years of service may be so credited.

(b) A person originally appointed in a commissioned grade in the Regular Air Force with a view to designation in one of the following categories, except a person appointed under section 8294 (a) of this title, shall be credited at the time of his appointment, in addition to the service with which he is credited under subsection (a), and for the same purposes, with the following service:

(1) Medical officer—four years.
(2) Dental officer—three years.
(3) Veterinary officer—three years.
(4) Chaplain—three years.
(5) Judge advocate—three years.

(c) Under such regulations as the Secretary of the Air Force may prescribe, a person who is originally appointed in a commissioned grade in the Regular Air Force with a view to designation as a medical service officer, and who, at the time of appointment, holds a degree of doctor of philosophy or a comparable degree in a science allied to medicine, so recognized by the Secretary, may be credited at the time of his appointment, in addition to the service with which he is credited under subsection (a), and for the same purposes, with three years of service.

(d) Notwithstanding any other provision of law, no person who was a cadet at the United States Air Force Academy may be originally appointed in a commissioned grade in the Regular Air Force before the date on which his classmates at the Academy are graduated and appointed as officers. No person who was a cadet at, but did not graduate from, the Academy may be credited, upon appointment as a commissioned officer of the Regular Air Force, with longer service than that credited to any member of his class at the Academy whose service in the Air Force, or in the Army and the Air Force, has been continuous since graduation.

(e) A graduate of the United States Air Force Academy who is originally appointed as a second lieutenant in the Regular Air Force under section 9353 of this title is not entitled to any service credit under this section.

§ 8288. Commissioned officers: original appointment; determination of grade

Except as provided in section 8294 of this title, based upon the service credited under section 8287 of this title, the commissioned

grade in which a person is originally appointed in the Regular Air Force is:

(1) For persons with less than three years of service—second lieutenant.

(2) For persons with at least three, but less than seven, years of service—first lieutenant.

(3) For persons with at least seven years of service—captain.

§ 8289. Commissioned officers; medical officers: original appointment; professional examination

No person may be originally appointed as a first lieutenant in the Regular Air Force with a view to designation as a medical officer, until he passes an examination of his professional fitness before an examining board composed of at least three medical officers designated by the Secretary of the Air Force.

§ 8291. Commissioned officers; Air Force nurses and women medical specialists: original appointment; additional qualifications, grade

(a) An original appointment in the Regular Air Force with a view to designation as an Air Force nurse or woman medical specialist may be made in the grade of—

(1) second lieutenant, from women who on the date of nomination have not passed their twenty-seventh birthday and who are not qualified for appointment in the grade of first lieutenant under clause (2); and

(2) first lieutenant, from women who on the date of nomination have not passed their thirtieth birthday.

The maximum ages specified in this subsection are increased by the period of active commissioned service in the armed forces after December 31, 1947, but not by more than five years.

(b) To be eligible for appointment under this section with a view to designation as a nurse, a woman must be a graduate of a hospital or university training school and a registered nurse.

§ 8293. Commissioned officers; chaplains: original appointment; examination

No person in civil life may be originally appointed in the Regular Air Force with a view to designation as a chaplain unless he has passed an examination prescribed by the President as to his moral, mental, and physical qualifications.

§ 8294. Commissioned officers; medical and dental officers: original appointment; additional method authorized as exception to general procedure

(a) Notwithstanding sections 8285, 8286, and 8287 of this title, original appointments in the Regular Air Force may also be made in grades of captain through colonel with a view to designation as medical or dental officers, as the needs of the Air Force require. These appointments may be made only from qualified civilian doctors of medicine and dentists who are citizens of the United States and who have such other qualifications as the Secretary of the Air Force may prescribe.

(b) An officer appointed under subsection (a) shall be credited for promotion with the minimum number of years of service required for promotion of officers of that category to the grade in which he is appointed.

§ 8295. Commissioned officers: original appointment; determination of place on promotion list

The name of each person originally appointed in a commissioned grade in the Regular Air Force shall be placed on the applicable promotion list, if any, immediately below the junior officer of the same grade having the same or next longer service.

§ 8296. Promotion lists: promotion-list officer defined; determination of place upon transfer or promotion

(a) The names of all commissioned officers in grades below brigadier general on the active list of the Regular Air Force, except Air Force nurses, women medical specialists, those in special categories otherwise excluded under law, and professors of the United States Air Force Academy shall be carried on promotion lists in descending order of grade and rank in the Regular Air Force. Air Force nurses and women medical specialists may be carried on promotion lists, but only on separate promotion lists maintained under subsection (b). Officers whose names are carried on a promotion list may be called "promotion-list officers".

(b) A separate promotion list may be maintained for commissioned officers of the Regular Air Force in each of the following categories:

(1) Chaplains.
(2) Judge Advocates.
(3) Medical officers.
(4) Dental officers.
(5) Veterinary officers.
(6) Medical service officers.
(7) Air Force nurses.
(8) Women medical specialists.
(9) Any category established by the Secretary of the Air Force under section 8067 (i) of this title.

(c) The names of all regular officers, other than Air Force nurses and women medical specialists, not on a list maintained under subsection (b) shall be carried on the Air Force promotion list.

(d) If a promotion-list officer is transferred from one category to another whose officers are carried on a different promotion list, his name shall be placed upon the promotion list to which he is transferred among the officers of his grade in accordance with seniority as determined under section 8574 (b) of this title.

(e) Unless specifically provided otherwise, upon the promotion of a promotion-list officer, his name shall be placed at the foot of the list of officers of his grade.

§ 8297. Selection boards

(a) Under such regulations as he may prescribe, the Secretary of the Air Force shall detail selection boards, to meet at times prescribed by him, to recommend promotion-list officers and brigadier generals of the Regular Air Force for promotion in the Regular Air Force. Each

board shall be composed of at least five officers of the Regular Air Force who hold a regular or temporary grade above lieutenant colonel, and who are senior in regular grade to, and who outrank, any officer considered by that board. However, a selection board considering, under section 8300 (a) or (b) of this title, female promotion-list officers other than those designated under section 8067 of this title to perform professional functions may include female promotion-list officers other than officers in those categories who are senior in regular grade to, and who outrank, any female officer being considered by that board.

(b) No selection board may serve longer than one year and no member may serve on two consecutive boards for promotions to the same grade, if the second board considers any officer considered but not recommended for promotion by the first.

(c) Each member of a selection board must swear that he will perform his duties without prejudice or partiality, having in view the special fitness of officers and the efficiency of the Air Force

(d) Except as otherwise provided by law, promotion-list officers and brigadier generals of the Regular Air Force may be promoted to the regular grades of captain through major general only when recommended by a selection board. A recommendation for promotion must be made by the majority of the total membership of the board.

(e) Not later than 10 days after a board first meets, any officer eligible for consideration by that board is entitled to send a letter, through official channels, calling attention to matters of record in the Department of the Air Force concerning himself that he considers important. The letter may not contain any reflection upon the character, conduct, or motives of any officer, or criticism of any officer.

§ 8298. Commissioned officers: promotion to first lieutenant; effect of failure of promotion

(a) A promotion-list officer in the grade of second lieutenant shall be promoted to the regular grade of first lieutenant upon completing three years of service with which he is entitled to be credited for promotion. If a promotion-list officer in that grade is found to be not fully qualified, he shall be discharged under section 8814 of this title.

(b) Vacancies in the grade of first lieutenant on a promotion list may be filled by promoting second lieutenants on that list with less than three years of service, in order of seniority, under regulations prescribed by the Secretary of the Air Force.

(c) This section does not apply to Air Force nurses and women medical specialists.

§ 8299. Commissioned officers: promotion to captain, major, or lieutenant colonel

(a) Promotion-list officers shall be promoted to the regular grades of captain, major, and, except as provided in subsection (f), lieutenant colonel, under subsections (b) and (c), or eliminated from the active list under section 8303 of this title.

(b) Without regard to vacancies, each promotion-list officer whose regular grade is first lieutenant, captain, or major shall be considered by a selection board for promotion to the next higher regular grade,

far enough in advance of the date on which he will complete 7, 14, or 21 years of service with which he is entitled to be credited for promotion, as the case may be, that if recommended, he may be promoted on the date on which he will complete that service.

(c) Having in view the number of actual and anticipated vacancies on a promotion list in the regular grade of captain, major, or lieutenant colonel, the Secretary of the Air Force may direct a selection board to consider and recommend officers on that list for promotion to the next higher regular grade without regard to length of service. However, no officer may be considered for promotion under this section more than two years before the date on which it is anticipated that he will be promoted if recommended, and unless the same board considers all officers above him on that list who are not on a recommended list.

(d) The names of promotion-list officers recommended for promotion under this section and section 8301 of this title shall be carried on permanent recommended lists of their grade and promotion list in the same order among themselves as on the applicable promotion list, and they shall be promoted in that order. A promotion may be made whenever there is a vacancy, but it is not mandatory that the authorized numbers be maintained in any grade on any promotion list.

(e) Whenever an officer is promoted under subsection (b), all officers in the same grade and on the same promotion list whose names are on the recommended list above that of the officer who must be promoted because of length of service shall be promoted at the same time and shall retain among themselves their existing seniority.

(f) Female promotion-list officers, other than those designated under section 8067 of this title to perform professional functions, may be promoted to the regular grade of lieutenant colonel only to fill vacancies in the number authorized by the Secretary for that category, and only when recommended by a selection board under regulations to be prescribed by the Secretary. Such a female promotion-list officer whose regular grade is major may not be eliminated from the active list because of failure of selection for promotion to the regular grade of lieutenant colonel.

(g) A promotion-list officer who has been twice considered and not recommended for promotion to any one regular grade may not again be considered for promotion under this section.

(h) This section does not apply to Air Force nurses and women medical specialists.

§ 8300. Commissioned officers: promotion to captain, major, or lieutenant colonel; selection board procedure

(a) When promotion-list officers in the regular grade of first lieutenant, captain, or major are to be considered, under section 8299 of this title, by a selection board for promotion to the next higher regular grade to fill existing or anticipated vacancies, the Secretary of the Air Force may direct the board to—

(1) consider officers in the specified grade in the order of their seniority on the promotion list concerned;

(2) recommend those who are fully qualified for promotion;

(3) pass over those not so qualified; and

(4) continue this procedure until the number of officers specified by him is recommended.

(b) When a promotion-list officer in the regular grade of first lieutenant, captain, or major must be considered under section 8299 of this title for promotion because of length of service, or because he is on a promotion list above an officer who must be considered for that reason, the Secretary may—

(1) furnish the board a list of officers to be considered for promotion to the grade concerned; and

(2) direct the board to recommend the officers on that list whom it considers fully qualified for promotion.

(c) Instead of the procedures set forth in subsection (a) or (b), the Secretary may furnish to the board a list of promotion-list officers to be considered and may direct it to recommend a number specified by him for promotion. The board shall recommend those officers whom it considers to be the best qualified. However, the number prescribed by the Secretary for recommendation must be at least 80 percent of those listed for consideration.

§ 8301. Commissioned officers: promotion to captain, major, or lieutenant colonel; officers with special qualifications

(a) In addition to the method prescribed in section 8300 of this title, whenever there are vacancies on the Air Force promotion list in the regular grade of captain, major, or lieutenant colonel, and the Secretary of the Air Force considers that there are or will be too few officers in any of those grades with special qualifications, he may direct a selection board to recommend a prescribed number of officers with those qualifications, for promotion to that grade, under the procedures prescribed in sections 8299 and 8300 of this title. However, an officer considered but not recommended under this section shall be treated as though he had not been considered for promotion within the meaning of section 8299 or 8303 of this title.

(b) This section does not apply to Air Force nurses and women medical specialists.

§ 8302. Commissioned officers; medical, dental, and veterinary officers: promotion to captain, major, or lieutenant colonel; professional examination

(a) No commissioned officer designated as a medical officer or veterinary officer whose regular grade is below lieutenant colonel may be promoted in the Regular Air Force until he passes an examination of his professional fitness before an examining board composed of three or more medical officers of the Regular Air Force selected by the Secretary of the Air Force. No commissioned officer designated as a dental officer whose regular grade is below lieutenant colonel may be promoted in the Regular Air Force until he passes an examination of his professional fitness before an examining board composed of one medical officer and two dental officers of the Regular Air Force, selected by the Secretary. The examination shall be prescribed by the Secretary and shall be held at such time before the right to promotion accrues as may be in the best interest of the Air Force.

(b) If an officer designated as a medical, dental, or veterinary officer in the regular grade of first lieutenant or captain is found disqualified for promotion by the examining board, the Secretary

shall detail a board of review to consider the findings of the examining board.

(c) A board of review shall be composed in the same manner as an examining board, except that its members must be senior in rank to the officer examined, and must not have served on the examining board that examined him.

(d) If the board of review concurs in the findings of the examining board, the officer shall be honorably discharged with one year's pay. If it does not concur in the findings, the officer shall be considered qualified and shall be promoted.

(e) An officer designated as a medical, dental, or veterinary officer in the regular grade of major who fails his first examination for promotion shall be suspended from promotion and re-examined as soon as practicable after one year from the date of his first examination. While he is so suspended from promotion, his name shall be removed from the recommended list and the years of service with which he is entitled to be credited for promotion purposes shall be reduced, if necessary, as provided in section 8303 (b) of this title.

(f) If on reexamination such a major is found qualified, his name shall be restored to the recommended list and he is eligible for promotion. If he is found disqualified for promotion, he shall be treated in the manner provided for deferred officers under section 8303 (d) of this title.

(g) While an officer is suspended from promotion under subsection (e), his right to promotion passes successively to the officers below him who are in the same grade and on the same promotion list, and who are or may become eligible for promotion.

(h) If the needs of the Air Force require that an officer entitled to promotion upon examination under subsection (a) be absent from a place where an examining board can be convened, the officer may be promoted, subject to examination as soon as practicable. However, if he is thereafter examined and found disqualified for that promotion, and if the proceedings are approved by the Secretary, he shall be treated as if he had been examined before promotion and had failed.

(i) If an officer who is found qualified for promotion under this section dies in line of duty after the occurrence of a vacancy that would entitle him to that promotion because of his seniority and before promotion, the President may issue, or have issued, an appropriate commission in the name of that officer. A commission issued under this subsection shall issue as of the date of the vacancy, and the officer's name shall be carried on the records of the Department of the Air Force as if he had served in the grade in which posthumously commissioned, from the date of the vacancy to the date of his death. No person is entitled to any bonus, gratuity, pay, or allowance because of this subsection.

§ 8303. Commissioned officers: effect of failure of promotion to captain, major, or lieutenant colonel

(a) In this subtitle, "deferred officer" means a promotion-list officer considered for promotion to the grade of captain, major, or lieutenant colonel under section 8299 of this title, but not recommended for promotion.

(b) The years of service with which a deferred officer is entitled to be credited for promotion purposes shall be reduced so that one year after the date on which he would have been promoted had he been recommended by a selection board he will not have more than 7, 14, or 21 years of service, if in the grade of first lieutenant, captain, or major, as the case may be.

(c) A deferred officer shall be considered again by the next selection board considering officers of his grade and promotion list. If recommended by this board, his name shall be placed on the applicable recommended list with the other officers recommended by the board, in the same order among themselves as on the promotion list, but below officers placed on that list by an earlier board. If a deferred officer is promoted upon the recommendation of the next board considering officers of his grade, his first failure does not count as a failure of selection when he is thereafter considered for promotion to another regular grade.

(d) A deferred officer who is not recommended by the next selection board considering officers of his grade and promotion list shall—

(1) if he is eligible, be retired under section 8913 of this title;

(2) if he is not eligible for retirement under section 8913 of this title, but is eligible for retirement under any other provision of law, be retired under that law on the date when he would have been retired under section 8913 of this title if he were eligible; or

(3) if he is not eligible for retirement under section 8913 of this title or any other provision of law, be honorably discharged on the date he would have been retired under section 8913 of this title if he were eligible, with severance pay computed by multiplying his years of service, but not more than 12, computed under section 8927 (a) of this title, by two months' basic pay of the grade in which he is serving on the date of his discharge.

(e) For the purposes of subsection (d) (3), 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.

§ 8304. Commissioned officers; Air Force nurses and women medical specialists: promotion to first lieutenant, captain, major, lieutenant colonel, or colonel

(a) Commissioned officers of the Regular Air Force designated as Air Force nurses and women medical specialists shall be promoted to the regular grade of first lieutenant upon completing the service prescribed for promotion to that grade under section 8298 of this title.

(b) Commissioned officers of the Regular Air Force designated as Air Force nurses and women medical specialists shall be promoted to the regular grade of captain or eliminated from the active list in the manner prescribed in sections 8299, 8300, and 8303 of this title.

(c) Under regulations to be prescribed by the Secretary of the Air Force, commissioned officers of the Regular Air Force designated as Air Force nurses and women medical specialists shall be promoted to the regular grades of major, lieutenant colonel, or colonel, by selection, to fill vacancies in those grades.

§ 8305. Commissioned officers: promotion to colonel

(a) Having in view the number of actual and anticipated vacancies in any promotion list in the regular grade of colonel and the number of officers desired in that grade on that promotion list, the Secretary of the Air Force shall furnish to selection boards lists of officers in the regular grade of lieutenant colonel, in order of seniority in regular grade, to be considered by those boards. The Secretary may not furnish the name of any officer to the board unless he furnishes to it the names of all officers above that officer on that promotion list who are not on a recommended list. He shall direct the boards to recommend a number prescribed by him for promotion to the grade of colonel. The list furnished may not contain the name of any officer who is on a recommended list for promotion to that grade. The board shall recommend the prescribed number of those officers whom it considers to be the best qualified.

(b) Whenever the Secretary considers that there are or will be too few officers with special qualifications, in the grade of colonel on the Air Force promotion list, he may direct that a specified number of the officers to be recommended for promotion to the regular grade of colonel be officers with those qualifications.

(c) The names of officers recommended for promotion to the regular grade of colonel shall be entered at the foot of, and carried on, the appropriate permanent recommended list for promotion to that grade in the same order among themselves as on the applicable promotion list. Officers shall be promoted in that order when there is a vacancy in that grade for that list. A vacancy in that grade may be filled at any time. It is not mandatory that the authorized numbers be maintained in the grade of colonel on any promotion list.

(d) The ratio of the number of officers on any promotion list who are named for consideration for promotion to the regular grade of colonel, to the number directed to be recommended, may be prescribed by the Secretary.

(e) No officer may be considered for promotion to the regular grade of colonel more than two years before the date on which it is anticipated that he will be promoted if selected.

(f) An officer must complete at least one year of service in the regular grade of lieutenant colonel before being nominated for promotion to the Regular grade of colonel.

(g) This section does not apply to female officers on the Air Force promotion list nor to Air Force nurses or women medical specialists.

§ 8306. Commissioned officers: promotion to brigadier general

(a) Having in view the number of actual and anticipated vacancies in the regular grade of brigadier general and the number of officers desired in that grade, the Secretary of the Air Force shall furnish to selection boards lists of officers in the regular grade of colonel, in order of seniority in regular grade, to be considered by those boards. He shall direct the boards to recommend a number prescribed by him for promotion to the grade of brigadier general, but he need not direct the recommendation of a number sufficient to maintain the authorized number for that grade. The list furnished may not contain the name of any officer who is on a recommended list for promotion to that grade. The Secretary may further

direct that a specified number of those recommended be officers with experience qualifying them for service in the categories to which officers may be designated under section 8067 of this title. The board shall recommend the prescribed number of those officers whom it considers to be best qualified.

(b) The names of officers recommended for promotion to the regular grade of brigadier general shall be entered at the foot of, and carried on, the permanent recommended list for promotion to that grade, in the order to be determined by the Secretary.

(c) If an officer is recommended for promotion to the regular grade of brigadier general and is not removed from the list by the President, he may be nominated and appointed as soon as a vacancy exists in the authorized number for that grade.

(d) The ratio of the number of officers on any promotion list who are named for consideration for promotion to the regular grade of brigadier general, to the number directed to be recommended, may be prescribed by the Secretary.

(e) No officer may be considered for promotion to the regular grade of brigadier general more than one year before the date on which it is anticipated that he will be promoted if recommended.

(f) An officer must complete at least one year of service in the regular grade of colonel before being nominated for promotion to the regular grade of brigadier general.

§ 8307. Commissioned officers: promotion to major general

(a) Having in view the number of actual and anticipated vacancies in the regular grade of major general and the number of officers desired in that grade, the Secretary of the Air Force shall furnish to selection boards lists of officers in the regular grade of brigadier general, in order of seniority in regular grade, to be considered by those boards. He shall direct the boards to recommend a number prescribed by him for promotion to the grade of major general, but he need not direct the recommendation of a number sufficient to maintain the authorized number for that grade. The list furnished may not contain the name of any officer who is on a recommended list for promotion to that grade. The Secretary may further direct that a specified number of those recommended be officers with experience qualifying them for service in the categories to which officers may be designated under section 8067 of this title. The board shall recommend the prescribed number of those officers whom it considers to be best qualified.

(b) The names of officers recommended for promotion to the regular grade of major general shall be entered at the foot of, and carried on, the permanent recommended list for promotion to that grade, in the order to be determined by the Secretary.

(c) If an officer is recommended for promotion to the regular grade of major general and is not removed from the list by the President, he may be nominated and appointed as soon as a vacancy exists in the authorized number for that grade.

(d) The ratio of the number of officers on any promotion list who are named for consideration for promotion to the regular grade of major general, to the number directed to be recommended, may be prescribed by the Secretary.

(e) No officer may be considered for promotion to the regular grade of major general more than one year before the date on which it is anticipated that he will be promoted if recommended.

(f) An officer must complete at least one year of service in the regular grade of brigadier general before being nominated for promotion to the regular grade of major general.

§ 8308. Commissioned officers: effect of removal from recommended list by President or failure of confirmation by Senate

The President may remove from a recommended list for promotion to any grade the name of any promotion-list officer or brigadier general of the Regular Air Force who in his opinion is not qualified for promotion. If an officer's name is so removed, or if the Senate does not consent to his appointment, he continues to be eligible as if he had not been considered for promotion and may be recommended by the next selection board considering officers of his grade. If he is promoted on the recommendation of that board, he has the same date of rank and place on the promotion list that he would have had if he had been promoted as a result of his original selection. If the second board considers but does not recommend an officer who would be subject to elimination for second failure of selection for promotion to the grade concerned, or if he again fails of promotion because his name is removed from the recommended list by the President or because the Senate does not consent to his appointment, he shall be eliminated from the active list under section 8303 of this title.

§ 8309. Commissioned officers: physical examination for promotion

(a) The President may prescribe a system of physical examination for all commissioned officers of the Regular Air Force in grades below brigadier general to determine their fitness for promotion in the Regular Air Force. Each examination shall be given before the right to promotion accrues.

(b) If the needs of the Air Force require that an officer entitled to promotion upon physical examination under subsection (a) be absent from a place where an examining board can be convened, the officer may be promoted subject to examination as soon as practicable. However, if he is thereafter examined and found physically disqualified for that promotion, and if the proceedings are approved by the Secretary of the Air Force, he shall be treated as if he had been examined before promotion and had failed.

(c) If a commissioned officer fails to pass the physical examination and is reported unfit for promotion, the officer next below him on a recommended list for promotion who has passed the examination and is otherwise qualified shall be promoted.

§ 8310. Warrant officers: original appointment; qualifications

Original appointments as warrant officers in the Regular Air Force shall be made from persons who have served on active duty at least one year in the Air Force.

§ 8312. Officers: acceptance of promotion

(a) An officer who is promoted in the Regular Air Force is considered to have accepted his promotion on the date of the order announcing it, unless he expressly declines the promotion. He is entitled to the pay and allowances of the higher grade from that date, unless entitled to them from an earlier date under another provision of law.

(b) An officer need not take the oath of office upon promotion if his service since last taking it has been continuous.

§ 8313. Suspension of laws for promotion or mandatory retirement or separation during war or emergency

In time of war, or of emergency declared by Congress or the President, the President may suspend the operation of any provision of law relating to promotion, or mandatory retirement or separation, of commissioned officers of the Regular Air Force.

CHAPTER 837.—APPOINTMENTS AS RESERVE OFFICERS

Sec.

8351. Officers: Air National Guard of United States.
8352. Officers; Air Force Reserve: transfer from Air National Guard of United States.
8354. Commissioned officers; Air Force Reserve: appointment of warrant officers and enlisted members of Air National Guard of United States.
8355. Commissioned officers; Air Force Reserve: appointment; A. F. R. O. T. C. graduates.
8356. Commissioned officers; Air Force Reserve; aviation cadets: appointment; qualifications, grade.
8394. Officers: acceptance of promotion.
8395. During war.

§ 8351. Officers: Air National Guard of United States

(a) Upon being federally recognized, an officer of the Air National Guard shall be appointed as a Reserve for service as a member of the Air National Guard of the United States in the grade that he holds in the Air National Guard. However, an officer of the Air Force Reserve who is federally recognized as an officer of the Air National Guard becomes an officer of the Air National Guard of the United States and ceases to be an officer of the Air Force Reserve. The acceptance of an appointment as a Reserve for service as a member of the Air National Guard of the United States by an officer of the Air National Guard does not vacate his office in the Air National Guard.

(b) When an officer of the Air National Guard to whom temporary Federal recognition has been extended is appointed as a Reserve for service as a member of the Air National Guard of the United States, his appointment shall bear the date of the temporary recognition and shall be considered to have been accepted and effective on that date.

(c) When the Air National Guard of the United States is ordered to active duty, any officer of the Air National Guard who is not a Reserve of the Air Force may be appointed by the President as a Reserve for service as a member of the Air National Guard of the United States in the grade that he holds in the Air National Guard.

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§ 8352. Officers; Air Force Reserve: transfer from Air National Guard of United States

(a) Under such regulations as the Secretary of the Air Force may prescribe, and with the consent of the governor or other appropriate authority of the State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia, whichever is concerned, an officer of the Air National Guard of the United States may be transferred in grade to the Air Force Reserve. Upon transfer, he is eligible for promotion to the highest regular or reserve grade ever held by him in the Air Force, if his service has been honorable.

(b) Unless discharged from his appointment as a Reserve, an officer of the Air National Guard of the United States whose Federal recognition as a member of the Air National Guard is withdrawn becomes a member of the Air Force Reserve. An officer who so becomes a member of the Air Force Reserve ceases to be a member of the Air National Guard of the United States.

§ 8354. Commissioned officers; Air Force Reserve: appointment of warrant officers and enlisted members of Air National Guard of United States

Notwithstanding any other provision of law, a warrant officer or enlisted member of the Air National Guard of the United States may, without affecting that status or vacating his warrant or enlisted grade in the Air National Guard, be appointed as a reserve officer of the Air Force in the grade of first lieutenant or second lieutenant.

§ 8355. Commissioned officers; Air Force Reserve: appointment; A. F. R. O. T. C. graduates

The President alone may appoint any graduate of the junior or senior division of the Air Force Reserve Officers' Training Corps as a reserve commissioned officer for service in the Air Force Reserve, if that graduate—

(1) has satisfactorily completed the courses of military training prescribed for the senior division;

(2) has satisfactorily completed the further training prescribed in section 9385 of this title;

(3) has participated after graduation in the practical instruction prescribed by the Secretary of the Air Force;

(4) is at least 21 years of age; and

(5) agrees under written oath to serve the United States as a reserve officer for at least five years from the date of his appointment, unless he is sooner discharged.

§ 8356. Commissioned officers; Air Force Reserve; aviation cadets: appointment; qualifications, grade

(a) An aviation cadet who successfully completes the prescribed course of training shall be appointed in the grade of second lieutenant as a Reserve of the Air Force for service in the Air Force Reserve, and shall be promoted to the reserve grade of first lieutenant upon completing three years of active duty under section 8257 (c) (1) of this title.

(b) A person who completes the course of training as an aviation cadet or aviation student, and who has served in the Army or the

Air Force in time of war as a commissioned or flight officer, may be originally appointed in any commissioned grade as a Reserve for service in the Air Force Reserve.

§ 8394. Officers; acceptance of promotion

(a) An officer of the Air National Guard of the United States or the Air Force Reserve who is promoted as a Reserve is considered to have accepted his promotion on the date of the order announcing it, unless he expressly declines the promotion. He is entitled to the pay and allowances of the higher grade from that date, unless entitled to them from an earlier date under another provision of law.

(b) An officer need not take the oath of office upon promotion if his service since last taking it has been continuous.

§ 8395. During war

In addition to appointments in time of war under chapter 839 of this title, appointments of reserve officers may be made in time of war.

CHAPTER 839.—TEMPORARY APPOINTMENTS

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8441. General rule.
8442. Commissioned officers; regular and reserve components: appointment in higher grade.
8443. Commissioned officers; Reserves: appointment in higher or lower grade.
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8449. Warrant officers: promotion.
8450. Warrant officers: suspension of laws for promotion or mandatory retirement or separation during war or emergency.
8451. Officers: acceptance of appointment in higher grade.

§ 8441. General rule

Temporary appointments may be made only in the Air Force without specification of component.

§ 8442. Commissioned officers; regular and reserve components: appointment in higher grade

(a) Whenever the number of officers of the Regular Air Force in any regular grade above second lieutenant is less than the number authorized, the vacancies may be filled by the appointment of qualified officers, as prescribed in subsection (c).

(b) Whenever, under authorization by Congress, the number of commissioned officers of the Regular Air Force on active duty plus the number of other commissioned officers of the Air Force ordered to active duty for a period of more than 30 days is more than the authorized strength of the Regular Air Force in commissioned officers on the active list, the Secretary of the Air Force shall determine the additional number of officers needed in each of the commissioned grades based upon the number of officers serving on active duty and the tasks being performed by the Air Force. Vacancies resulting from that determination may then be filled by the appointment of qualified officers, as prescribed in subsection (c).

(c) Subject to subsections (a) and (b), a regular commissioned officer, or a reserve commissioned officer who is serving on active duty, may be appointed in a temporary grade that is equal to or higher than his regular or reserve grade, without vacating any other grade held by him. Under regulations to be prescribed by the Secretary, appointments made under this subsection shall be made on a fair and equitable basis. Selections shall be based upon ability and efficiency with regard being given to seniority and age.

§ 8443. Commissioned officers; Reserves: appointment in higher or lower grade

A reserve commissioned officer who is ordered to, or is serving on, active duty may be appointed, with his consent, in a temporary grade that is higher or lower than his reserve grade, without affecting his reserve grade.

§ 8444. Commissioned officers: during war or emergency

(a) In time of emergency declared by Congress or the President, and in time of war, the President may appoint any qualified person, including a person who is not a Regular or Reserve, in any temporary commissioned grade.

(b) An officer appointed under subsection (a) may be ordered to active duty for such period as the President prescribes.

(c) Unless sooner vacated, an appointment under subsection (a) is effective during the war or emergency in which it is made and for six months thereafter.

§ 8445. Officers: additional appointments during war or emergency

(a) In addition to appointments authorized under section 8442 of this title, in time of war, or of national emergency declared by the President, a regular officer or a reserve warrant officer may be appointed in a temporary grade that is higher than his regular or reserve grade, without vacating that grade.

(b) In addition to appointments authorized under subsection (a) of this section, and sections 8442, 8443, and 8444 of this title, in time of war a person who holds no commissioned grade in the Regular Air Force may be appointed in any temporary commissioned grade.

(c) Unless sooner vacated, the appointment of an officer under subsection (b), except a member of the Regular Air Force, is effective during the war in which it is made and for six months thereafter.

(d) Each officer appointed under subsection (b) shall, unless he is a member of the Regular Air Force, be relieved from active duty, at his request, within six months after the termination of the war.

§ 8446. Retention on active duty

Notwithstanding any other provision of law, the President shall retain on active duty any disabled officer who has only a temporary appointment, until his physical condition is such that he will not be further benefited by retention in a military hospital or in the Air Force.

§ 8447. Appointments in commissioned grade: how made; how terminated

(a) The appointment of a person under section 8442, 8443, 8444, or 8445 of this title shall be made without reference to any other appointment that he may hold in the Air Force.

(b) Temporary appointments of commissioned officers in the Air Force shall be made by the President alone in grades below brigadier general, and by the President, by and with the advice and consent of the Senate, in general officer grades.

(c) The President may vacate at any time a temporary appointment in a commissioned grade.

§ 8448. Warrant officers: grades; appointment

(a) The temporary warrant officer grades in the Air Force are those prescribed for regular warrant officers by section 8310 (a) of this title.

(b) Whenever, under authorization by Congress, the number of commissioned officers of the Air Force on active duty is more than the authorized strength of the Regular Air Force in commissioned officers on the active list, the Secretary of the Air Force shall determine the additional number needed in each of the warrant officer grades based on the number of warrant officers serving on active duty and the tasks being performed by the Air Force. The Secretary may appoint, by warrant, qualified persons as warrant officers to fill the vacancies resulting from that determination. Appointments under this subsection continue in effect during the pleasure of the Secretary. While holding such an appointment, a warrant officer may be ordered to active duty with any unit of the Air Force.

(c) A warrant officer appointed under subsection (b) is entitled—

(1) to count all periods of active duty under the appointment as warrant or enlisted service for all purposes; and

(2) to the benefits of all laws and regulations applicable to the retirement, pensions, and disability of members of the Air Force on active duty.

(d) If a person appointed under subsection (b) is a member of the Air Force at the time of his appointment, he may accept the appointment without prejudice to his existing status. Upon termination of his appointment he is entitled to the grade held at the time of that appointment.

§ 8449. Warrant officers: promotion

Temporary promotions in warrant officer grades shall be governed by such regulations as the Secretary of the Air Force may prescribe.

§ 8450. Warrant officers: suspension of laws for promotion or 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 promotion, or mandatory retirement or separation, of temporary warrant officers of the Air Force.

§ 8451. Officers: acceptance of appointment in higher grade

(a) An officer who is promoted to a temporary grade is considered to have accepted his promotion on the date of the order announcing it, unless he expressly declines the promotion. He is entitled to the pay and allowances of the higher grade from that date, unless entitled to them from an earlier date under another provision of law.

(b) An officer need not take the oath of office upon promotion if his service since last taking it has been continuous.

CHAPTER 841.—ACTIVE DUTY

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8495. Air National Guard of United States: status.
8496. Air National Guard of United States: commissioned officers; duty in National Guard Bureau.
8497. Air National Guard of United States: members; status in which ordered into Federal service.
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8501. Air National Guard in Federal service: period of service; apportionment.
8502. Air National Guard in Federal service: physical examination.
8503. Retired commissioned officers: status.
8504. Retired members: limitations; grade.

§ 8491. Non-regular officers: status

A commissioned officer of the Air Force, other than of the Regular Air Force, who is on active duty in any commissioned grade has the rights and privileges, and is entitled to the benefits, provided by law for a commissioned officer of the Air Force Reserve—

(1) whose reserve grade is that in which the officer not of the Regular Air Force is serving;

(2) who has the same length of service as the officer not of the Regular Air Force; and

(3) who is on active duty in his reserve grade.

§ 8492. Members: service extension during war

Unless terminated at an earlier date by the President, the period of active duty of any member of the Air Force is extended for the duration of any war in which the United States may be engaged and for six months thereafter.

§ 8495. Air National Guard of United States: status

Members of the Air National Guard of the United States are not in active Federal service except when ordered thereto under law.

§ 8496. Air National Guard of United States: commissioned officers; duty in National Guard Bureau

(a) The President may, with their consent, order commissioned officers of the Air National Guard of the United States to active duty in the National Guard Bureau.

(b) The number of officers of the Air National Guard of the United States in any grade below brigadier general who are ordered to active duty in the National Guard Bureau may not be more than 40 percent

of the number of officers of the Air Force in that grade authorized for duty in that Bureau.

§ 8497. Air National Guard of United States: members; status in which ordered into Federal service

Members of the Air National Guard of the United States ordered to active duty shall be ordered to duty as Reserves of the Air Force.

§ 8498. Air National Guard of United States: mobilization; maintenance of organization

During an initial mobilization, the organization of a unit of the Air National Guard of the United States ordered into active Federal service shall, so far as practicable, be maintained as it existed on the date of the order to duty.

§ 8499. Air National Guard in Federal service: status

Members of the Air National Guard called into Federal service are, from the time when they are required to respond to the call, subject to the laws and regulations governing the Air Force, except those applicable only to members of the Regular Air Force.

§ 8500. Air National Guard in Federal service: call

Whenever—

(1) the United States, or any of the Territories, Commonwealths, or possessions, is invaded or is in danger of invasion by a foreign nation;

(2) there is a rebellion or danger of a rebellion against the authority of the Government of the United States; or

(3) the President is unable with the regular forces to execute the laws of the United States;

the President may call into Federal service members and units of the Air National Guard of any State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia in such numbers as he considers necessary to repel the invasion, suppress the rebellion, or execute those laws. Orders for these purposes shall be issued through the governors of the States, the Territories, Puerto Rico, and the Canal Zone, and, in the District of Columbia, through the commanding general of the National Guard of the District of Columbia.

§ 8501. Air National Guard in Federal service: period of service; apportionment

(a) Whenever the President calls the Air National Guard of a State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia into Federal service, he may specify in the call the period of the service. Members and units called shall serve inside or outside the territory of the United States during the term specified, unless sooner relieved by the President. However, no member of the Air National Guard may be kept in Federal service beyond the term of his commission or enlistment.

(b) When the Air National Guard of a State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia is called into Federal service with the Air National Guard of another of those jurisdictions, the President may apportion the total number called on the basis of the populations of the jurisdictions affected by the call.

§ 8502. Air National Guard in Federal service: physical examination

(a) Under regulations prescribed by the President, each member of the Air National Guard called into Federal service shall be examined as to physical fitness, without further commission or enlistment.

(b) Immediately before such a member is mustered out of Federal service he shall be examined as to physical fitness. The record of this examination shall be retained by the United States.

§ 8503. Retired commissioned officers: status

A retired commissioned officer of the Air Force who is on active duty is considered, for all purposes except promotion, to be an officer of the organization to which he is assigned.

§ 8504. Retired members: limitations; grade

(a) The President may order any retired member of the Regular Air Force to active duty. He may assign a member ordered under this subsection to such duties as he considers necessary in the interest of national defense.

(b) Any female officer of the Air Force, except an officer designated under section 8067 of this title, whose retired grade is colonel and who is ordered to active duty shall be ordered in that grade.

CHAPTER 843.—SPECIAL APPOINTMENTS, ASSIGNMENTS, DETAILS, AND DUTIES

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8531. Chief of Staff to President: appointment.
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8540. Educational institutions: detail of members of regular or reserve components as professors and instructors in air science and tactics.
8541. National Guard Bureau: assignment of officers of regular or reserve components.
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8547. Duties: chaplains; assistance required of commanding officers.
8548. Duties: warrant officers; limitations.
8549. Duties: female members; limitations.

§ 8531. Chief of Staff to President: appointment

The President, by and with the advice and consent of the Senate, may appoint a general officer of the Air Force as Chief of Staff to the President. Unless entitled to the rank, pay, and allowances of a grade above lieutenant general under another provision of law, an officer so appointed by and with the advice and consent of the Senate is entitled to the rank, pay, and allowances of a general, and is additional to the numbers otherwise authorized for that grade.

§ 8537. Department of Commerce: detail in aid of civil aviation

The President may detail officers of the Air Force to duty under the Secretary of Commerce in connection with the promotion of civil aviation as provided in sections 171, 174–177, 179–184 of title 49. No officer may be so detailed for more than one year.

§ 8540. Educational institutions: detail of members of regular or reserve components as professors and instructors in air science and tactics

(a) The President may detail regular or reserve members of the Air Force for duty as professors and assistant professors of air science and tactics, and as military instructors, at educational institutions where units of the Air Reserve Officers' Training Corps are maintained.

(b) The Secretary of the Air Force may detail regular or reserve members of the Air Force for duty as professors and assistant professors of air science and tactics, and as military instructors, at schools and colleges, other than those covered by section 9382 of this title, having a course of military training prescribed by him and having not less than 100 physical fit male students who are at least 14 years of age.

§ 8541. National Guard Bureau: assignment of officers of regular or reserve components

Except as provided in section 8496 (b) of this title, the President may assign to duty in the National Guard Bureau as many regular or reserve officers of the Air Force as he considers necessary.

§ 8542. Chief and assistant chief of staff of wings of Air National Guard in Federal service: detail

The President may detail a regular or reserve officer of the Air Force as chief of staff, and a regular or reserve officer or an officer of the Air National Guard as assistant to the chief of staff, of any wing of the Air National Guard that is in Federal service as an Air National Guard organization.

§ 8543. Aides: detail; number authorized

(a) Each major general of the Air Force is entitled to three aides selected by him from commissioned officers of the Air Force in any grade below major.

(b) Each brigadier general of the Air Force is entitled to two aides selected by him from commissioned officers of the Air Force in any grade below captain.

§ 8544. Duties: regular officers; performance of civil functions restricted

(a) No commissioned officer of the Regular Air Force may be—

(1) employed on civil works or internal improvements;

(2) allowed to be employed by an incorporated company; or

(3) employed as acting paymaster or disbursing agent of the Bureau of Indian Affairs:

if that employment requires him to be separated from his unit or organization, or interferes with the performance of his military duties.

(b) Except as otherwise provided by law, no commissioned officer on the active list of the Regular Air Force may hold a civil office by election or appointment, whether under the United States, a Territory or possession, or a State. The acceptance of such a civil office or the exercise of its functions by such an officer terminates his appointment in the Air Force.

§ 8545. Duties: officers; superintendence of cooking for enlisted members

The cooking for enlisted members of the Air Force shall be superintended by the officers of the organizations to which the members belong.

§ 8546. Duties: medical officers, contract surgeons; attendance on families of members

Medical officers and contract surgeons of the Air Force shall, when practicable, attend the families of members of the Air Force who are on active duty, retired, or on the temporary disability retired list. Such attendance shall be free of charge.

§ 8547. Duties: chaplains; assistance required of commanding officers

(a) Each chaplain shall, when practicable, hold appropriate religious services at least once on each Sunday for the command to which he is assigned, and shall perform appropriate religious burial services for members of the Air Force who die while in that command.

(b) Each commanding officer shall furnish facilities, including necessary transportation, to any chaplain assigned to his command, to assist the chaplain in performing his duties.

§ 8548. Duties: warrant officers; limitations

Under regulations prescribed by the President, a warrant officer may be assigned to perform duties that necessarily include those normally performed by a commissioned officer.

§ 8549. Duties: female members; limitations

Female members of the Air Force, except those designated under section 8067 of this title, or appointed with a view to designation under that section, may not be assigned to duty in aircraft engaged in combat missions.

CHAPTER 845.—RANK AND COMMAND

Sec.

8571. Rank: commissioned officers on active duty.
8572. Rank: commissioned officers serving under temporary appointments.
8573. Rank: commissioned officers in regular grades of brigadier general and major general; seniority list.
8574. Rank: commissioned officers in regular grades below brigadier general.
8575. Rank: warrant officers.
8576. Command: when different commands of Air Force and Marine Corps join.
8577. Command: flying units.
8578. Command: commissioned officers of Air Force in same grade on duty at same place.
8579. Command: commissioned officers in certain designated categories.
8580. Command: female members of Air Force.
8581. Command: chaplains.
8582. Command: retired officers.

§ 8571. Rank: commissioned officers on active duty

(a) Commissioned officers of the Air Force on active duty in the same grade rank among themselves according to date of rank. The date of rank—

(1) for a regular officer serving in his regular grade, is that stated in his commission or letter of appointment;

(2) for a regular officer serving in a temporary grade, is his date of appointment in that grade, unless adjusted under section 8572 of this title; and

(3) for a reserve officer or an officer of the Air National Guard called into Federal service, is his date of entry on active duty except that, if he previously served on active duty in the same or any higher grade, his date of rank precedes the date of his entry on active duty by the period of his active duty, and of his service under section 503, 504, or 505 of title 32, performed in the grade in which he was placed on active duty or in any higher grade.

(b) When the dates of rank prescribed by subsection (a) are the same, rank is determined by length of all active commissioned service in the Air Force and the Army and commissioned service under sections 503, 504, and 505 of title 32.

(c) When the dates of rank prescribed by subsection (a) and length of active commissioned service computed under subsection (b) are the same:

(1) Regular officers rank before reserve officers and officers of the Air National Guard.

(2) Regular officers rank among themselves according to sections 8273 and 8274 of this title.

(3) Reserve officers and officers of the Air National Guard rank among themselves according to age.

§ 8572. Rank: commissioned officers serving under temporary appointments

The President may, in accordance with the needs of the Air Force, adjust dates of rank of commissioned officers of the Air Force serving in temporary grades.

§ 8573. Rank: commissioned officers in regular grades of brigadier general and major general; seniority list

(a) The date of rank of an officer whose regular grade is brigadier general is the date of his appointment in that regular grade, if at the time of that appointment he held no temporary general officer grade. The date of rank of an officer whose regular grade is major general is the date of rank he held in the regular grade of brigadier general, if he held that grade at the time of his appointment in the regular grade of major general.

(b) If at the time of his appointment in his current regular grade such an officer held only a temporary general officer grade, his date of rank is the date of rank he held in that temporary grade, except that if he was promoted to that temporary grade from the temporary grade of brigadier general his date of rank is the date of rank he held in the temporary grade of brigadier general.

(c) Notwithstanding subsections (a) and (b), the date of rank of such an officer may not be earlier than that of the junior general officer in the same regular grade who was appointed to that grade before him.

(d) The names of general officers of the Regular Air Force shall be carried on a seniority list in the order of seniority in both regular grade and date of rank as determined under subsection (a).

§ 8574. Rank: commissioned officers in regular grades below brigadier general

(a) Among commissioned officers of the same grade in the Regular Air Force who are on the same promotion list, rank in regular grade is determined by the order in which their names appear on that list.

(b) Among commissioned officers of the same grade in the Regular Air Force who are not on the same promotion list or not on a promotion list, rank in regular grade is determined—

(1) by date of rank;

(2) if the dates of rank are the same, by length of continuous active commissioned service in the Regular Air Force;

(3) if the dates of rank and length of continuous active commissioned service in the Regular Air Force are the same, by rank established at the time of original appointment in the Regular Air Force; and

(4) in other cases, by the Secretary of the Air Force.

(c) Rank among the graduates of each class at the United States Military or Air Force Academy who, upon graduation, are appointed in the Regular Air Force shall be fixed under regulations prescribed by the Secretary.

§ 8575. Rank: warrant officers

Warrant officers rank next below second lieutenants and rank among themselves within each warrant officer grade under regulations to be prescribed by the Secretary of the Air Force.

§ 8576. Command: when different commands of Air Force and Marine Corps join

When different commands of the Air Force and the Marine Corps join or serve together, the officer highest in rank in the Air Force or the Marine Corps on duty there who is otherwise eligible to command commands all those forces, unless otherwise directed by the President.

§ 8577. Command: flying units

Flying units shall be commanded by commissioned officers of the Air Force who have received aeronautical ratings as pilots of service types of aircraft.

§ 8578. Command: commissioned officers of Air Force in same grade on duty at same place

When two or more commissioned officers of the same grade who are otherwise eligible to command are on duty in the same area, field, command, or organization, the President may assign the command without regard to rank in that grade.

§ 8579. Command: commissioned officers in certain designated categories

(a) An officer designated as a medical, dental, veterinary, or medical service officer is not entitled to exercise command because of his rank, except within the categories prescribed in section 8067 (a)–(d) of this title.

(b) An Air Force nurse or woman medical specialist may exercise command only within her category, or over persons placed under her charge.

§ 8580. Command: female members of Air Force

The Secretary of the Air Force shall prescribe the military authority that female members of the Air Force, except those designated under section 8067 of this title to perform professional functions, may exercise.

§ 8581. Command: chaplains

An officer designated as a chaplain has rank without command.

§ 8582. Command: retired officers

A retired officer has no right to command except when on active duty.

CHAPTER 847.—THE UNIFORM

Sec.
8611. President may prescribe.
8612. Uniforms: disposition on discharge.

§ 8611. President may prescribe

The President may prescribe the uniform of the Air Force.

§ 8612. Uniforms: disposition on discharge

(a) Except as provided in subsections (b) and (c), when an enlisted member of the Air Force is discharged, the exterior articles of uniform in his possession that were issued to him, other than those articles 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 Air Force is discharged for bad conduct, undesirability, unsuitability, inaptitude, or otherwise than honorably, the exterior articles of uniform in his possession shall be retained by the Air Force for military use. However, when authorized by regulations prescribed by the Secretary of the Air Force, a suit of civilian outer clothing, and a civilian overcoat if necessary, costing together not more than $30, may be issued to that person.

(c) When an enlisted member of the Air National Guard who has been called into Federal service is released from that service, the exterior articles of uniform in his possession shall be accounted for as property issued to the Air National Guard of the State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia of whose Air National Guard he is a member, as prescribed in section 708 of title 32.

CHAPTER 849.—MISCELLANEOUS PROHIBITIONS AND PENALTIES

Sec.

8631. Dealing in quartermaster supplies prohibited.
8632. Members of Air Force: forfeiture of pay during absence from duty due to disease from intemperate use of alcohol or drugs.
8633. Commissioned officers: forfeiture of pay when dropped from rolls.
8634. Air Force band: may not be paid for performance outside air base.
8635. Enlisted members: restriction on civilian employment.
8636. Enlisted members: pay and allowances not to accrue during suspended sentence of dishonorable discharge.
8637. Enlisted members: forfeiture of right to pension by deserters.
8638. Enlisted members: required to make up time lost.
8639. Enlisted members: officers not to use as servants.

§ 8631. Dealing in quartermaster supplies prohibited

No officer of the Air Force who is engaged in the procurement or sale of quartermaster supplies may—

(1) be directly or indirectly concerned, except on account of the United States, in the purchase or sale of any such supplies procured, supplied, or sold by the Air Force, or in its custody; or

(2) take or apply to his own use any gain not allowed by law for transacting business connected with the duties of his office.

§ 8632. Members of Air Force: forfeiture of pay during absence from duty due to disease from intemperate use of alcohol or drugs

A member of the Air Force 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 Air Force, and are final and conclusive.

§ 8633. Commissioned officers: forfeiture of pay when dropped from rolls

A commissioned officer of the Air Force who is dropped from the rolls under section 1161 (b) of this title for absence without authority for three months forfeits all pay due or to become due.

§ 8634. Air Force band: may not be paid for performance outside air base

No Air Force band or member thereof may receive remuneration for furnishing music outside the limits of an air base in competition with local civilian musicians.

§ 8635. Enlisted members: restriction on civilian employment

No enlisted member of the Air Force 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.

§ 8636. Enlisted members: pay and allowances not to accrue during suspended sentence of dishonorable discharge

Pay and allowances do not accrue to an enlisted member of the Air Force who is in confinement under sentence of dishonorable discharge, while the execution of the sentence to discharge is suspended.

§ 8637. Enlisted members: forfeiture of right to pension by deserters

An enlisted member of the Air Force who deserts forfeits all rights to a pension that he might have otherwise acquired.

§ 8638. Enlisted members: required to make up time lost

An enlisted member of the Air Force who—

(1) deserts;

(2) is absent from his organization, station, or duty for more than one day without authority;

(3) is confined for more than one day while awaiting trial and disposition of his case, and whose conviction has beccme final;

(4) is confined for more than one day under a sentence that has become final; or

(5) is unable for more than one day to perform his duties because of intemperate use of drugs or alcoholic liquor, or because of disease or injury resulting from his misconduct;

is liable, after his return to full duty, to serve for a period that, when added to the period that he served before his absence from duty, amounts to the term of his enlistment.

§ 8639. Enlisted members: officers not to use as servants

No officer of the Air Force may use an enlisted member of the Air Force as a servant.

CHAPTER 851.—UNITED STATES DISCIPLINARY BARRACKS

Sec.
8662. Training of prisoners.
8663. Parole; remission of sentence; restoration to duty.

§ 8662. Training of prisoners

The Secretary of the Air Force—

(1) shall provide for the military training of offenders (A) who have been sent to the United States Disciplinary Barracks for confinement, (B) who were at the time of their offenses members of the Air Force, and (C) whose record and conduct indicate that, upon completing a course of military training, they may be worthy of honorable restoration to duty or of being permitted to reenlist;

(2) may provide for the organization of offenders selected for military training under clause (1) into disciplinary units; and

(3) may provide for equipping those disciplinary units.

§ 8663. Parole; remission of sentence; restoration to duty

(a) The Secretary of the Air Force may provide a system of parole for offenders who are confined in the United States Disciplinary Barracks, and who were at the time of their offenses—

(1) members of the Air Force; or

(2) persons subject to chapter 47 of this title because (A) in the custody of, serving with, accompanying, or employed by the Air Force under section 802 (7)–(11) of this title (article 2 (7)–(11)), or (B) within an area under the control of the Secretary of the Air Force under section 802 (12) of this title (article 2 (12)).

(b) Whenever the Secretary considers that an offender sent to the Disciplinary Barracks merits that action, the Secretary may remit the unexecuted part of his sentence if he was, at the time of his offense—

(1) a member of the Air Force; or

(2) a person subject to chapter 47 of this title because (A) in the custody of, serving with, accompanying, or employed by the Air Force under section 802 (7)–(11) of this title (article 2 (7)–(11)), or (B) within an area under the control of the Secretary of the Air Force under section 802 (12) of this title (article 2 (12)).

If the Secretary remits the unexecuted part of the sentence of an offender in the Disciplinary Barracks who at the time of his offense was an enlisted member of the Air Force, the Secretary may order his honorable restoration to active duty if he has not been discharged. If he has been discharged, the Secretary may authorize his reenlistment or, upon written application, order his restoration to the Air Force. Such an order revives the enlistment contract for a period equal to that not previously served under it. So far as it relates to honorable restoration to active duty, this subsection applies to general prisoners confined elsewhere who were at the time of their offenses enlisted members of the Air Force.

CHAPTER 853.—MISCELLANEOUS RIGHTS AND BENEFITS

Sec.

8681. Air Force Register: Regular Air Force officers; service to be listed.
8682. Service credit: officers; service as cadet not counted.
8683. Service credit: certain service as a nurse, woman medical specialist, or civilian employee of Army Medical Department to be counted.
8684. Service credit: regular enlisted members; service as an officer to be counted as enlisted service.
8685. Regular Air Force; Air Force Reserve: female members; definition of "dependents".
8686. Members of Air National Guard of United States: credit for service as members of Air National Guard.
8687. Compensation: members of Air Force other than of Regular Air Force; when same as that provided for members of Regular Air Force.
8688. Death gratuity.
8689. Assignments and allotments of pay.
8690. Exemption from arrest for debt: enlisted members.
8691. Flying officer rating: qualifications.
8692. Pilot rating in time of peace: qualifications.
8693. Replacement of certificates of discharge.

§ 8681. Air Force Register: Regular Air Force officers; service to be listed

(a) The official Air Force Register shall include, with respect to each commissioned officer of the Regular Air Force—

(1) his lineal rank;

(2) all service as an officer of the Regular Air Force, and of the Regular Army;

(3) all enlisted service; and

(4) all non-regular service.

(b) The names of retired commissioned officers of the Regular Air Force shall be carried on the Air Force Register.

§ 8682. Service credit: officers; service as cadet not counted

In computing length of service for any purpose, no commissioned officer of the Air Force may be credited with service as a cadet at the United States Military Academy or the United States Air Force Academy, or as a midshipman at the United States Naval Academy, if he was appointed as a cadet or midshipman after August 24, 1912.

§ 8683. Service credit: certain service as a nurse, woman medical specialist, or civilian employee of Army Medical Department to be counted

In computing years of active service, there shall be credited for all purposes, except the determination of grade, rank, and right to promotion in the Regular Air Force, the following service, in addition to any other service that may be credited—

(1) all active service performed in the Army Nurse Corps as it existed at any time before April 16, 1947;

(2) all active service performed in the Navy Nurse Corps as it existed at any time before April 16, 1947;

(3) all active service performed under an appointment under the Act of December 22, 1942, ch. 805 (56 Stat. 1072), or the Act of June 22, 1944, ch. 272 (58 Stat. 324); and

(4) all active full-time service, except as a student or apprentice, with the Medical Department of the Army as a civilian employee—

(A) in the dietetic or physical therapy categories, if the service was performed after April 6, 1917; or

(B) in the occupational therapy category, if the service was performed before appointment in the Army Nurse Corps or the Women's Medical Specialist Corps, or before appointment in the Air Force with a view to designation as an Air Force nurse or woman medical specialist.

§ 8684. Service credit: regular enlisted members; service as an officer to be counted as enlisted service

An enlisted member of the Regular Air Force is entitled to count active service as an officer in the Air Force, and in the Army, as enlisted service for all purposes.

§ 8685. Regular Air Force; Air Force Reserve: female members; definition of "dependents"

(a) Except as otherwise specifically provided, the husband of a female member of the Regular Air Force 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.

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(b) The husband of a female member of the Air Force 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.

§ 8686. Members of Air National Guard of United States: credit for service as members of Air National Guard

For the purposes of laws providing benefits for members of the Air National Guard of the United States and their dependents and beneficiaries—

(1) military training, duty, or other service performed by a member of the Air National Guard of the United States in his status as a member of the Air National Guard for which he is entitled to pay from the United States shall be considered military training, duty, or other service, as the case may be, in Federal service as a Reserve of the Air Force;

(2) full-time training or other full-time duty performed by a member of the Air National Guard of the United States in his status as a member of the Air National Guard under sections 316 and 503–505 of title 32 for which he is entitled to pay from the United States, or for which he has waived such pay, shall be considered active duty for training in Federal service as a Reserve of the Air Force; and

(3) inactive-duty training performed by a member of the Air National Guard of the United States in his status as a member of the Air National Guard, in accordance with regulations prescribed under section 502 of title 32 or other express provision of law, shall be considered inactive-duty training in Federal service as a Reserve of the Air Force.

§ 8687. Compensation: members of Air Force other than of Regular Air Force; when same as that provided for members of Regular Air Force

A member of the Air Force, other than of the Regular Air Force, is entitled to the pay and allowances, pensions, and other compensation provided by law or regulation for a member of the Regular Air Force of corresponding grade and length of service, whenever—

(1) he is called or ordered to active duty (other than for training) for a period of more than 30 days, and is disabled in line of duty from disease while so employed; or

(2) he is called or 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.

§ 8688. Death gratuity

(a) The Secretary of the Air Force shall have a death gratuity paid to the survivor named in subsection (b) of—

(1) each member of the Regular Air Force on active duty who dies from a disability incurred not as a result of his own misconduct; and

(2) each member of the Air Force, other than of the Regular Air Force, who dies from a disability or injury not the result of his misconduct incurred—

(A) while on active duty for a period of more than 30 days, if the death is caused by disease; or

(B) while on active duty or inactive duty-training, for any period, if the death is caused by injury.

The death gratuity shall be equal to six months' pay at the rate to which the member was entitled on the date of his death.

(b) The amount payable under subsection (a) shall be paid, immediately upon receipt of official notification of the death of the member, to the living person highest on the following list:

(1) The surviving spouse.

(2) His child or children, except a married child or an unmarried child over 21 years of age who was not a dependent of the deceased member.

(3) Any other dependent relative designated by the deceased member.

(4) Any dependent grandchild, parent, brother, sister, or grandparent of the deceased member whom the Secretary of the Air Force determines to have been dependent upon the deceased member.

(c) If a beneficiary dies before he receives the death gratuity, it shall be paid to the living beneficiary next in the order set forth in subsection (b).

(d) The determination of the Secretary as to dependency under subsection (b) (4) is conclusive upon the General Accounting Office.

(e) The Secretary shall, by regulation, require each member of the Air Force having no wife or eligible child to designate the dependent relative to whom the death gratuity shall be paid upon his death.

(f) Payments under subsection (a) (1) shall be made from funds appropriated for the pay of the Air Force.

§ 8689. Assignments and allotments of pay

(a) Under regulations prescribed by the Secretary of the Air Force, a commissioned officer of the Air Force may transfer or assign his pay account, when due and payable.

(b) A contract surgeon or contract dental surgeon, on duty in Alaska, Hawaii, the Philippine Islands, or Puerto Rico, may transfer or assign his pay account, when due and payable, under the regulations prescribed under subsection (a).

(c) No assignment of pay by an enlisted member of the Air Force is valid.

(d) The Secretary may allow any—

(1) member of the Air Force;

(2) contract surgeon; or

(3) permanent civilian employee of the Department of the Air Force on duty outside the United States;

to make allotments from his pay for the support of any of his relatives or for any other purpose that the Secretary considers proper. If an allotment made under this subsection is paid to the allottee before the disbursing officer receives a notice of discontinuance from the officer required by regulation to furnish the notice, the amount of the allotment shall be credited to the disbursing officer. If an allotment is erroneously paid because the officer required by regulation to so report failed to report the death of the allotter or any other fact that makes the allotment not payable, the amount of the payment not re-

covered from the allottee shall, if practicable, be collected by the Secretary from the officer who failed to make the report.

§ 8690. Exemption from arrest for debt: enlisted members

No enlisted member of the Air Force, while on active duty, may be arrested on mesne process or taken or charged in execution for any debt, unless it was contracted before his enlistment and amounted to at least $20 when first contracted.

§ 8691. Flying officer rating: qualifications

Only officers of the Air Force in the following categories may be rated as flying officers:

(1) Officers who have aeronautical ratings as pilots of service types of aircraft or as aircraft observers.

(2) Flight surgeons.

(3) Officers undergoing flight training.

(4) Officers who are members of combat crews, other than pilots of service types of aircraft, aircraft observers, and observers.

(5) In time of war, officers who have aeronautical ratings as observers.

§ 8692. Pilot rating in time of peace: qualifications

To be eligible to receive a rating as a pilot in time of peace, a member of the Air Force, other than an aviation cadet, must pilot a heavier-than-air craft for at least 200 hours, of which 75 are alone, and must successfully complete the prescribed course.

§ 8693. Replacement of certificates of discharge

If satisfactory proof is presented that a person who was discharged honorably or under honorable conditions has lost his certificate of discharge from the Air Force, or that it was destroyed without his procurement or connivance, the Secretary may give that person, or his surviving spouse, a certificate of that discharge, indelibly marked to show that it is a certificate in place of the lost or destroyed certificate. A certificate given under this subsection may not be accepted as a voucher for the payment of a claim against the United States for pay, bounty, or other allowance, or as evidence in any other case.

CHAPTER 855.—HOSPITALIZATION

Sec.

8721. Members of Air Force, other than of Regular Air Force.
8722. Members of A. F. R. O. T. C. and C. A. T. C.; members of Air Force not covered by section 8721 of this title.
8723. When Secretary may require.

§ 8721. Members of Air Force, other than of Regular Air Force

A member of the Air Force, other than of the Regular Air Force, is entitled to the hospital benefits provided by law or regulation for a member of the Regular Air Force of corresponding grade and length of service, whenever—

(1) he is called or ordered to active duty for a period of more than 30 days, and is disabled in line of duty from disease while so employed; or

(2) he is called or 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.

§ 8722. Members of A. F. R. O. T. C. and C. A. T. C.; members of Air Force not covered by section 8721 of this title

(a) Under such regulations as the President may prescribe, the following persons are entitled to the benefits of subsection (b):

(1) Each Reserve of the Air Force, and each officer who has no regular or reserve appointment, and who is injured, or contracts a disease, in line of duty while on active duty in time of peace.

(2) Each member of the Air Force Reserve who is injured in line of duty while not on active duty and while voluntarily participating in an aerial flight in a Government-owned aircraft under proper authority and as an incident of training.

(3) Each member of the Air Force Reserve Officers' Training Corps, or person attending a Citizens' Air Training Camp, who is injured, or contracts a disease in line of duty while traveling to or from, or while attending, a training camp under section 9385 or 9411 of this title.

(b) So far as any benefit named in this subsection is not provided for him under section 8721 of this title, any person named in subsection (a) is entitled to—

(1) the hospitalization, rehospitalization, and medical and surgical care in a hospital and at his home appropriate for the treatment of his injury or disease until the resulting disability cannot be materially improved by further hospitalization or treatment;

(2) the basic pay and allowances, whether in money or in kind, to which he was entitled at the time when the injury was incurred or the disease contracted, during the period of his hospitalization or rehospitalization, but not for more than a total of six months after the end of his prescribed tour of duty or training;

(3) subsistence during hospitalization or rehospitalization when he is not entitled to basic pay and allowances under clause (2); and

(4) necessary transportation incident to his hospitalization, rehospitalization, and return to his home when he is discharged from a hospital.

§ 8723. When Secretary may require

The Secretary of the Air Force may order the hospitalization, medical and surgical treatment, and domiciliary care for as long as necessary, of any member of the Air Force on active duty, and may incur obligations with respect thereto, whether or not the member was injured, or contracted a disease, in line of duty, except in the case of a member treated in a private hospital, or by a civilian physician, while on leave of absence for more than 24 hours.

CHAPTER 857.—DECORATIONS AND AWARDS

Sec.
8741. Medal of honor: award.
8742. Distinguished-service cross: award.
8743. Distinguished-service medal: award.
8744. Medal of honor; distinguished-service cross; distinguished-service medal: limitations on award.
8745. Medal of honor; distinguished-service cross; distinguished-service medal: delegation of power to award.
8746. Silver star: award.
8747. Medal of honor; distinguished-service cross; distinguished-service medal; silver star: replacement.
8748. Medal of honor; distinguished-service cross; distinguished-service medal; silver star: availability of appropriations.
8749. Distinguished flying cross: award; limitations.
8750. Soldier's Medal: award; limitations.
8751. Service medals: issue; replacement; availability of appropriations.
8752. Medals: posthumous award and presentation.

§ 8741. Medal of honor: award

The President may award, and present in the name of Congress, a medal of honor to a person who, while a member of the Air Force and in action involving actual conflict with an enemy, distinguishes himself conspicuously by gallantry and intrepidity at the risk of his life above and beyond the call of duty.

§ 8742. Distinguished-service cross: award

The President may award a distinguished-service cross of appropriate design and a ribbon, together with a rosette or other device to be worn in place thereof, to a person who, while serving in any capacity with the Air Force, distinguishes himself by extraordinary heroism in connection with military operations against an armed enemy.

§ 8743. Distinguished-service medal: award

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 a person who, while serving in any capacity with the Air Force, distinguishes himself by exceptionally meritorious service to the United States in a duty of great responsibility.

§ 8744. Medal of honor; distinguished-service cross; distinguished-service medal: limitations on award

(a) No more than one medal of honor, distinguished-service cross, or distinguished-service medal may be awarded to a person. However, for each succeeding act that would otherwise justify the award of such a medal or cross, the President may award a suitable bar or other device to be worn as he directs.

(b) No medal of honor, distinguished-service cross, distinguished-service medal, or device in place thereof, may be awarded to a person unless—

(1) the award is made within three years after the date of the act justifying the award;

(2) a statement setting forth the distinguished service and recommending official recognition of it was made within two years after the distinguished service; and

(3) it appears from records of the Department of the Air Force that the person is entitled to the award.

(c) No medal of honor, distinguished-service cross, distinguished-service medal, or device in place thereof, may be awarded or presented to a person whose service after he distinguished himself has not been honorable.

§ 8745. Medal of honor; distinguished-service cross; distinguished-service medal: delegation of power to award

The President may delegate his authority to award the medal of honor, distinguished-service cross, and distinguished-service medal, to a commanding general of a separate air force or higher unit in the field.

§ 8746. Silver star: award

The President may award a silver star, three-sixteenths of an inch in diameter, for each citation for gallantry in action that does not warrant a medal of honor or distinguished-service cross, if the person earned the citation while serving in any capacity with the Air Force and it has been published in orders issued from the headquarters of a force that is the appropriate command of a general officer. The silver star shall be worn as the President directs.

§ 8747. Medal of honor; distinguished-service cross; distinguished-service medal; silver star: replacement

Any medal of honor, distinguished-service cross, distinguished-service medal, or silver star, or any bar, ribbon, rosette, or other device issued for wear with or in place of any of them, that is lost or destroyed, or becomes unfit for use, without fault or neglect of the person to whom it was awarded, shall be replaced without charge.

§ 8748. Medal of honor; distinguished-service cross; distinguished-service medal; silver star: availability of appropriations

The Secretary of the Air Force may spend, from any appropriation for contingent expenses of the Department of the Air Force, amounts necessary to provide medals and devices under sections 8741, 8742, 8743, 8744, 8746, 8747, and 8752 of this title.

§ 8749. Distinguished flying cross: award; limitations

(a) The President may award a distinguished flying cross of appropriate design with accompaning ribbon to any person who, while serving in any capacity with the Air Force, distinguishes himself by heroism or extraordinary achievement while participating in an aerial flight.

(b) Not more than one distinguished flying cross may be awarded to a person. However, for each succeeding act that would otherwise justify the award of such a cross, the President may award a suitable bar or other device to be worn as he directs.

(c) No distinguished flying cross, or device in place thereof, may be awarded or presented to a person whose service after he distinguished himself has not been honorable.

§ 8750. Soldier's Medal: award; limitations

(a) The President may award a decoration called the "Soldier's Medal", of appropriate design with accompanying ribbon, to any person who, while serving in any capacity with the Air Force, distinguishes himself by heroism not involving actual conflict with an enemy.

(b) Not more than one Soldier's Medal may be awarded to a person. However, for each succeeding act that would otherwise justify the award of such a medal, the President may award a suitable bar or other device to be worn as he directs.

§ 8751. Service medals: issue; replacement; availability of appropriations

(a) The Secretary of the Air Force shall procure, and issue without charge to any person entitled thereto, any service medal authorized for members of the Air Force after September 26, 1947, and any ribbon, clasp, star, or similar device prescribed as a part of that medal.

(b) Under such regulations as the Secretary may prescribe, any medal or other device issued under subsection (a) that is lost, destroyed, or becomes unfit for use without fault or neglect of the owner, may be replaced at cost. However, if the owner is a member of the Air Force, the medal or device may be replaced without charge.

(c) The Secretary may spend, from any appropriation for the support of the Air Force, amounts necessary to provide medals and devices under this section.

§ 8752. Medals: posthumous award and presentation

(a) If a person dies before the award of a medal of honor, distinguished-service cross, distinguished-service medal, distinguished flying cross, or device in place thereof, to which he is entitled, the award may be made and the medal or device presented to his representative, as designated by the President.

(b) If a person dies before an authorized service medal or device prescribed as a part thereof is presented to him under section 8751 of this title, it may be presented to his family.

CHAPTER 859.—SEPARATION FROM REGULAR AIR FORCE FOR FAILURE TO MEET STANDARDS

Sec.

8781. Selection boards: composition; duties.
8782. Boards of inquiry: composition; duties.
8783. Boards of review: composition; duties.
8784. Removal of officer: action by Secretary of the Air Force upon recommendation.
8785. Rights and procedures.
8786. Officer considered for removal: voluntary retirement or honorable discharge; severance benefits.

§ 8781. Selection boards: composition; duties

The Secretary of the Air Force shall convene annually a selection board composed of five general officers. The selection board shall review the record of each commissioned officer on the active list of the Regular Air Force to determine whether he shall be required because of failure to achieve the standards of performance to be

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prescribed by the Secretary by regulation, to show cause for his retention on the active list.

§ 8782. Boards of inquiry: composition; duties

(a) Boards of inquiry, each composed of three or more general officers, shall be convened, at such places as the Secretary of the Air Force may prescribe, to receive evidence and make findings and recommendations as to the fitness of officers to be retained on the active list of the Regular Air Force.

(b) A fair and impartial hearing before a board of inquiry shall be given to each officer required to show cause for retention under section 8781 of this title.

(c) If a board of inquiry recommends the retention of an officer, his case is closed. However, at any future time he may be again required to show cause for retention under section 8781 of this title.

(d) If a board of inquiry recommends the removal of an officer from the active list of the Regular Air Force, it shall send the record of its proceedings to a board of review.

§ 8783. Boards of review: composition; duties

(a) Boards of review, each composed of five or more general officers, shall be convened by the Secretary of the Air Force, at such times as he may prescribe, to review the cases of officers recommended by boards of inquiry for removal from the active list of the Regular Air Force, and to make recommendations as to the retention of those officers.

(b) If a board of review recommends the retention of an officer, his case is closed. However, at any future time he may be again required to show cause for retention under section 8781 of this title.

(c) If a board of review recommends the removal of an officer from the active list of the Regular Air Force, it shall send its recommendations to the Secretary for his action.

§ 8784. Removal of officer: action by Secretary of the Air Force upon recommendation

The Secretary of the Air Force may remove an officer from the active list of the Regular Air Force for any cause that he considers sufficient, if removal for that cause is recommended by a board of review under this chapter. The Secretary's action in such a case is final and conclusive.

§ 8785. Rights and procedures

(a) Each officer under consideration for removal from the active list of the Regular Air Force under this chapter shall be—

(1) notified in writing of the pendency of any proceeding for his removal;

(2) allowed reasonable time to prepare his defense;

(3) allowed to appear in person and by counsel at proceedings before a board of inquiry and a board of review; and

(4) allowed full access to, and furnished copies of, records relevant to his case at all stages of the proceeding.

(b) No person may be a member of more than one board convened under this chapter for the same officer.

§ 8786. Officer considered for removal: voluntary retirement or honorable discharge; severance benefits

(a) At any time during proceedings under this chapter and before the removal of an officer from the active list of the Regular Air Force, the Secretary of the Air Force may grant his request—

(1) for voluntary retirement, if he is otherwise qualified therefor; or

(2) for honorable discharge with severance benefits under subsection (b).

(b) Each officer removed from the active list of the Regular Air Force under this chapter shall—

(1) if on the date of removal he is eligible for voluntary retirement under any law, be retired in the grade and with the pay to which he would be entitled if retired at his request; or

(2) if on that date he is ineligible for voluntary retirement, be honorably discharged in the grade then held with severance pay equal to one month's basic pay at the rate to which he was entitled on the date of discharge, multiplied by the number of years of his active commissioned service, but not more than 12.

(c) For the purposes of subsection (b) (2), 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 861.—SEPARATION FOR VARIOUS REASONS

Sec.

8811. Air Force enlisted members: discharge certificate; limitations on discharge.
8812. Air Force enlisted members: during war or emergency; discharge.
8813. Air Force enlisted members: dependency discharge.
8814. Regular commissioned officers: discharge during three-year probationary period.
8815. Regular enlisted members: resignation of members enlisted on career basis; limitations.
8816. Regular enlisted members; minority discharge.
8817. Aviation cadets: discharge.
8818. Regular female members: termination of appointment or enlistment.
8820. Air National Guard of United States officers: discharge.

§ 8811. Air Force enlisted members: discharge certificate; limitions on discharge

(a) A discharge certificate shall be given to each lawfully inducted or enlisted member of the Air Force upon his discharge.

(b) No enlisted member of the Air Force may be discharged before his term of service expires, except—

(1) as prescribed by the Secretary of the Air Force;

(2) by sentence of a general or special court-martial; or

(3) as otherwise provided by law.

§ 8812. Air Force enlisted members: during war or emergency discharge

A person enlisted under section 8254 of this title may be discharged at any time by the President, or otherwise according to law.

§ 8813. Air Force enlisted members: dependency discharge

The Secretary of the Air Force may discharge an enlisted member of the Air Force, if, after his enlistment or induction, members of his

family become dependent upon him for care or support because of the death or disability of a member of that family.

§ 8814. Regular commissioned officers: discharge during three-year probationary period

The Secretary of the Air Force may discharge a regular commissioned officer of the Air Force who has less than three years of continuous service as a commissioned officer therein. However, such an officer may not be discharged because of his marriage, unless the marriage occurred within one year after the date of his original appointment.

§ 8815. Regular enlisted members: resignation of members enlisted on career basis; limitations

(a) Except as provided in subsection (b), a Regular who serves at least three years of an enlistment for an unspecified period under section 8256 (b) of this title may submit his resignation to the Secretary of the Air Force and shall be discharged within three months thereafter.

(b) The Secretary is not required to accept a resignation submitted under subsection (a)—

(1) until the member completes two years of service in his current overseas assignment, if the resignation is submitted after the member embarks for such an assignment or while he is stationed overseas;

(2) until two years after the member completes a course of instruction under section 9301 of this title, if he has taken such a course;

(3) until six months after its submission, if the member is under investigation or in default concerning public property or funds;

(4) while the member is absent without leave or is serving a sentence of a court-martial; or

(5) during a war, or during a national emergency declared by Congress or the President.

§ 8816. Regular enlisted members: minority discharge

Upon the application of the parents or guardian of a regular enlisted member under 18 years of age who enlisted without the written consent of his parents or guardian, the Secretary of the Air Force shall discharge the member with the pay and form of discharge certificate to which his service entitles him.

§ 8817. Aviation cadets: discharge

The Secretary of the Air Force may discharge an aviation cadet at any time.

§ 8818. Regular female members: termination of appointment or enlistment

The Secretary of the Air Force, under regulations prescribed by the President, may terminate the appointment or enlistment of any female member of the Regular Air Force. However, the appointment of a commissioned officer may not be terminated under this section by dismissal.

§ 8820. Air National Guard of United States officers: discharge

(a) The Secretary may terminate the reserve appointment of an officer of the Air National Guard of the United States and withdraw his Federal recognition as an officer of the Air National Guard, if he has been absent without leave for three months.

(b) An officer of the Air National Guard of the United States whose Federal recognition as an officer of the Air National Guard is withdrawn under section 323 (b) of title 32 shall be discharged from his reserve appointment.

CHAPTER 863.—SEPARATION OR TRANSFER TO RETIRED RESERVE

[No present sections]

CHAPTER 865.—RETIREMENT FOR AGE

Sec.

8881. Age 50: Regular Air Force nurses and women medical specialists below major.
8882. Age 55: Regular Air Force nurses and women medical specialists above captain.
8883. Age 60: regular commissioned officers below major general.
8884. Age 60: regular major generals whose retirement has been deferred.
8885. Age 62: regular major generals.
8886. Age 64: regular major generals whose retirement has been deferred.
8887. Computation of years of service: discretionary retirement; Regular Air Force nurses and women medical specialists.
8888. Computation of years of service: mandatory retirement; regular commissioned officers.
8889. Computation of retired pay: law applicable.

§ 8881. Age 50: Regular Air Force nurses and women medical specialists below major

The Secretary of the Air Force may retire an Air Force nurse or a woman medical specialist—

(1) whose regular grade is below major;

(2) who has at least 20 years of service computed under section 8887 of this title; and

(3) who is at least 50 years of age.

§ 8882. Age 55: Regular Air Force nurses and women medical specialists above captain

The Secretary of the Air Force may retire an Air Force nurse or a woman medical specialist—

(1) whose regular grade is above captain;

(2) who has at least 20 years of service computed under section 8887 of this title; and

(3) who is at least 55 years of age.

§ 8883. Age 60: regular commissioned officers below major general

Unless retired or separated at an earlier date, each commissioned officer whose Regular grade is below major general, other than a professor of the United States Air Force Academy, shall be retired

when he becomes 60 years of age, except as provided by section 47a of title 5.

§ 8884. Age 60: regular major generals whose retirement has been deferred

Unless retired or separated at an earlier date, each commissioned officer whose regular grade is major general, and whose retirement under section 8923 of this title has been deferred under clause (1) of that section, shall be retired when he becomes 60 years of age, except as provided by section 47a of title 5.

§ 8885. Age 62: regular major generals

Unless retired or separated at an earlier date or unless retained under section 8923 (a) of this title, each commissioned officer whose regular grade is major general shall be retired when he becomes 62 years of age, except as provided by section 47a of title 5.

§ 8886. Age 64: regular major generals whose retirement has been deferred

Unless retired or separated at an earlier date, each commissioned officer whose regular grade is major general, and whose retirement under section 8923 of this title has been deferred under clause (2) of that section, and each permanent professor of the United States Air Force Academy, shall be retired when he becomes 64 years of age, except as provided by section 47a of title 5.

§ 8887. Computation of years of service: discretionary retirement; Regular Air Force nurses and women medical specialists

For the purpose of determining whether an Air Force nurse or a woman medical specialist may be retired under section 8881 or 8882 of this title, and of computing her retired pay under section 8991 of this title, her years of service are computed by adding—

(1) all active service; and

(2) all other service in the Navy or Marine Corps that may be credited in determining the eligibility of an officer of the Navy or Marine Corps for retirement.

§ 8888. Computation of years of service: mandatory retirement; regular commissioned officers

For the purpose of computing the retired pay of a commissioned officer of the Regular Air Force retired under section 8883, 8884, 8885, or 8886 of this title, his years of service are the greater of—

(1) the years of service credited to him in computing his basic pay; or

(2) his years of service computed under clause (A), (B), (C), (D), or (E), whichever applies:

(A) For an officer of the Regular Air Force appointed in the Regular Army or the Regular Air Force before January 1, 1948, under the Act of December 28, 1945, ch. 601 (59 Stat. 663), the service credited to him under that act at the time of his appointment, plus his years of active commissioned service in the Regular Army and the Regular Air Force after that appointment.

(B) For an officer appointed in the Regular Air Force under section 308 of the Women's Armed Services Integration Act of 1948 (62 Stat. 373), the service credited to her under that section at the time of her appointment, plus her years of active commissioned service in the Regular Air Force after that appointment.

(C) For a reserve judge advocate appointed in the Regular Army in the grade of captain in the Judge Advocate General's Department under section 24e of the National Defense Act, as amended (53 Stat. 558)—

(i) his years of active commissioned service in the Army after becoming 21 years of age, after December 7, 1941, and before the date of that appointment; or

(ii) the number of days, months, and years by which his age at the time of that appointment exceeded 25 years;

whichever is greater, plus his years of active commissioned service in the Regular Army and the Regular Air Force after that appointment.

(D) For an officer of the Regular Air Force appointed in the Regular Army or the Regular Air Force before December 31, 1947, other than an officer covered by clause (A) or (C), the sum of—

(i) his years of active commissioned service in the Regular Army and the Regular Air Force after that appointment; and

(ii) his years of active commissioned service in the Army and the Air Force after becoming 21 years of age and after December 7, 1941, under any earlier appointment.

(E) For an officer of the Regular Air Force appointed in the Regular Army or the Regular Air Force after December 31, 1947, other than an officer covered by clause (B), the sum of—

(i) his years of active commissioned service in the Regular Army and the Regular Air Force after that appointment; and

(ii) his years of active commissioned service in the Army and the Air Force after becoming 21 years of age and after December 31, 1947, under any earlier appointment.

§ 8889. Computation of retired pay: law applicable

A member of the Air Force retired under this chapter is entitled to retired pay computed under chapter 871 of this title.

CHAPTER 867.—RETIREMENT FOR LENGTH OF SERVICE

Sec.
8911. Twenty years or more: regular or reserve commissioned officers.
8912. Twenty years or more: Regular Air Force nurses and women medical specialists.
8913. Twenty years or more: deferred officers not recommended for promotion.
8914. Twenty to thirty years: regular enlisted members.
8915. Twenty-five years: female majors except those designated under section 8067 of this title.

Sec.
8916. Twenty-eight years: promotion-list lieutenant colonels.
8917. Thirty years or more: regular enlisted members.
8918. Thirty years or more: regular commissioned officers.
8919. Thirty years or more: regular commissioned officers; excessive number.
8920. More than thirty years: professors of the United States Air Force Academy.
8921. Thirty years or five years in grade: promotion-list colonels.
8922. Thirty years or five years in grade: regular brigadier generals.
8923. Thirty-five years or five years in grade: regular major generals.
8924. Forty years or more: Air Force officers.
8925. Computation of years of service: voluntary retirement; regular enlisted members.
8926. Computation of years of service: voluntary retirement; regular and reserve commissioned officers.
8927. Computation of years of service: mandatory retirement; regular commissioned officers.
8928. Computation of years of service: voluntary retirement; Regular Air Force nurses and women medical specialists.
8929. Computation of retired pay: law applicable.

§ 8911. Twenty years or more: regular or reserve commissioned officers

The Secretary of the Air Force may, upon the officer's request, retire a regular or reserve commissioned officer of the Air Force who has at least 20 years of service computed under section 8926 of this title, at least 10 years of which have been active service as a commissioned officer.

§ 8912. Twenty years or more: Regular Air Force nurses and women medical specialists

The Secretary of the Air Force may, upon the officer's request, retire an Air Force nurse, or a woman medical specialist, of the Regular Air Force who has at least 20 years of service computed under section 8928 of this title.

§ 8913. Twenty years or more: deferred officers not recommended for promotion

(a) A deferred officer who is not recommended for promotion under section 8303 (c) of this title, or an officer who is found disqualified for promotion under section 8302 (f) of this title, shall, if he has at least 20 years of service computed under section 8927 (a) of this title, be retired, except as provided by section 47a of title 5, one year and 30 days after the earlier of the following dates:

(1) The date of appointment to the grade concerned of the first officer junior to him on the list considered by the first selection board.

(2) The date on which he would have completed, for promotion purposes, 7, 14, or 21 years of service, if he is in the grade of first lieutenant, captain, or major, as the case may be, had his years of service not been reduced under section 8303 (b) of this title.

(b) Unless sooner retired or separated under another provision of law, a deferred officer who is not recommended for promotion under section 8303 (c) of this title, or an officer found disqualified for promotion under section 8302 (f) of this title, who is not eligible for retirement under subsection (a) of this section or any other provision of law, but is within two years of becoming entitled to retirement under subsection (a) or some other provision of law, shall be re-

tained on the active list in his regular grade until so entitled to retire, and then retired.

§ 8914. Twenty to thirty years: regular enlisted members

Under regulations to be prescribed by the Secretary of the Air Force, a regular enlisted member of the Air Force who has at least 20, but less than 30, years of service computed under section 8925 of this title may, upon his request, be retired. He then becomes a member of the Air Force Reserve, and shall perform such active duty as may be prescribed under law, until his service computed under section 8925 of this title, plus his inactive service as a member of the Air Force Reserve, equals 30 years.

§ 8915. Twenty-five years: female majors except those designated under section 8067 of this title

Unless retired or separated at an earlier date, each female officer of the Air Force whose regular grade is major, except an officer designated under section 8067 of this title, shall be retired, except as provided by section 47a of title 5, on the thirtieth day after she completes 25 years of service computed under section 8927 (a) of this title.

§ 8916. Twenty-eight years: promotion-list lieutenant colonels

(a) Unless retired or separated at an earlier date, each promotion-list officer in the regular grade of lieutenant colonel, except an Air Force nurse or a woman medical specialist, shall be retired, except as provided by section 47a of title 5, on the thirtieth day after he completes 28 years of service computed under section 8927 (a) of this title. However, if his name is carried on the list of officers recommended for appointment to the regular grade of colonel, he shall be retained on the active list while his name is so carried.

(b) The Secretary of the Air Force may defer the retirement under this section of—

(1) any promotion-list officer in the regular grade of lieutenant colonel who is a medical, dental, veterinary, or medical service officer, or a chaplain, but not later than the date on which he becomes 60 years of age;

(2) any female promotion-list officer in the regular grade of lieutenant colonel, except an officer designated under section 8067 of this title, until the thirtieth day after she completes 30 years of service computed under section 8927 (a) of this title; and

(3) any female promotion-list officer in the regular grade of lieutenant colonel, except an officer designated under section 8067 of this title, while serving in the temporary grade of colonel under section 8071 of this title.

§ 8917. Thirty years or more: regular enlisted members.

A regular enlisted member of the Air Force who has at least 30 years of service computed under section 8925 of this title shall be retired upon his request.

§ 8918. Thirty years or more: regular commissioned officers

A regular commissioned officer of the Air Force who has at least 30 years of service computed under section 8926 of this title may be retired upon his request, in the discretion of the President.

§ 8919. Thirty years or more: regular commissioned officers; excessive number

Whenever the Secretary of the Air Force believes that there are too many commissioned officers on the active list of the Regular Air Force, in any grade, who have at least 30 years of service computed under section 8927 (a) of this title, he may convene a board of at least five general officers of the Regular Air Force. The board shall consider all officers on the active list in that grade and with that service, and shall recommend officers by name for retirement, in the number specified by the Secretary. The Secretary may retire an officer so recommended.

§ 8920. More than thirty years: professors of the United States Air Force Academy

The Secretary of the Air Force may retire any permanent professor of the United States Air Force Academy who has more than 30 years of service as a commissioned officer.

§ 8921. Thirty years or five years in grade: promotion-list colonels

(a) Unless retired or separated at an earlier date, each promotion-list officer in the regular grade of colonel shall be retired, except as provided by section 47a of title 5, on the fifth anniversary of the date of his appointment in that regular grade or on the thirtieth day after he completes 30 years of service computed under section 8927 (a) of this title, whichever is later. However, if his name is carried on the list of officers recommended for appointment to the regular grade of brigadier general, he shall be retained on the active list while his name is so carried.

(b) The Secretary of the Air Force may defer the retirement under this section of any promotion-list officer in the regular grade of colonel who is a medical, dental, veterinary, or medical service officer, or a chaplain, but not later than the date on which he becomes 60 years of age. The number of deferments in effect under this subsection for any one promotion list at any one time may not be more than 10 percent of the number of colonels authorized for that list.

§ 8922. Thirty years or five years in grade: regular brigadier generals

(a) Unless retired or separated at an earlier date, each officer in the regular grade of brigadier general, other than a professor of the United States Air Force Academy, shall be retired, except as provided by section 47a of title 5, on the fifth anniversary of the date of his appointment in that regular grade, or on the thirtieth day after he completes 30 years of service computed under section 8927 (a) of this title, whichever is later. However, if his name is carried on the list of officers recommended for appointment to the regular grade of major general, he shall be retained on the active list while his name is so carried.

(b) The Secretary of the Air Force may defer the retirement under this section of any brigadier general who is serving in a higher temporary grade, but not later than the date on which he becomes 60

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years of age. Not more than five deferments under this subsection may be in effect at any one time.

§ 8923. Thirty-five years or five years in grade: regular major generals

Unless retired or separated at an earlier date, each officer in the regular grade of major general shall be retired, except as provided by section 47a of title 5, on the fifth anniversary of the date of his appointment in that regular grade, or on the thirtieth day after he completes 35 years of service computed under section 8927 (a) of this title, whichever is later. However, the Secretary of the Air Force may defer the retirement under this section of—

(1) any such major general, but not later than the date on which he becomes 60 years of age; and

(2) any such major general who is serving in a temporary grade above major general, or who is serving in a position that carries a grade above major general, but not later than the date on which he becomes 64 years of age; and not more than five deferments under this clause may be in effect at any one time.

§ 8924. Forty years or more: Air Force officers

(a) Except as provided in section 8786 of this title, a commissioned officer of the Air Force who has at least 40 years of service computed under section 8926 of this title shall be retired upon his request.

(b) Any warrant officer of the Air Force who has at least 40 years of service computed under section 8926 (a) of this title shall be retired upon his request.

§ 8925. Computation of years of service: voluntary retirement; regular enlisted members

(a) For the purpose of determining whether a regular enlisted member of the Air Force may be retired under section 8914 or 8917 of this title, and of computing his retired pay under section 8991 of this title, his years of service are computed by adding all active service in the armed forces and service computed under section 8683 of this title.

(b) Time required to be made up under section 8638 of this title may not be counted in computing years of service under subsection (a).

§ 8926. Computation of years of service: voluntary retirement; regular and reserve commissioned officers

(a) For the purpose of determining whether an officer of the Air Force may be retired under section 8911, 8918, or 8924 of this title, his years of service are computed by adding—

(1) all active service performed as a member of the Army or the Air Force;

(2) all service in the Navy or Marine Corps that may be included in determining the eligibility of an officer of the Navy or Marine Corps for retirement;

(3) all service computed under section 8683 of this title; and

(4) if an officer of the Regular Air Force, all active service performed as an officer of the Philippine Constabulary.

(b) For the purpose of determining whether a medical officer of the Regular Air Force may be retired under section 8911, 8918, or 8924

of this title, his years of service are computed by adding to his service under subsection (a) all service performed as a contract surgeon, acting assistant surgeon, or contract physician, under a contract to serve full time and to take and change station as ordered.

(c) For the purpose of determining whether a dental officer of the Regular Air Force may be retired under section 8911, 8918, or 8924 of this title, his years of service are computed by adding to his service under subsection (a) all service as a contract dental surgeon or acting dental surgeon.

§ 8927. Computation of years of service: mandatory retirement; regular commissioned officers

(a) For the purpose of determining whether a regular commissioned officer may be retired under section 8913, 8915, 8916, 8919, 8921, 8922, or 8923 of this title, his years of service are:

(1) For a commissioned officer of the Regular Air Force appointed in the Regular Army or the Regular Air Force before January 1, 1948, under the Act of December 28, 1945, ch. 601 (59 Stat. 663), the service credited to him under that act at the time of his appointment, plus his years of active commissioned service in the Regular Army and the Regular Air Force after that appointment.

(2) For a commissioned officer appointed in the Regular Air Force under section 308 of the Women's Armed Services Integration Act of 1948 (62 Stat. 373), the service credited to her under that section at the time of her appointment, plus her years of active commissioned service in the Regular Air Force after that appointment.

(3) For a reserve judge advocate appointed in the Regular Army in the grade of captain in the Judge Advocate General's Department under section 24e of the National Defense Act, as amended (53 Stat. 558)—

(A) his years of active commissioned service in the Army after becoming 21 years of age, after December 7, 1941, and before the date of that appointment; or

(B) the number of days, months, and years by which his age at the time of that appointment exceeded 25 years;

whichever is greater, plus his years of active commissioned service in the Regular Army and the Regular Air Force after that appointment.

(4) For a commissioned officer of the Regular Air Force appointed in the Regular Army or the Regular Air Force before December 31, 1947, other than an officer covered by clause (1) or (3), the sum of—

(A) his years of active commissioned service in the Regular Army and the Regular Air Force after that appointment; and

(B) his years of active commissioned service in the Army and the Air Force after becoming 21 years of age and after December 7, 1941, under any earlier appointment.

(5) For a commissioned officer of the Regular Air Force appointed in the Regular Army or the Regular Air Force after December 31, 1947, other than an officer covered by clause (2), the sum of—

(A) his years of active commissioned service in the Regular Army or the Regular Air Force after that appointment; and

(B) his years of active commissioned service in the Army or the Air Force after becoming 21 years of age and after December 31, 1947, under any earlier appointment.

(b) For the purpose of computing the retired pay of a commissioned officer of the Regular Air Force retired under section 8913, 8915, 8916, 8919, 8921, 8922, or 8923 of this title, his years of service are the greater of—

(1) the years of service credited to him in computing his basic pay; or

(2) his years of service computed under clause (1), (2), (3), (4), or (5) of subsection (a), whichever is applicable.

§ 8928. Computation of years of service: voluntary retirement; Regular Air Force nurses and women medical specialists

For the purpose of determining whether an Air Force nurse or a woman medical specialist may be retired under section 8912 of this title, and of computing her retired pay under section 8991 of this title, her years of service are computed by adding—

(1) all active service; and

(2) all service in the Navy or Marine Corps that may be credited in determining the eligibility of an officer of the Navy or Marine Corps for retirement.

§ 8929. Computation of retired pay: law applicable

A member of the Air Force retired under this chapter is entitled to retired pay computed under chapter 871 of this title.

CHAPTER 869.—RETIRED GRADE

Sec.
8961. General rule.
8962. Higher grade for service in special positions: regular commissioned officers.
8963. Higher grade for service during certain periods: regular and reserve commissioned officers.
8964. Higher grade after 30 years of service: Air Force warrant officers; regular enlisted members.
8965. Restoration to former grade: Regular Air Force warrant officers and enlisted members.
8966. Retired lists.

§ 8961. General rule

Unless entitled to a higher retired grade under some other provision of law, a Regular or Reserve of the Air Force who retires other than for physical disability retires in the regular or reserve grade that he holds on the date of his retirement.

§ 8962. Higher grade for service in special positions: regular commissioned officers

(a) Upon retirement, a commissioned officer of the Regular Air Force who has served (1) as Chief of Staff to the President, (2) as

Chief of Staff of the Air Force, (3) as a senior member of the Military Staff Committee of the United Nations, or (4) in a position of importance and responsibility designated by the President to carry the grade of general or lieutenant general under section 8066 of this title may, in the discretion of the President, be retired, by and with the advice and consent of the Senate, in the highest grade held by him at any time on the active list.

(b) Upon retirement, any woman Air Force officer who has served at least two and one-half years on active duty in the temporary grade of colonel in the Air Force under section 8071 of this title may, in the discretion of the President, be retired in that grade.

(c) Upon retirement, any permanent professor of the United States Air Force Academy whose grade is below brigadier general, and whose service as such a professor has been long and distinguished, may, in the discretion of the President, be retired in the grade of brigadier general.

§ 8963. Higher grade for service during certain periods: regular and reserve commissioned officers

(a) A regular commissioned officer who is retired, or a reserve commissioned officer who is retired or to whom retired pay is granted, is entitled to a retired grade equal to the highest temporary grade in the Army in which he served on active duty satisfactorily, as determined by the Secretary of the Air Force, for not less than six months, after September 8, 1940, and before July 1, 1946.

(b) Upon retirement, an Air Force nurse or woman medical specialist who was (1) a member of the Army Nurse Corps established by the Act of July 9, 1918, ch. 143 (40 Stat. 879), (2) a female dietitian or physical therapist appointed in the Army under the Act of December 22, 1942, ch. 805 (56 Stat. 1072), or (3) a female officer appointed in the Army under the Act of June 22, 1944, ch. 272 (58 Stat. 324), is entitled to a retired grade equal to the highest grade or relative rank in which she served on active duty satisfactorily, as determined by the Secretary, after September 8, 1940, and before July 1, 1946.

§ 8964. Higher grade after 30 years of service: Air Force warrant officers; regular enlisted members

Each warrant officer of the Air Force, and each enlisted member of the Regular Air Force, who is retired before or after this title is enacted is entitled, when his active service plus his service on the retired list totals 30 years, to be advanced on the retired list to the grade that is equal to the highest temporary grade in which he served on active duty satisfactorily, as determined by the Secretary of the Air Force, after September 8, 1940, and before July 1, 1946.

§ 8965. Restoration to former grade: Regular Air Force warrant officers and enlisted members

Each retired warrant officer or enlisted member of the Regular Air Force who has been advanced on the retired list to a higher commissioned grade under section 8964 of this title, and who applies

to the Secretary of the Air Force within three months after his advancement, shall, if the Secretary approves, be restored on the retired list to his former warrant-officer or enlisted status, as the case may be.

§ 8966. Retired lists

(a) The Secretary of the Air Force shall maintain a retired list, to be published annually in the official Air Force Register, containing the name of each retired commissioned officer of the Regular Air Force.

(b) The Secretary shall maintain a retired list, to be published annually in the official Air Force Register, containing the name of—

(1) each person entitled to retired pay under any law providing retired pay for commissioned officers of the Air Force, other than of the Regular Air Force; and

(2) each retired warrant officer or enlisted member of the Regular Air Force who is advanced to a commissioned grade.

(c) The Secretary shall maintain a retired list containing the name of each retired warrant officer of the Air Force.

(d) The Secretary shall maintain a retired list containing the name of each retired enlisted member of the Regular Air Force.

CHAPTER 871.—COMPUTATION OF RETIRED PAY

Sec.

8991. Computation of retired pay.
8992. Recomputation of retired pay to reflect advancement on retired list.

§ 8991. Computation of retired pay

The monthly retired pay of a person entitled thereto under this subtitle is computed according to the following table. For each case covered by a section of this title named in the column headed "For sections", retired pay is computed by taking, in order, the steps prescribed opposite it in columns 1, 2, 3, and 4, as modified by the applicable footnotes. However, if a person would otherwise be entitled to retired pay computed under more than one pay formula of this table or the table in section 1401 of this title, he is entitled to be

paid under the applicable formula that is most favorable to him. Section references below are to sections of this title.

Formula	For sections	Column 1 Take	Column 2 Multiply by	Column 3 Add	Column 4 Subtract
A	8881 8882 8912	Monthly basic pay to which member would be entitled if she were on active duty in her retired grade.	2½% of years of service credited to her under section 8887 or 8928, whichever is applicable.[4]		Excess over 75% of pay upon which computation is based.
B	8883 8884 8885 8886 8913 8915 8916 8919 8921 8922 8923	Monthly basic pay to which member would be entitled if he were on active duty in his retired grade.[1]	2½% of years of service credited to him under section 8888 or 8927 (b), whichever is applicable.[4]	Amount necessary to increase product of columns 1 and 2 to 50% of pay upon which computation is based.	Excess over 75% of pay upon which computation is based.
C	8911 8918 8920 8924	Monthly basic pay[2] of member's retired grade.[1]	2½% of years of service credited to him in determining basic pay.[4]		Excess over 75% of pay upon which computation is based.
D	8914	Monthly basic pay to which member was entitled on date when he applied for retirement.	2½% of years of service credited to him under section 8925.[4]	10% of product of columns 1 and 2 for extraordinary heroism in line of duty.[5]	Excess over 75% of pay upon which computation is based.
E	8917	Monthly basic pay[3] of member's retired grade.	2½% of years of service credited to him under section 8925.[4]		Excess over 75% of pay upon which computation is based.

[1] For the purposes of this section, determine member's retired grade as if section 8962 (a) did not apply.
[2] Compute at rates applicable on date of retirement and adjust to reflect later changes in applicable permanent rates. However, if member's retired grade is determined under section 8962 (b), 8963 (a), or 8963 (b), use pay to which member would be entitled if he were on active duty in his retired grade.
[3] Compute at rates applicable on date of retirement.
[4] Before applying percentage factor, credit a part of a year that is six months or more as a whole year, and disregard a part of a year that is less than six months.
[5] The Secretary of the Air Force's determination as to extraordinary heroism is conclusive for all purposes.

§ 8992. Recomputation of retired pay to reflect advancement on retired list

A member of the Air Force who is advanced on the retired list under section 8964 of this title is entitled to recompute his retired pay as follows:

Column 1 Take	Column 2 Multiply by	Column 3 Add	Column 4 Subtract
Monthly basic pay or base and longevity pay, as the case may be,[1] of grade to which member is advanced on retired list.	2½% of years of service credited to him under section 8925 of this title.[2]		Excess over 75% of pay upon which computation is based.

[1] Compute at rates applicable on date of retirement.
[2] Before applying percentage factor, credit a part of a year that is six months or more as a whole year, and disregard a part of a year that is less than six months.

CHAPTER 873.—CIVILIAN EMPLOYEES

Sec.
9021. Appointment: professional and scientific services.
9022. Contract surgeons.
9023. Service club and library services.
9025. Production of supplies and munitions: hours and pay of laborers and mechanics.

§ 9021. Appointment: professional and scientific services

(a) The Secretary of the Air Force may establish within the Department of the Air Force not more than 13 positions to carry out research and development relating to the national defense, military 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.

§ 9022. Contract surgeons

(a) In an emergency the Secretary of the Air Force may employ as many contract surgeons as may be necessary.

(b) When a contract surgeon is in charge of an Air Force hospital, he has the same authority as a medical officer.

§ 9023. Service club and library services

Without regard to civil-service rules and regulations, the Secretary of the Air Force may employ in the service club and library services those civilians whose salaries are paid from appropriations.

§ 9025. Production of supplies and munitions: hours and pay of laborers and mechanics

During a national emergency declared by the President, the regular working hours of laborers and mechanics of the Department of the Air Force producing military supplies or munitions are 8 hours a day or 40 hours a week. However, under regulations prescribed by the Secretary of the Air Force these hours may be exceeded. Each laborer or mechanic who works more than 40 hours in a workweek shall be paid at a rate not less than one and one-half times the regular hourly rate for each hour in excess of 40.

PART III. TRAINING

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CHAPTER 901.—TRAINING GENERALLY

Sec.

9301. Members of Air Force: detail as students, observers, and investigators at educational institutions, industrial plants, and hospitals.
9302. Enlisted members of Air Force: schools.
9303. Aviation cadets and aviation students: schools.
9304. Aviation students: detail of enlisted members of Air Force.
9305. Civilian flying school instructors: instruction at Air Force training commands.
9306. Service schools: leaves of absence for instructors.
9314. United States Air Force Institute of Technology: degrees.

§ 9301. Members of Air Force: detail as students, observers, and investigators at educational institutions, industrial plants, and hospitals

(a) The Secretary of the Air Force may detail members of the Air Force as students at such technical, professional, and other civilian educational institutions, or as students, observers, or investigators at such industrial plants, hospitals, and other places, as are best suited to enable them to acquire knowledge or experience in the specialties in which it is considered necessary that they perfect themselves.

(b) An officer, other than one of the Regular Air Force on the active list, who is detailed under subsection (a) shall be ordered to additional active duty immediately upon termination of the detail, for a period at least as long as the detail but not longer than four years. However, if the detail is for 90 days or less, the officer may be ordered to that additional duty only with his consent and in the discretion of the Secretary.

(c) No Reserve of the Air Force may be detailed as a student, observer, or investigator, or ordered to active duty under this section, without his consent and, if a member of the Air National Guard of the United States, without the approval of the governor or other appropriate authority of the State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia of whose Air National Guard he is a member.

(d) The Secretary may require, as a condition of a detail under subsection (a), that an enlisted member accept a discharge and be reenlisted in his component for at least three years.

(e) The total length of details of an enlisted member of the Air Force under subsection (a) during one enlistment period may not exceed 50 percent of that enlistment.

(f) At no time may more than 8 percent of the authorized strength in commissioned officers, 8 percent of the authorized strength in warrant officers, or 2 percent of the authorized strength in enlisted members, of the Regular Air Force, or more than 8 percent of the actual strength in commissioned officers, 8 percent of the actual strength in warrant officers, or 2 percent of the actual strength in enlisted members, of the total of reserve components of the Air Force, be detailed as students under subsection (a). For the purposes of this subsection, the actual strength of each category of Reserves includes both members on active duty and those not on active duty.

(g) Expenses incident to the detail of members under this section shall be paid from any funds appropriated for the Department of the Air Force.

§ 9302. Enlisted members of Air Force: schools

(a) So far as consistent with the requirements of military training and service, and under regulations to be prescribed by the Secretary of the Air Force with the approval of the President, enlisted members of the Air Force shall be permitted to study and receive instruction to increase their military efficiency and to enable them to return to civilian life better equipped for industrial, commercial, and business occupations. Part of this instruction may be vocational education in agriculture or the mechanic arts. Civilian teachers may be employed to aid Air Force officers in this instruction.

(b) Schools for the instruction of enlisted members of the Air Force in the common branches of education, including United States history, shall be maintained at all air bases at which members of the Air Force are stationed. The Secretary may detail members of the Air Force to carry out this subsection. The commander of each air base where schools are maintained under this subsection shall provide a suitable room or building for school and religious purposes.

§ 9303. Aviation cadets and aviation students: schools

The Secretary of the Air Force shall establish and maintain—

(1) one or more schools for the training and instruction of aviation cadets; and

(2) courses of instruction for aviation students at one or more established flying schools.

§ 9304. Aviation students: detail of enlisted members of Air Force

The Secretary of the Air Force may detail enlisted Regulars of the Air Force, and enlisted Reserves of the Air Force who are on active duty, for training and instruction as aviation students in their respective grades at schools selected by him.

§ 9305. Civilian flying school instructors: instruction at Air Force training commands

(a) The Secretary of the Air Force may provide for the instruction and training, at Air Force training commands, of civilians selected from the instructional staffs of civilian flying schools that are accredited by the Department of the Air Force for the education and training of members of the Air Force.

(b) The training of civilians under subsection (a) shall be without cost to the United States, except for supplies necessary for training purposes.

(c) A civilian undergoing training under subsection (a) may be treated in a Government hospital if he becomes sick or is injured. However, that treatment shall be without cost to the United States except for services of Government medical personnel and the use of hospital equipment other than medicine or supplies.

(d) No civilian who sustains a personal injury, and no dependent of a civilian who dies of disease or injury, while undergoing training under subsection (a), is entitled to any compensation, pension, or gratuity for that injury or death.

§ 9306. Service schools: leaves of absence for instructors

The officer in charge of an Air Force service school may grant a leave of absence for the period of the suspension of the ordinary academic studies, without deduction of pay or allowances, to any officer on duty exclusively as an instructor at the school.

§ 9314. United States Air Force Institute of Technology: degrees

When the United States Air Force Institute of Technology is accredited by a nationally recognized accreditation association or authority, the Commander of the Air University may, under such regulations as the Secretary of the Air Force may prescribe, confer appropriate degrees upon persons who meet the requirements for those degrees in the Resident College of that Institute.

CHAPTER 903.—UNITED STATES AIR FORCE ACADEMY

Sec.
9331. Establishment; Superintendent; faculty.
9332. Departments and professors: titles.
9333. Superintendent; faculty: appointment and detail.
9334. Command and supervision.
9335. Dean of the Faculty.
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§ 9331. Establishment; Superintendent; faculty

(a) There is in the Department of the Air Force an Air Force Academy, in this chapter called the "Academy", for the instruction and preparation for military service of selected persons called "Air Force cadets". The organization of the Academy shall be prescribed by the Secretary of the Air Force.

(b) There shall be at the Academy the following:

(1) A Superintendent.
(2) A dean of the Faculty, who is a permanent professor.
(3) A Commandant of Cadets.
(4) 21 permanent professors.
(5) A chaplain.

§ 9332. Departments and professors: titles

The Secretary of the Air Force may prescribe the titles of each of the departments of instruction and the professors of the Academy. However, the change of the title of a department or officer does not affect the status, rank, or eligibility for promotion or retirement of, or otherwise prejudice, a professor at the Academy.

§ 9333. Superintendent; faculty: appointment and detail

(a) The Superintendent and the Commandant of Cadets of the Academy shall be detailed to those positions by the President from the officers of the Air Force.

(b) The permanent professors of the Academy shall be appointed by the President, by and with the advice and consent of the Senate.

§ 9334. Command and supervision

(a) The immediate government of the Academy is under the Superintendent, who is also the commanding officer of the Academy and of the military post.

(b) The permanent professors exercise command only in the academic department of the Academy.

§ 9335. Dean of the Faculty

(a) The Dean of the Faculty shall be appointed as an additional permanent professor from the permanent professors who have served as heads of departments of instruction at the Academy.

(b) The Dean has the regular grade of brigadier general while serving as such, with the benefits authorized for regular brigadier generals of the Air Force, except that his retirement age is that of a permanent professor of the Academy.

§ 9336. Permanent professors

A permanent professor of the Academy, other than the Dean of the Faculty, who is the head of a department of instruction, or who has served as such a professor for more than six years, has the regular grade of colonel. However, a permanent professor appointed from the Regular Air Force has the Regular grade of colonel after the date when he completes six years of service as a professor, or after the date when a promotion-list officer, junior to him on the promotion list on which his name was carried before his appointment as a professor, is promoted to the regular grade of colonel, whichever is earlier. All other permanent professors have the regular grade of lieutenant colonel.

§ 9337. Chaplain

There shall be a chaplain at the Academy, who must be a clergyman, appointed by the President for a term of four years. The chaplain is entitled to a salary of $5,482.80 a year, and to the same allowances for public quarters as are allowed to a captain, and to fuel and light for quarters in kind. The chaplain may be reappointed and, if reappointed, he is entitled to a salary of $6,714 a year and those allowances.

§ 9341. Faculty and other officers: leaves of absence

The Superintendent of the Academy may grant a leave of absence for the period of the suspension of the ordinary academic studies, without deduction of pay or allowances, to a professor, assistant professor, instructor, or other officer of the Academy.

§ 9342. Cadets: appointment; numbers, territorial distribution

(a) The authorized strength of Air Force Cadets of the Academy is as follows—

(1) eight cadets from each State, four nominated by each Senator from the State;

(2) four cadets from each congressional district, nominated by the Representative from the district;

(3) four cadets from each Territory, nominated by the Delegate in Congress from the Territory;

(4) four cadets from Puerto Rico, nominated by its Resident Commissioner;

(5) six cadets from the District of Columbia, nominated by its Commissioners;

(6) two cadets nominated by the Governor of the Canal Zone;

(7) 172 cadets from the United States at large, selected or nominated under subsection (e);

(8) 180 cadets from enlisted members of the Air Force, appointed under subsection (g); and

(9) in addition to the cadets authorized in clauses (1)–(8), any cadets appointed under subsection (h).

(b) All cadets are appointed by the President. An appointment is conditional until the cadet is admitted.

(c) No person may be nominated under clauses (1)–(5) of subsection (a), unless he is 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.

(d) To be eligible for nomination by the Governor of the Canal Zone, a person must be the son of a civilian residing in the Canal Zone, or of a civilian officer or employee of the United States or the Panama Canal Company residing in the Republic of Panama.

(e) Of the 172 cadets authorized to be appointed from the United States at large—

(1) 89 may be personally selected by the President;

(2) 3 may be nominated by the Vice President;

(3) 40 shall be nominated under regulations prescribed by the Secretary of the Air Force, from honor graduates of the schools designated by the Department of the Army or the Department of the Air Force as honor military schools or by the Department of the Navy as honor naval schools; and

(4) 40, otherwise qualified for admission, may be 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)

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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.

(f) For the purposes of subsection (e) (4), a determination by the Veterans' Administration whether a death is service-connected is binding upon the Secretary of the Air Force.

(g) Of the 180 cadets authorized to be appointed from the enlisted members of the Army and the Air Force, 90 may be appointed from the Regular Army and the Regular Air Force, and 90 from the reserve components of the Army and the Air Force. For each vacancy to be filled from one of those categories, there may be selected to compete at an annual examination three candidates from that category who have served at least one year on active duty or in an active-duty training status, including training performed under sections 502, 503, 504, and 505 of title 32. Appointments to fill vacancies from those categories shall be made from candidates, in order of their merit, making the highest grades on the examination. The Secretary shall prescribe regulations for the selection of candidates under this subsection.

(h) If he is otherwise qualified for admission, the son of a person to whom the Medal of Honor has been awarded for an act performed while in the armed forces may be appointed a cadet from the United States at large.

§ 9343. Cadets: appointment; to bring to full strength

If it is determined that, upon the admission of a new class to the Academy, the number of cadets at the Academy will be below the authorized number, the Secretary of the Air Force may nominate as many qualified alternates and other qualified candidates who competed for nomination and are recommended and found qualified by the Faculty as are necessary to meet the needs of the Air Force, but not more than the authorized strength of Air Force cadets. At least two-thirds of those nominated under this section shall be selected from qualified alternates nominated by the persons named in clauses (1)–(6) of section 9342 (a), and clause (2) of section 9342 (e), of this title, and the remainder from qualified candidates holding competitive nominations under any other provision of law. An appointment under this section is an additional appointment and is not in place of an appointment otherwise authorized by law.

§ 9344. Selection of persons from Canada and American Republics

(a) Upon designation by the President, the Secretary of the Air Force may permit not more than 20 persons at any one time from Canada and the American Republics, other than the United States, to receive instruction at the Academy. However, not more than three persons from any one of those republics or from Canada may receive instruction under this section at any one time.

(b) A person receiving instruction under this section is entitled to the pay, allowances, and emoluments of a cadet appointed from the United States, and from the same appropriations. However, the mileage allowance payable to that person for travel to the Academy for initial admission is not limited to mileage for travel within the United States.

(c) 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 cadet at the Academy appointed from the United States. However, a person receiving instruction under this section is not entitled to appointment in the Air Force by reason of his graduation from the Academy.

§ 9345. Selection of Filipinos

(a) The Secretary of the Air Force may permit not more than four Filipinos at any one time to receive instruction at the Academy. Of these, one may be designated by the President of the Republic of the Philippines for each entering class.

(b) A Filipino receiving instruction under this section is entitled to the pay, allowances, and emoluments of a cadet appointed from the United States, and from the same appropriations.

§ 9346. Cadets: requirements for admission

(a) To be eligible for admission to the Academy a candidate must be at least 17 years of age and must not have passed his twenty-second birthday on July 1 of the year in which he enters the Academy.

(b) To be admitted to the Academy, an appointee must show, by an examination held under regulations prescribed by the Secretary of the Air Force, that he is qualified in the subjects prescribed by the Secretary.

(c) A candidate designated as a principal or an alternate for appointment as a cadet shall appear for physical examination at a time and place designated by the Secretary.

§ 9347. Cadets; nominees: effect of redistricting of States

If as a result of redistricting a State the domicile of a cadet, 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 cadets 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 cadet or when he is finally separated from the Academy.

§ 9348. Cadets: agreement to serve as officer

Each cadet 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 Academy;

(2) accept an appointment and serve as a commissioned officer of the Regular Air Force for at least the three years immediately after graduation; and

(3) accept an appointment as a commissioned officer as a Reserve for service in the Air Force Reserve and remain therein until the sixth anniversary of his graduation, if an appointment in the Regular Air 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 cadet is a minor and has parents or a guardian, he may sign the agreement only with the consent of the parents or guardian.

§ 9349. Cadets: organization; service; instruction

(a) A cadet shall perform duties at such places and of such type as the President may direct.

(b) The course of instruction at the Academy is four years.

(c) The Secretary of the Air Force shall so arrange the course of studies at the Academy that cadets are not required to pursue their studies on Sunday.

(d) Cadets shall be trained in the duties of members of the Air Force.

§ 9350. Cadets: clothing and equipment

(a) The Secretary of the Air Force may prescribe the amount to be credited to a cadet, upon original admission to the Academy, for the cost of his initial issue of clothing and equipment. That amount shall be deducted from his pay. If a cadet is discharged before graduation while owing the United States for pay advanced for the purchase of required clothing and equipment, he shall turn in so much of his clothing and equipment of a distinctive 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.

(b) Under such regulations as the Secretary may prescribe, uniforms and equipment shall be furnished to a cadet at the Academy upon his request.

§ 9351. Cadets: deficiencies in conduct or studies; effect of failure on successor

(a) A cadet who is reported as deficient in conduct or studies and recommended to be discharged from the Academy may not, unless recommended by the Academy Board, be returned or reappointed to the Academy.

(b) Any cadet who fails to pass a required examination because he is deficient in any one subject of instruction is entitled to a reexamination of equal scope and difficulty in that subject, if he applies in writing to the Superintendent within 10 days after he is officially notified of his failure. The reexamination shall be held within 60 days after the date of his application. If the cadet passes the reexamination and is otherwise qualified, he shall be readmitted to the Academy. If he fails, he may not have another examination.

(c) The failure of a member of a graduating class to complete the course with his class does not delay the admission of his successor.

§ 9352. Cadets: hazing

(a) Subject to the approval of the Secretary of the Air Force, the Superintendent of the Academy shall issue regulations—

(1) defining hazing;

(2) designed to prevent that practice; and

(3) prescribing dismissal, suspension, or other adequate punishment for violations.

(b) If a cadet who is charged with violating a regulation issued under subsection (a), the penalty for which is or may be dismissal from the Academy, requests in writing a trial by a general court-martial, he may not be dismissed for that offense except under sentence of such a court.

(c) A cadet dismissed from the Academy for hazing may not be reappointed as an Air Force cadet, and is ineligible for appointment as a commissioned officer in a regular component of the Army, Navy, Air Force, or Marine Corps, until two years after the graduation of his class.

§ 9353. Cadets: degree and commission on graduation

(a) Under such conditions as the Secretary of the Air Force may prescribe, the Superintendent of the Academy may confer the degree of bachelor of science upon graduates of the Academy.

(b) Notwithstanding any other provision of law except section 541 of this title, a cadet who completes the prescribed course of instruction may, upon graduation, be appointed a second lieutenant in the Regular Air Force.

§ 9354. Buildings and grounds: buildings for religious worship

The Secretary of the Air Force may authorize any denomination, sect, or religious body to erect a building for religious worship at the Air Force Academy, if its erection will not interfere with the use of the reservation for military purposes and will be without expense to the United States. Such a building shall be removed, or its location changed, without compensation for it and without expense to the United States, by the denomination, sect, or religious body that erected it, whenever in the opinion of the Secretary public or military necessity so requires.

§ 9355. Board of Visitors

(a) A Board of Visitors to the 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) Of the first six persons designated by the President, two shall be designated to serve for one year, two shall be designated to serve for two years, and two shall be designated to serve for three years. Persons designated thereafter 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 Air Force, 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.

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(e) The Board shall inquire into the morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, academic methods, and other matters relating to the Academy which 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.

CHAPTER 905.—AIR FORCE RESERVE OFFICERS' TRAINING CORPS

Sec.
9381. Advanced training: definition.
9382. Establishment and composition.
9383. Medical, dental, pharmacy, and veterinary students: admission.
9384. Courses of training.
9385. Training camps.
9386. Supplies and uniforms.
9387. Advanced training: compensation.

§ 9381. Advanced training: definition

In this chapter, "advanced training" means the training and instruction in air science and tactics offered in the senior division of the Air Force Reserve Officers' Training Corps to students who complete the two years' elective or compulsory course in that subject or are credited with equivalent training under section 9387 of this title.

§ 9382. Establishment and composition

(a) The President may establish and maintain in civil educational institutions an Air Force Reserve Officers' Training Corps having—

(1) a senior division at universities and colleges granting degrees, and at schools essentially military that do not confer academic degrees and that are designated as qualified by the Secretary of the Air Force; and

(2) a junior division at other public or private educational institutions.

(b) Each division shall consist of one or more units in the strengths prescribed by the President.

(c) No unit may be established or maintained at an institution, unless—

(1) a commissioned officer of the Regular Air Force is detailed to it as professor of air science and tactics;

(2) the institution maintains under military instruction at least 50 physically fit male students for each unit; and

(3) the authorities of the institution, other than a State university or a State institution required to provide military instruction under section 304 of title 37, agree to establish and maintain a two

years' elective or compulsory course of military training as a minimum for its physically fit male students the completion of which is a prerequisite for the graduation of any student beginning the course unless he is relieved of this obligation under regulations prescribed by the Secretary.

(d) Only a person who is a citizen of the United States, who is at least 14 years of age, who is a student at an institution where a unit of the Corps is established, and whose condition shows that he is physically able to perform military duty or that he will be so on becoming of military age, is eligible to be a member of the Air Force Reserve Officers' Training Corps.

§ 9383. Medical, dental, pharmacy, and veterinary students: admission

(a) A medical, dental, pharmacy, or veterinary student may be admitted to a medical, dental, pharmacy, or veterinary unit of the Air Force Reserve Officers' Training Corps for a course of training consisting of 90 hours of instruction a year for four academic years.

(b) Under such conditions as the Secretary of the Air Force may prescribe, a medical, dental, pharmacy, or veterinary student who is a commissioned officer of a reserve component of the Air Force may be admitted to and trained in a medical, dental, pharmacy, or veterinary unit of the Air Force Reserve Officers' Training Corps.

§ 9384. Courses of training

The Secretary of the Air Force may prescribe standard courses of theoretical and practical military training for units of the Air Force Reserve Officers' Training Corps. No unit may be established or maintained at an institution unless it provides the course of military training prescribed by the Secretary and unless its students who are taking that training devote to it an average of at least three hours a week during an academic year, except as prescribed under section 9383 of this title.

§ 9385. Training camps

(a) The Secretary of the Air Force may—

(1) maintain camps for the further practical instruction of members of the Air Force Reserve Officers' Training Corps;

(2) transport members of the Corps to and from those camps and furnish them subsistence while traveling to and from those camps or, instead of transportation and subsistence, pay them a travel allowance of five cents a mile by the shortest usually traveled route from the places from which they are authorized to proceed to the camp and return, and pay the allowance for the return trip in advance;

(3) furnish subsistence to members of the Corps while at a camp;

(4) furnish medical attendance and supplies to members of the Corps, and admit them to military hospitals at those camps;

(5) use members of the Regular Air Force, and such property of the United States as he considers necessary, for the training of the members of the Corps at those camps; and

(6) provide for the government of those camps.

(b) Except in time of actual or threatened hostilities, no camp may be maintained under subsection (a) (1) for more than six weeks in any one year.

(c) A member of the Air Force Reserve Officers' Training Corps and any other person authorized by the Secretary to take advanced training at a camp authorized under subsection (a) (1) is entitled, while training at the camp, to pay at the rate prescribed for enlisted members of the Air Force in pay grade E–1 (under 4 months).

§ 9386. Supplies and uniforms

(a) Under such conditions as he may prescribe, the Secretary of the Air Force may issue to institutions at which units of the Air Force Reserve Officers' Training Corps are maintained—

(1) public animals and forage for them;

(2) means of transportation, arms, ammunition, supplies, and tentage; and

(3) uniforms, except that he may pay commutation at a rate fixed by him annually instead of uniforms.

(b) The Secretary may authorize such expenditures as he considers necessary for the efficient maintenance of the Corps.

(c) The Secretary shall require, from each institution to which property is issued under subsection (a), a bond or other indemnity in such amount as he considers adequate, but not less than $5,000, for the care and safekeeping of all property so issued except uniforms, expendable articles and supplies expended in operation, maintenance, and instruction. The Secretary may accept a bond without surety if the institution to which the property is issued furnishes to him satisfactory evidence of its financial responsibility.

§ 9387. Advanced training: compensation

(a) A member of the senior division of the Air Force Reserve Officers' Training Corps is eligible for advanced training, and is entitled to an allowance for subsistence at such rate, not exceeding the cost of the garrison ration of the Air Force, as may be fixed by the Secretary of the Air Force during the remainder of his service in the Air Force Reserve Officers' Training Corps, but not more than two years, if he—

(1) has completed two academic years of training in the senior division or equivalent training under subsection (b);

(2) has been selected for advanced training by the head of the institution and the professor of air science and tactics;

(3) agrees in writing to continue in the Air Force Reserve Officers' Training Corps for the remainder of his course at the institution;

(4) agrees in writing to devote five hours a week to the military training prescribed by the Secretary or, if a medical, dental, pharmacy, or veterinary student, to continue in training for the remainder of the course prescribed by section 9383 of this title; and

(5) agrees in writing to take a course prescribed by the Secretary, at a training camp.

(b) Under such regulations as the Secretary may prescribe, in determining a member's eligibility for advanced training and entitlement to an allowance for subsistence under subsection (a), he may

be credited with periods of military training, if that training is substantially equivalent to that prescribed for admission to the advanced course and is received while he is—

(1) taking a course of instruction in the Reserve Officers' Training Corps of the Army;

(2) taking a course of instruction in the Naval Reserve Officers' Training Corps; or

(3) on active duty in the armed forces.

(c) A person selected for advanced training under this section may be allowed to delay the start of that training and to interrupt it, if, under the rules of the institution, there will be time enough after any delay or interruption and before graduation to complete the advanced training.

CHAPTER 907.—SCHOOLS AND CAMPS

Sec.
9411. Establishment: purpose.
9412. Operation.
9413. Transportation and subsistence during travel.
9414. Quartermaster and ordnance property: sales.

§ 9411. Establishment: purpose

The Secretary of the Air Force may maintain schools and camps for the military instruction and training of persons selected, upon their application, from warrant officers and enlisted members of the Air Force and civilians, to qualify them for appointment as reserve officers, or enlistment as reserve noncommissioned officers, for service in the Air Force Reserve.

§ 9412. Operation

In maintaining camps established under section 9411 of this title, the Secretary of the Air Force may —

(1) prescribe the periods during which they will be operated;

(2) prescribe regulations for their administration;

(3) prescribe the courses to be taught;

(4) detail members of the Regular Air Force to designated duties relating to the camps;

(5) use necessary supplies and transportation;

(6) furnish uniforms, subsistence, and medical attendance and supplies to persons attending the camps; and

(7) authorize necessary expenditures from proper Air Force funds for—

(A) water;

(B) fuel;

(C) light;

(D) temporary structures, except barracks and officers' quarters;

(E) screening;

(F) damages resulting from field exercises;

(G) expenses incident to theoretical winter instruction of trainees; and

(H) other expenses incident to maintaining the camps.

§ 9413. Transportation and subsistence during travel

(a) There may be furnished to a person attending a school or camp established under section 9411 of this title, for travel to and from that school or camp—

(1) transportation and subsistence;

(2) transportation in kind and a subsistence allowance of one cent a mile; or

(3) a travel allowance of five cents a mile.

(b) The travel allowance for the return trip may be paid in advance.

(c) For the purposes of this section, distance is computed by the shortest usually traveled route, within such territorial limits as the Secretary of the Air Force may prescribe, from the authorized starting point to the school or camp and return.

§ 9414. Quartermaster and ordnance property: sales

The Secretary of the Air Force may sell to a person attending a school or camp established under section 9411 of this title quartermaster and ordnance property necessary for his proper equipment. Sales under this section shall be for cash.

CHAPTER 909.—CIVIL AIR PATROL

Sec.
9441. Status: support by Air Force; employment.

§ 9441. Status: support by Air Force; employment

(a) The Civil Air Patrol is a volunteer civilian auxiliary of the Air Force.

(b) To assist the Civil Air Patrol in the fulfillment of its objectives as set forth in section 202 of title 36, the Secretary of the Air Force may, under regulations prescribed by him with the approval of the Secretary of Defense—

(1) give, lend, or sell to the Civil Air Patrol without regard to the Federal Property and Administrative Services Act of 1949, as amended (40 U. S. C. 471 et seq.)—

(A) major items of equipment, including aircraft, motor vehicles, and communication equipment; and

(B) necessary related supplies and training aids;

that are excess to the military departments;

(2) permit the use of such services and facilities of the Air Force as he considers to be needed by the Civil Air Patrol to carry out its mission;

(3) furnish such quantities of fuel and lubricants to the Civil Air Patrol as are needed by it to carry out any mission assigned to it by the Air Force;

(4) establish, maintain, and supply liaison offices of the Air Force at the National, State, and Territorial headquarters, and at not more than eight regional headquarters, of the Civil Air Patrol;

(5) detail or assign any member of the Air Force or any officer or employee of the Department of the Air Force to any liaison office at the National, State, or Territorial headquarters, and at not more than eight regional headquarters, of the Civil Air Patrol;

(6) detail any member of the Air Force or any officer or employee of the Department of the Air Force to any unit or installation of the Civil Air Patrol to assist in the training program of the Civil Air Patrol; and

(7) in time of war, or of national emergency declared after May 27, 1954, by Congress or the President, authorize the payment of travel expenses and allowances, in accordance with the Travel Expense Act of 1949 (5 U. S. C. 835 et seq.), to members of the Civil Air Patrol while carrying out any mission specifically assigned by the Air Force.

(c) The Secretary may use the services of the Civil Air Patrol in fulfilling the noncombat mission of the Department of the Air Force.

PART IV. SERVICE, SUPPLY, AND PROCUREMENT

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CHAPTER 931.—INDUSTRIAL MOBILIZATION, RESEARCH, AND DEVELOPMENT

Sec.
9501. Industrial mobilization: orders; priorities; possession of manufacturing plants; violations.
9502. Industrial mobilization: plants; lists; Board on Mobilization of Industries Essential for Military Preparedness.
9503. Research and development programs.
9504. Procurement for experimental purposes.
9505. Procurement of production equipment.
9506. Sale, loan, or gift of samples, drawings, and information to contractors.
9507. Sale of ordnance and ordnance stores to designers.

§ 9501. Industrial mobilization: orders; priorities; possession of manufacturing plants; violations

(a) In time of war or when war is imminent, the President, through the head of any department, may order from any person or organized manufacturing industry necessary products or materials of the type usually produced or capable of being produced by that person or industry.

(b) A person or industry with whom an order is placed under subsection (a), or the responsible head thereof, shall comply with that order and give it precedence over all orders not placed under that subsection.

(c) In time of war or when war is imminent, the President, through the head of any department, may take immediate possession of any plant that is equipped to manufacture, or that in the opinion of the Secretary of the Air Force is capable of being readily transformed

into a plant for manufacturing, arms or ammunition, parts thereof, or necessary supplies for the Air Force, if the person or industry owning or operating the plant, or the responsible head thereof, refuses—

(1) to give precedence to the order as prescribed in subsection (b);

(2) to manufacture the kind, quantity, or quality of arms or ammunition, parts thereof, or necessary supplies as ordered by the Secretary; or

(3) to furnish them at a reasonable price as determined by the Secretary.

(d) The President, through the Secretary, may manufacture products that are needed in time of war or when war is imminent, in any plant that is seized under subsection (c).

(e) Each person or industry from whom products or materials are ordered under subsection (a) is entitled to a fair and just compensation. Each person or industry whose plant is seized under subsection (c) is entitled to a fair and just rental.

(f) Whoever fails to comply with this section shall be imprisoned for not more than three years and fined not more than $50,000.

§ 9502. Industrial mobilization: plants; lists; Board on Mobilization of Industries Essential for Military Preparedness

(a) The Secretary of the Air Force shall maintain a list of all privately owned plants in the United States, and the Territories, Commonwealths, and possessions, that are equipped to manufacture for the Air Force arms or ammunition, or parts thereof, and shall obtain complete information of the kinds of those products manufactured or capable of being manufactured by each of those plants, and of the equipment and capacity of each of those plants.

(b) The Secretary shall maintain a list of privately owned plants in the United States, and the Territories, Commonwealths, and possessions, that are capable of being readily transformed into factories for the manufacture of ammunition for the Air Force, and that have a capacity sufficient to warrant conversion into ammunition plants in time of war or when war is imminent, and shall obtain complete information as to the equipment of each of those plants.

(c) The Secretary shall prepare comprehensive plans for converting each plant listed pursuant to subsection (b) into a factory for the manufacture of ammunition or parts thereof.

(d) The President may appoint a nonpartisan Board on Mobilization of Industries Essential for Military Preparedness, and may provide necessary clerical assistance to organize and coordinate operations under this section and section 9501 of this title.

§ 9503. Research and development programs

The Secretary of the Air Force may conduct and participate in research and development programs relating to the Air Force, and may procure or contract for the use of facilities, supplies, and services that are needed for those programs. This section does not authorize the design or development of any prototype aircraft intended primarily for commercial use.

§ 9504. Procurement for experimental purposes

The Secretary of the Air Force may buy ordnance, signal, and chemical warfare supplies, including parts and accessories, and designs thereof, that he considers necessary for experimental or test purposes in the development of the best supplies that are needed for the national defense. Purchases under this section may be made inside or outside the United States, with or without competitive bidding, and by contract or otherwise. Chapter 137 of this title applies when such purchases are made in quantity.

§ 9505. Procurement of production equipment

The Secretary of the Air Force may make or procure gauges, dies, jigs, tools, fixtures, and other special aids and appliances, and specifications and drawings, necessary for the immediate manufacture of arms, ammunition, or special equipment that are necessary to equip the Air Force and are likely to be needed in time of war. Whenever he considers it in the best interest of the United States, the Secretary may procure any of those items without regard to laws prescribing competition in the procurement of supplies.

§ 9506. Sale, loan, or gift of samples, drawings, and information to contractors

The Secretary of the Air Force, under regulations to be prescribed by him, may sell, lend, or give such samples, drawings, and manufacturing or other information as he considers best for the national defense—

(1) to any contractor for Air Force supplies under approved production plans; and

(2) to any person likely to manufacture or supply Air Force supplies under such plans.

§ 9507. Sale of ordnance and ordnance stores to designers

The Secretary of the Air Force may sell to designers who are nationals of the United States serviceable ordnance and ordnance stores necessary in the development of designs for the armed forces.

CHAPTER 933.—PROCUREMENT

Sec.

9531. Authorization.
9532. Factories, arsenals, and depots: manufacture at.
9534. Subsistence supplies: contract stipulations; place of delivery on inspection.
9535. Exceptional subsistence supplies: purchases without advertising.
9536. Equipment: bakeries, schools, kitchens, and mess halls.
9537. Military surveys and maps: assistance of United States mapping agencies.
9538. Unserviceable ammunition: exchange and reclamation.
9540. Architectural and engineering services.

§ 9531. Authorization

The Secretary of the Air Force may procure—

(1) the aircraft or airframe tons authorized by section 8062 of this title;

(2) aircraft to replace those which he determines to be unserviceable or obsolete;

(3) guided missiles; and

(4) equipment and facilities necessary for the maintenance and operation of the Air Force, including spare equipment, material, and parts.

This section does not authorize the design or development of any prototype aircraft intended primarily for commercial use.

§ 9532. Factories, arsenals, and depots: manufacture at

The Secretary of the Air Force may have supplies needed for the Department of the Air Force made in factories, arsenals, or depots owned by the United States, so far as those factories, arsenals, or depots can make those supplies on an economical basis.

§ 9534. Subsistence supplies: contract stipulations; place of delivery on inspection

Each contract for subsistence supplies for the Air Force that is made on public notice must provide for complete delivery, on inspection, at a specified place.

§ 9535. Exceptional subsistence supplies: purchases without advertising

Exceptional articles of subsistence supplies that are for members of the Air Force, and for which they are to pay regardless of condition upon arrival, may, under regulations to be prescribed by the Secretary of the Air Force, be bought on the open market without advertising.

§ 9536. Equipment: bakeries, schools, kitchens, and mess halls

Money necessary for the following items for the use of enlisted members of the Air Force may be spent from appropriations for regular supplies:

(1) Equipment for air base bakeries.

(2) Furniture, textbooks, paper, and equipment for air base schools.

(3) Tableware and mess furniture for kitchens and mess halls.

§ 9537. Military surveys and maps: assistance of United States mapping agencies

The Secretary of the Air Force may obtain the assistance of the United States Geological Survey, the Coast and Geodetic Survey, and other mapping agencies of the United States in—

(1) making topographic and other surveys;

(2) obtaining extra topographic data;

(3) making maps needed for military purposes;

(4) research and development of surveying by aerial photography; and

(5) developing methods of field reproduction.

§ 9538. Unserviceable ammunition: exchange and reclamation

(a) The Secretary of the Air Force may, by contract or otherwise, reclaim deteriorated and unserviceable ammunition and components, not suitable for exchange, by conversion to usable form as complete rounds or serviceable components, and pay all or part of the costs thereof through the exchange of deteriorated and unserviceable components.

(b) Subject to applicable regulations under section 486 of title 40, the Secretary may exchange deteriorated and unserviceable ammunition and components thereof for serviceable ammunition or components.

§ 9540. Architectural and engineering services

(a) Whenever he considers that it is advantageous to the national defense and that existing facilities of the Department of the Air Force are inadequate, the Secretary of the Air Force may, by contract or otherwise, employ the architectural or engineering services of any person outside that Department for producing and delivering designs, plans, drawings, and specifications needed for any public works or utilities project of the Department.

(b) The fee for any service under this section may not be more than 6 percent of the estimated cost, as determined by the Secretary, of the project to which it applies.

(c) Sections 1071–1153 of title 5 do not apply to employment under this section.

CHAPTER 935.—ISSUE OF SERVICEABLE MATERIAL TO ARMED FORCES

Sec.
9561. Rations.
9562. Clothing.
9563. Clothing: replacement when destroyed to prevent contagion.
9564. Navy and Marine Corps: camp equipment and transportation; when on shore duty with Air Force.
9565. Colors, standards, and guidons of demobilized organizations: disposition.

§ 9561. Rations

(a) The President may prescribe the components, and the quantities thereof, of the Air Force ration. He may direct the issue of equivalent articles in place of the prescribed components whenever, in his opinion, economy and the health and comfort of the members of the Air Force so require.

(b) An enlisted member of the Air Force on active duty is entitled to one ration daily. The emergency ration, when issued, is in addition to the regular ration.

(c) Fresh or preserved fruits, milk, butter, and eggs necessary for the proper diet of the sick in hospitals shall be provided under regulations approved by the Secretary.

§ 9562. Clothing

The President may prescribe the quantity and kind of clothing to be issued annually to members of the Air Force.

§ 9563. Clothing: replacement when destroyed to prevent contagion

The Secretary of the Air Force may order a gratuitous issue of clothing to any enlisted member of the Air Force who has had a contagious disease, and to any hospital attendant who attended him while he had that disease, to replace clothing destroyed by order of a medical officer to prevent contagion.

§ 9564. Navy and Marine Corps: camp equipment and transportation; when on shore duty with Air Force

While any detachment of the Navy or Marine Corps is on shore duty in cooperation with troops of the Air Force, the Secretary of the Air Force shall, upon the requisition of the officer of the Navy or Marine Corps in command of the detachment, issue rations and camp equipment, and furnish transportation, to that detachment.

§ 9565. Colors, standards, and guidons of demobilized organizations: disposition

(a) The Secretary of the Air Force may dispose of colors, standards, and guidons of demobilized organizations of the Air Force, as follows:

(1) Those brought into Federal service by the Air National Guard of a State may be returned to that State upon the request of its governor.

(2) Those that cannot be returned under clause (1) may, upon the request of its governor, be sent to the State that, as determined by the Secretary, furnished the majority of members of the organization when it was formed.

Those that cannot be returned or sent under clause (1) or (2) of this subsection shall be delivered to the Secretary, for such national use as he may direct.

(b) Title to colors, standards, and guidons of demobilized organizations of the Air Force remains in the United States.

(c) No color, standard, or guidon may be disposed of under this section unless provision satisfactory to the Secretary has been made for its preservation and care.

CHAPTER 937.—UTILITIES AND SERVICES

Sec.

9591. Utilities: proceeds from overseas operations.
9592. Radiograms and telegrams: forwarding charges due connecting commercial facilities.
9593. Quarters: heat and light.

§ 9591. Utilities: proceeds from overseas operations

During actual or threatened hostilities, proceeds from operating a public utility in connection with operations of the Air Force in the field overseas are available for that utility until the close of the fiscal year following that in which they are received.

§ 9592. Radiograms and telegrams: forwarding charges due connecting commercial facilities

In the operation of telegraph lines, cables, or radio stations, members of the Air Force may, in the discretion of the Secretary of the Air Force, collect forwarding charges due connecting commercial telegraph or radio companies for sending radiograms or telegrams over their lines. Under such regulations as the Secretary may prescribe, they may present a voucher to a disbursing officer for payment, or may file a claim with the General Accounting Office for the forwarding charge.

§ 9593. Quarters: heat and light

The heat and light necessary for the authorized quarters of members of the Air Force shall be furnished at the expense of the United States.

CHAPTER 939.—SALE OF SERVICEABLE MATERIAL

Sec.

9621. Subsistence and other supplies: members of armed forces; veterans; executive or military departments and employees; prices.
9622. Rations: commissioned officers in field.
9623. Tobacco: enlisted members of Air Force.
9624. Medical supplies: civilian employees of Air Force; American National Red Cross; Soldiers' Home.
9625. Ordnance property: officers of armed forces; civilian employees of Air Force; American National Red Cross; educational institutions; homes for veterans' orphans.
9626. Aircraft supplies and services: foreign military or air attaché.
9627. Supplies: educational institutions.
9628. Airplane parts and accessories: civilian flying schools.
9629. Proceeds: disposition.

§ 9621. Subsistence and other supplies: members of armed forces; veterans; executive or military departments and employees; prices

(a) The Secretary of the Air Force shall procure and sell, for cash or credit—

(1) articles designated by him, to members of the Air Force; and

(2) items of individual clothing and equipment, to officers of the Air Force, under such restrictions as the Secretary may prescribe.

An account of sales on credit shall be kept and the amount due reported to the Secretary. Except for articles and items acquired through the use of working capital funds under sections 172–172j of title 5, sales of articles shall be at cost, and sales of individual clothing and equipment shall be at average current prices, including overhead, as determined by the Secretary.

(b) Subsistence supplies may be sold to members of the Air Force. The selling price of each article sold under this subsection is the invoice price of the last lot of that article that the officer making the sale received before the first day of the month in which the sale is made. Activities conducted under this subsection shall be consistent with sections 172–172j of title 5.

(c) The Air Force shall sell subsistence supplies to members of other armed forces at the prices at which like property is sold to members of the Air Force.

(d) The Secretary may sell serviceable quartermaster property, other than subsistence supplies, to an officer of another armed force for his use in the service, in the same manner as these articles are sold to an officer of the Air Force.

(e) A person who has been discharged honorably or under honorable conditions from the Army, Navy, Air Force, or 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, at the prices at which like property is sold to a member of the Air Force.

(f) Under such conditions as the Secretary may prescribe, exterior articles of uniform may be sold to a person who has been discharged from the Air Force honorably or under honorable conditions, at the prices at which like articles are sold to members of the Air Force. This subsection does not modify section 772, 773, or 8612 of this title.

(g) Whenever, under regulations to be prescribed by the Secretary, subsistence supplies are furnished to any organization of the Air Force or sold to employees of any executive department other than the Department of Defense, payment shall be made in cash.

(h) 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

(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 military activities.

However, sales to those officers and employees inside the United States may be made only to those residing within military installations.

(i) Appropriations for subsistence of the Air Force may be applied to the purchase of subsistence supplies for sale to members of the Air Force on active duty for the use of themselves and their families.

§ 9622. Rations: commissioned officers in field

Commissioned officers of the Air Force serving in the field may buy rations for their own use, on credit. Amounts due for these purchases shall be reported monthly to the Secretary of the Air Force.

§ 9623. Tobacco: enlisted members of Air Force

The Air Force shall sell not more than 16 ounces of tobacco a month to an enlisted member of the Air Force on active duty who requests it.

§ 9624. Medical supplies: civilian employees of Air Force; American National Red Cross; Soldiers' Home

(a) Under regulations to be prescribed by the Secretary of the Air Force, a civilian employee of the Department of the Air Force who is stationed at an air base may buy necessary medical supplies from the Air Force when they are prescribed by a medical officer on active duty.

(b) The Secretary may sell medical supplies to the American National Red Cross for cash.

(c) The Secretary may sell medical and hospital supplies to the Soldiers' Home.

§ 9625. Ordnance property: officers of armed forces; civilian employees of Air Force; American National Red Cross; educational institutions; homes for veterans' orphans

(a) The Secretary of the Air Force may sell articles of ordnance property to officers of other armed forces for their use in the service, in the same manner as these articles are sold to officers of the Air Force.

(b) Under such regulations as the Secretary may prescribe, ordnance stores may be sold to civilian employees of the Air Force and to the American National Red Cross.

(c) Articles of ordnance property may be sold to educational institutions and to State soldiers' and sailors' orphans' homes for maintaining the ordnance and ordnance stores issued to those institutions and homes.

§ 9626. Aircraft supplies and services: foreign military or air attaché

Under such conditions as he may prescribe, the Secretary of the Air Force may provide for the sale of fuel, oil, and other supplies for use in aircraft operated by a foreign military or air attaché accredited to the United States, and for the furnishing of mechanical service and other assistance to such aircraft. Shelter may be furnished to such aircraft, but only without charge.

§ 9627. Supplies: educational institutions

Under such regulations as the Secretary of the Air Force may prescribe, supplies and military publications procured for the Air Force may be sold to any educational institution to which an officer of the Air Force is detailed as professor of air science and tactics, for the use of its military students. Sales under this section shall be for cash.

§ 9628. Airplane parts and accessories: civilian flying schools

The Secretary of the Air Force may sell, to civilian flying schools at which personnel of the Department of the Air Force or the Department of the Army are receiving flight training under contracts requiring these schools to maintain and repair airplanes of the Air Force furnished to them for flight training, the spare parts and accessories needed for those repairs.

§ 9629. Proceeds: disposition

The proceeds of sales of the following shall be paid into the Treasury to the credit of the appropriation out of which they were purchased, and are available for the purposes of that appropriation:

(1) Exterior articles of uniform sold under section 9621 of this title.

(2) Supplies, war material, and military publications sold to educational institutions under section 9627 of this title.

(3) Fuel, oil, other supplies, and services for aircraft of a foreign military or air attaché sold under section 9626 of this title.

CHAPTER 941.—ISSUE OF SERVICEABLE MATERIAL OTHER THAN TO ARMED FORCES

Sec.

9651. Arms, tentage, and equipment: educational institutions not maintaining units of A. F. R. O. T. C.
9652. Rifles and ammunition for target practice: educational institutions having corps of cadets.
9653. Ordnance and ordnance stores: District of Columbia high schools.
9654. Supplies: military instruction camps.
9655. Arms and ammunition: agencies and departments of United States.
9656. Aircraft and equipment: civilian aviation schools.

§ 9651. Arms, tentage, and equipment: educational institutions not maintaining units of A. F. R. O. T. C.

Under such conditions as he may prescribe, the Secretary of the Air Force may issue arms, tentage, and equipment that he considers necessary for proper military training, to any educational institution at which no unit of the Air Force Reserve Officers' Training Corps is maintained, but which has a course in military training prescribed by

the Secretary and which has at least 100 physically fit male students over 14 years of age.

§ 9652. Rifles and ammunition for target practice: educational institutions having corps of cadets

(a) The Secretary of the Air Force may lend, without expense to the United States, magazine rifles and appendages that are not of the existing service models in use at the time, and that are not necessary for a proper reserve supply, to any educational institution having a uniformed corps of cadets of sufficient number for target practice. He may also issue 40 rounds of ball cartridges for each cadet for each range at which target practice is held, but not more than 120 rounds each year for each cadet participating in target practice.

(b) The institutions to which property is lent under subsection (a) shall use it for target practice, take proper care of it, and return it when required.

(c) The Secretary shall prescribe regulations to carry out this section, containing such other requirements as he considers necessary to safeguard the interests of the United States.

§ 9653. Ordnance and ordnance stores: District of Columbia high schools

The Secretary of the Air Force, under regulations to be prescribed by him, may issue to the high schools of the District of Columbia ordnance and ordnance stores required for military instruction and practice. The Secretary shall require a bond in double the value of the property issued under this section, for the care and safekeeping of that property and, except for property properly expended, for its return when required.

§ 9654. Supplies: military instruction camps

Under such conditions as he may prescribe, the Secretary of the Air Force may issue, to any educational institution at which an Air Force officer is detailed as professor of air science and tactics, such supplies as are necessary to establish and maintain a camp for the military instruction of its students. The Secretary shall require a bond in the value of the property issued under this section, for the care and safekeeping of that property and, except for property properly expended, for its return when required.

§ 9655. Arms and ammunition: agencies and departments of United States

(a) Whenever required for the protection of public money and property, the Secretary of the Air Force may lend arms and their accouterments, and issue ammunition, to a department or independent agency of the United States, upon request of its head. Property lent or issued under this subsection may be delivered to an officer of the department or agency designated by the head thereof, and that officer shall account for the property to the Secretary of the Air Force. Property lent or issued under this subsection and not properly expended shall be returned when it is no longer needed.

(b) The department or agency to which property is lent or issued under subsection (a) shall transfer funds to the credit of the Department of the Air Force to cover the costs of—

(1) ammunition issued;

(2) replacing arms and accouterments that have been lost or destroyed or cannot be repaired;

(3) repairing arms and accouterments returned to the Department of the Air Force; and

(4) making and receiving shipments by the Department of the Air Force.

§ 9656. Aircraft and equipment: civilian aviation schools

The Secretary of the Air Force, under regulations to be prescribed by him, may lend aircraft, aircraft parts, and aeronautical equipment and accessories that are required for instruction, training, and maintenance, to accredited civilian aviation schools at which personnel of the Department of the Air Force or the Department of the Army are pursuing a course of instruction and training under detail by competent orders, and at least one of which is designated by the Civil Aeronautics Authority for the training of Negro air pilots.

CHAPTER 943.—DISPOSAL OF OBSOLETE OR SURPLUS MATERIAL

Sec.
9681. Surplus war material: sale to States and foreign governments.
9682. Obsolete or excess material: sale to National Council of Boy Scouts of America.
9684. Surplus obsolete ordnance: sale to patriotic organizations.
9685. Obsolete ordnance: loan to educational institutions and State soldiers' and sailors' orphan's homes.
9686. Obsolete ordnance: gift to State homes for soldiers and sailors.

§ 9681. Surplus war material: sale to States and foreign governments

Subject to regulations under section 486 of title 40, the Secretary of the Air Force may sell surplus war material and supplies, except food, of the Department of the Air Force, for which there is no adequate domestic market, to any State or to any foreign government with which the United States was at peace on June 5, 1920. Sales under this section shall be made upon terms that the Secretary considers expedient.

§ 9682. Obsolete or excess material: sale to National Council of Boy Scouts of America

Subject to regulations under section 486 of title 40, the Secretary of the Air Force, under such conditions as he may prescribe, may sell obsolete or excess material to the National Council of the Boy Scouts of America. Sales under this section shall be at fair value to the Department of the Air Force, including packing, handling, and transportation.

§ 9684. Surplus obsolete ordnance: sale to patriotic organizations

Subject to regulations under section 486 of title 40, the Secretary of the Air Force may sell, without advertisement and at prices that he considers reasonable—

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(1) surplus obsolete small arms and ammunition and equipment for them, to any patriotic organization for military purposes; and

(2) surplus obsolete brass or bronze cannons, carriages, and cannon balls, for public parks, public buildings, and soldiers' monuments.

§ 9685. Obsolete ordnance: loan to educational institutions and State soldiers' and sailors' orphans' homes

(a) Upon the recommendation of the Governor of the State or Territory concerned, the Secretary of the Air Force, under regulations to be prescribed by him and without cost to the United States for transportation, may lend obsolete ordnance and ordnance stores to State and Territorial educational institutions and to State soldiers' and sailors' orphans' homes, for drill and instruction. However, no loan may be made under this subsection to an institution to which ordnance or ordnance stores may be issued under any law that was in effect on June 30, 1906, and is still in effect.

(b) The Secretary shall require a bond from each institution or home to which property is lent under subsection (a), in double the value of the property lent, for the care and safekeeping of that property and, except for property properly expended, for its return when required.

§ 9686. Obsolete ordnance: gift to State homes for soldiers and sailors

Subject to regulations under section 486 of title 40, the Secretary of the Air Force may give not more than two obsolete bronze or iron cannons suitable for firing salutes to any home for soldiers or sailors established and maintained under State authority.

CHAPTER 945.—INQUESTS; DISPOSITION OF EFFECTS OF DECEASED PERSONS

Sec.

9711. Inquests.
9712. Disposition of effects of deceased persons by summary court-martial.
9713. Disposition of effects of deceased persons by Soldiers' Home.

§ 9711. Inquests

(a) When a person is found dead under circumstances that require investigation, at a place garrisoned by the Air Force and under the exclusive jurisdiction of the United States, the commanding officer shall direct a summary court-martial to investigate the circumstances of the death.

(b) In conducting an investigation under subsection (a), the summary court-martial may summon witnesses and examine them upon oath.

(c) The summary court-martial shall promptly submit to the commanding officer a report of the investigation and findings as to the cause of death.

§ 9712. Disposition of effects of deceased persons by summary court-martial

(a) Upon the death of—

(1) a person subject to the court-martial jurisdiction of the Air Force or the Army at a place or command under the jurisdiction of the Air Force; or

(2) an inmate of the Soldiers' Home who dies in an Air Force hospital outside the District of Columbia when sent from the Home to that hospital for treatment;

the commanding officer of the place or command shall permit the legal representative or the surviving spouse of the deceased, if present, to take possession of the effects of the deceased that are then at the air base or in quarters.

(b) If there is no legal representative or surviving spouse present, the commanding officer shall direct a summary court-martial to collect the effects of the deceased that are then at the air base or in quarters.

(c) The summary court-martial may collect debts due the decedent's estate by local debtors, pay undisputed local creditors of the deceased to the extent permitted by money of the deceased in the court's possession, and shall take receipts for those payments, to be filed with the court's final report to the Department of the Air Force.

(d) As soon as practicable after the collection of the effects and money of the deceased, the summary court-martial shall send them at the expense of the United States to the living person highest on the following list who can be found by the court:

(1) Surviving spouse or legal representative.
(2) Son.
(3) Daughter.
(4) Father, if he has not abandoned the support of his family.
(5) Mother.
(6) Brother.
(7) Sister.
(8) Next of kin.
(9) Beneficiary named in the will of the deceased.

(e) If the summary court-martial cannot dispose of the effects under subsection (d) because there are no persons in those categories or because the court finds that the addresses of the persons are not known or readily ascertainable, the court may convert the effects of the deceased, except sabers, insignia, decorations, medals, watches, trinkets, manuscripts, and other articles valuable chiefly as keepsakes, into cash, by public or private sale, but not until 30 days after the date of death of the deceased.

(f) As soon as practicable after the effects have been converted into cash under subsection (e), the summary court-martial shall deposit all cash in the court's possession and belonging to the estate with the officer designated in regulations, and shall send a receipt therefor, together with any will or other papers of value, an inventory of the effects, and articles not permitted to be sold, to the executive part of the Department of the Air Force for transmission to the Soldiers' Home.

(g) The summary court-martial shall make a full report of the transactions under this section, with respect to the deceased, to the Department of the Air Force for transmission to the General Accounting Office for action authorized in the settlement of accounts of deceased members of the Air Force.

§ 9713. Disposition of effects of deceased persons by Soldiers' Home

(a) The effects of a deceased person that the Department of the Air Force receives under section 9712 (f) of this title shall be delivered to the Soldiers' Home. The Home shall dispose of the effects as follows:

(1) A will or other paper involving property rights shall be promptly delivered to the proper court of record.

(2) If the heirs or legal representative of the deceased cannot sooner be ascertained, the Home shall retain the remaining effects until three years after the death of the deceased, and then, upon establishment of a right thereto to the satisfaction of the Home, it shall deliver them to the living person highest on the following list who can be found:

(A) Surviving spouse or legal representative.
(B) Son.
(C) Daughter.
(D) Father, if he has not abandoned the support of his family.
(E) Mother.
(F) Brother.
(G) Sister.
(H) Next of kin.
(I) Beneficiary named in the will of the deceased.

(b) After three years from the date of death, the Home may sell the effects to which a right has not been established by the heirs or legal representative, except decorations, medals, and citations, by public or private sale, as it considers most advantageous.

(c) After five years from the date of death, the Home shall dispose of effects that are not sold under subsection (b) and to which a right has not been established by the heirs or legal representative of the deceased, including decorations, medals, and citations, in the manner that it considers most appropriate in the public interest. It may retain them; deliver them to the Veterans' Administration, a State or other military home, a museum, or other appropriate institution; or destroy them if the Board of Commissioners of the Home determines that they are valueless.

(d) The net proceeds received by the Home from the sale of the deceased's effects shall be covered into the Treasury to the credit of the fund called the "Soldiers' Home permanent fund (trust fund)", and the principal of the fund so increased shall draw interest at 3 percent a year, payable quarterly to the treasurer of the Home.

(e) A claim for the net proceeds of the sale of the deceased's effects may be filed with the General Accounting Office at any time within six years after the date of his death, for action under section 2771 of this title. If not so filed, such a claim may not be considered by a court or the General Accounting Office.

(f) A claim allowed by the General Accounting Office under subsection (e) shall be certified to the treasurer of the Home for payment from the Soldiers' Home permanent fund (trust fund) in the amount found due, including accrued interest. No claim may be allowed or paid in excess of the net proceeds, including accrued interest, of the estate covered into the Treasury under subsection (d).

CHAPTER 947.—TRANSPORTATION

Sec.
9741. Control and supervision.
9742. Control of transportation systems in time of war.
9743. Officers: use of transportation.
9746. Civilian personnel in Alaska.
9748. Motor vehicles: for members on permanent change of station.

§ 9741. Control and supervision

The transportation of members, munitions of war, equipment, military property, and stores of the Air Force throughout the United States shall be under the immediate control and supervision of the Secretary of the Air Force and agents appointed or designated by him.

§ 9742. Control of transportation systems in time of war

In time of war, the President, through the Secretary of the Air Force, may take possession and assume control of all or part of any system of transportation to transport troops, war material, and equipment, or for other purposes related to the emergency. So far as necessary, he may use the system to the exclusion of other traffic.

§ 9743. Officers: use of transportation

Under such conditions as the Secretary of the Air Force may prescribe, officers of the Air Force may, in the performance of their duties, use means of transportation provided for the Air Force and its supplies.

§ 9746. Civilian personnel in Alaska

Persons residing in Alaska who are and have been employed there by the United States for at least two years, and their families, may be transported on airplanes operated by Air Force transport agencies or, within bulk space allocations made to the Department of the Air Force, on vessels or airplanes operated by any military transport agency of the Department of Defense, if—

(1) the Secretary of the Air Force considers that accommodations are available;

(2) the transportation is without expense to the United States;

(3) the transportation is limited to one round trip between Alaska and the United States during any two-year period, except in an emergency such as sickness or death; and

(4) in case of travel by air—

(A) the Civil Aeronautics Board has not certified that commercial air carriers of the United States that can handle the transportation are operating between Alaska and the United States; and

(B) the transportation cannot be reasonably handled by a United States commercial air carrier.

§ 9748. Motor vehicles: for members on permanent change of station

When a member of the Air Force is ordered to make a permanent change of station, one motor vehicle owned by him and for his personal use may be transported to his new station on a vessel owned by the United States.

CHAPTER 949.—REAL PROPERTY

Sec.

9771. Acceptance of donations: land for mobilization, training, supply base, or aviation field.
9772. Reservation and use for air base or testing field.
9773. Acquisition and construction: air bases and depots.
9774. Construction of quarters: limitations on space and cost.
9775. Quarters: officers.
9776. Emergency construction: fortifications.
9777. Permits: military reservations; landing ferries, erecting bridges, driving livestock.
9778. Licenses: military reservations; erection and use of buildings; Young Men's Christian Association.
9779. Use of public property.

§ 9771. Acceptance of donations: land for mobilization, training, supply base, or aviation field

The Secretary of the Air Force may accept for the United States a gift of—

(1) land that he considers suitable and desirable for a permanent mobilization, training, or supply base; and

(2) land that he considers suitable and desirable for an aviation field, if the gift is from a citizen of the United States and its terms authorize the use of the property by the United States for any purpose.

§ 9772. Reservation and use for air base or testing field

When ordered by the President—

(1) unappropriated public land may be reserved from entry for an air base, or a field for tests and experiments, for the Air Force; and

(2) such land and other property of the United States may be designated and used for either of those purposes.

§ 9773. Acquisition and construction: air bases and depots

(a) The Secretary of the Air Force shall determine the sites of such additional permanent air bases and depots in all strategic areas of the United States and the Territories, Commonwealths, possessions, and holdings as he considers necessary. He shall determine when the enlargement of existing air bases and depots is necessary for the effective peacetime training of the Air Force.

(b) In determining the sites of new air bases and depots, the Secretary shall consider the following regions for the purposes indicated—

(1) the Atlantic northeast, for training in cold weather and in fog;

(2) the Atlantic southeast and Caribbean areas, for training in long-range operations, especially those incident to reinforcing the defenses of the Panama Canal;

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(3) the southeastern United States, to provide a depot necessary to maintain the Air Force;

(4) the Pacific northwest, to establish and maintain air communication with Alaska;

(5) Alaska, for training under conditions of extreme cold;

(6) the Rocky Mountain area, to provide a depot necessary to maintain the Air Force, and for training in operations from fields in high altitudes; and

(7) other regions, for the establishment of intermediate air bases to provide for transcontinental movements of the Air Force for maneuvers.

(c) In selecting sites for air bases and depots covered by this section and in determining the alteration or enlargement of existing air bases or depots, the Secretary shall consider the need—

(1) to form the nucleus for concentration of Air Force units in time of war;

(2) to permit, in time of peace, training and effective planning in each strategic area for the use and expansion of commercial, municipal, and private flying installations in time of war;

(3) to locate, in each strategic area in which it is considered necessary, adequate storage facilities for munitions and other articles necessary to facilitate the movement, concentration, maintenance, and operation of the Air Force; and

(4) to afford the maximum warning against surprise attack by enemy aircraft upon aviation of the United States and its necessary installations consistent with maintaining, in connection with existing or contemplated landing fields, the full power of the Air Force for operations necessary in the defense of the United States, and in the defense and reinforcement of the Territories, Commonwealths, possessions, and holdings.

(d) In carrying out this section, the Secretary, on behalf of the United States, may acquire title, in fee simple and free of encumbrance, to any land that he considers necessary—

(1) by accepting title without cost to the United States;

(2) by exchanging military reservations or parts thereof for that land, upon the written approval of the President; or

(3) by purchase or condemnation, if acquisition by gift or exchange is impracticable.

(e) The Secretary may, by purchase, gift, lease, or otherwise, acquire at desired locations bombing and machine gun ranges necessary for practice by, and the training of, tactical units.

(f) At each air base or depot established under this section, the Secretary shall remove or remodel existing structures as necessary; do necessary grading; and provide buildings, utilities, communication systems, landing fields and mats, roads, walks, aprons, docks, runways, facilities for the storage and distribution of ammunition, fuel, oil, necessary protection against bombs, and all appurtenances to the foregoing.

(g) The Secretary may direct the transportation of personnel, and the purchase, renovation, and transportation of material, that he considers necessary to carry out this section.

§ 9774. Construction of quarters: limitations on space and cost

(a) In the construction of family quarters from appropriated funds for members of the Air Force, the following are the maximum limitations on net floor area for each unit:

Grade	Square feet
General officer	2,100
Colonel	1,670
Major or lieutenant colonel	1,400
Officer below major	1,250
Enlisted member	1,080

In this section, "net floor area" means the 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

(2) 10 percent for quarters of the commanding officer of any station, air base, or other installation, based on the grade authorized for that position.

(c) The maximum limitations for family quarters constructed from appropriated funds for civilians are the same as those for members of the Air Force of comparable responsibility, grade, and pay, as determined by the Secretary of the Air Force.

(d) Except when built by members of the Air Force, no permanent barrack, quarters, building, or other permanent structure may be built unless a detailed estimate of its cost has been submitted to Congress and a specific appropriation has been made therefor. No one may build such a structure without specific authority of Congress if the cost is more than $100,000.

(e) A limitation upon the cost of quarters built for members of the Air Force 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;

(3) grading and drainage; and

(4) the construction of air bases or depots under section 9773 of this title.

§ 9775. Quarters: officers

If there are quarters belonging to the United States at an air base or other Air Force installation, they may be assigned as follows:

Grade	Number of rooms
Lieutenant general	10
Major general	9
Brigadier general	8
Colonel	7
Lieutenant colonel	6
Major	5
Captain	4
First lieutenant	3
Second lieutenant	2

If such quarters exist, no other quarters may be assigned to commissioned officers.

§ 9776. Emergency construction: fortifications

If in an emergency the President considers it urgent, a temporary air base or fortification may be built on private land if the owner consents in writing. In such a case, section 175 of title 50 does not apply.

§ 9777. Permits: military reservations; landing ferries, erecting bridges, driving livestock

Whenever the Secretary of the Air Force considers that it can be done without injury to the reservation or inconvenience to the military forces stationed there, he may permit—

(1) the landing of ferries at a military reservation;
(2) the erection of bridges on a military reservation; and
(3) the driving of livestock across a military reservation.

§ 9778. Licenses: military reservations; erection and use of buildings; Young Men's Christian Association

Under such conditions as he may prescribe, the Secretary of the Air Force may issue a revocable license to the International Committee of Young Men's Christian Associations of North America to erect and maintain, on military reservations within the United States and the Territories, Commonwealths, and possessions, buildings needed by that organization for the promotion of the social, physical, intellectual, and moral welfare of the members of the Air Force on those reservations.

§ 9779. Use of public property

(a) When the economy of the Air Force so requires, the Secretary of the Air Force shall establish military headquarters in places where suitable buildings are owned by the United States.

(b) The Secretary shall assign suitable space for postal purposes at each air base where there is a post office.

(c) No money appropriated for the support of the Air Force may be spent for base gardens or Air Force exchanges. However, this does not prevent Air Force exchanges from using public buildings or public transportation that, in the opinion of the Secretary, are not needed for other purposes.

CHAPTER 951.—MILITARY CLAIMS

Sec.
9801. Definition.
9802. Damage by United States vessels; towage and salvage of United States vessels.
9803. Admiralty claims by United States.
9804. Salvage claims by United States.
9805. Reports to Congress.
9806. Settlement or compromise: final and conclusive.

§ 9801. Definition

In this chapter, "settle" means consider, ascertain, adjust, determine, and dispose of a claim, whether by full or partial allowance or by disallowance.

§ 9802. Damage by United States vessels; towage and salvage of United States vessels

(a) Under the direction of the Secretary of Defense, the Secretary of the Air Force may settle or compromise a claim against the United States for—

(1) damage caused by a vessel of, or in the service of, the Department of the Air Force; or

(2) compensation for towage and salvage service, including contract salvage, rendered to a vessel of, or in the service of, the Department of the Air Force.

(b) If a claim under subsection (a) is settled or compromised for $500,000 or less, the Secretary of the Air Force may pay it. If it is settled or compromised for more than $500,000, he shall certify it to Congress.

(c) In any case where the amount to be paid is not more than $1,000, the Secretary of the Air Force may delegate his authority under subsection (a) to any person in the Department of the Air Force designated by him.

§ 9803. Admiralty claims by United States

(a) Under the direction of the Secretary of Defense, the Secretary of the Air Force 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 Air Force 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 amount to be received by the United States is not more than $500,000.

(b) In exchange for payment of an amount found to be due the United States under subsection (a), the Secretary of the Air Force 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 of the Air Force may delegate his authority under subsections (a) and (b) to any person in the Department of the Air Force designated by him.

§ 9804. Salvage claims by United States

Under the direction of the Secretary of Defense, the Secretary of the Air Force may settle, or compromise, and receive payment of a claim by the United States for salvage services performed by the Department of the Air Force for any vessel. Amounts received under this section shall be covered into the Treasury.

§ 9805. Reports to Congress

The Secretary of the Air Force shall report to the Committees on Armed Services of the Senate and the House of Representatives within 20 days after paying a claim in an amount over $3,000 under section

9802 of this title, or receiving payment of a claim under section 9803 or 9804 of this title. 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. The Secretary shall also report to Congress at each session all amounts paid or received under those sections during the period covered by the report. However, 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.

§ 9806. Settlement or compromise: final and conclusive

Notwithstanding any other provision of law, upon acceptance of payment the settlement or compromise of a claim under section 9802 or 9803 of this title is final and conclusive.

CHAPTER 953.—ACCOUNTABILITY AND RESPONSIBILITY

Sec.
9831. Custody of departmental records and property.
9832. Property accountability: regulations.
9833. Accountability for public money: disbursing officers; agent officers.
9835. Reports of survey.
9836. Individual equipment: unauthorized disposition.
9837. Settlement of accounts: deductions from pay.
9838. Settlement of accounts: affidavit of squadron commander.
9839. Settlement of accounts: oaths.
9840. Final settlement of officer's accounts.

§ 9831. Custody of departmental records and property

The Secretary of the Air Force has custody and charge of all books, records, papers, furniture, fixtures, and other property under the lawful control of the executive part of the Department of the Air Force.

§ 9832. Property accountability: regulations

The Secretary of the Air Force may prescribe regulations for the accounting for Air Force property and the fixing of responsibility for that property.

§ 9833. Accountability for public money: disbursing officers; agent officers

Under such regulations as the Secretary of the Air Force may prescribe, any officer of the Air Force accountable for public money may intrust it to another officer of the Air Force to make disbursements as his agent. Both the officer to whom money is intrusted under this section, and the officer who intrusts the money to him, are pecuniarily responsible for that money to the United States.

§ 9835. Reports of survey

(a) Under such regulations as the Secretary of the Air Force may prescribe, any officer of the Air Force designated by him may act upon reports of surveys and vouchers pertaining to the loss, spoilage, unserviceability, unsuitability, or destruction of or damage to property of the United States under the control of the Department of the Air Force.

(b) Action taken under subsection (a) is final, except that action holding a person pecuniarily liable for loss, spoilage, destruction, or damage is not final until approved by the Secretary or an officer of the Air Force designated by him.

§ 9836. Individual equipment: unauthorized disposition

(a) No enlisted member of the Air Force may sell, lend, pledge, barter, or give any clothing, arms, or equipment furnished him by the United States to any person other than a member of the Air Force, or an officer of the United States, authorized to receive it.

(b) If a member of the Air Force has disposed of property in violation of subsection (a) and it is in the possession of a person who is neither a member of the Air Force, nor an officer of the United States, authorized to receive it, that person has no right to or interest in the property, and any civil or military officer of the United States may seize it, wherever found. Possession of such property furnished by the United States to a member of the Air Force, by a person who is neither a member of the Air Force nor an officer of the United States, is prima facie evidence that it has been disposed of in violation of subsection (a).

(c) If an officer who seizes property under subsection (b) is not authorized to retain it for the United States, he shall deliver it to a person who is authorized to retain it.

§ 9837. Settlement of accounts: deductions from pay

(a) An amount due the United States from an enlisted member of the Air Force for articles sold to the member on credit under section 9621 (a) (1) of this title shall be deducted from the next pay due that member after the sale is reported. An amount due the United States from an enlisted member of the Air Force for tobacco sold to him by the United States under section 9623 of this title shall be deducted from his pay in the manner provided for the settlement of clothing accounts.

(b) Under regulations to be prescribed by the Secretary of the Air Force, any amount that an enlisted member is administratively determined to owe the United States or any of its instrumentalities may be deducted from his pay in monthly installments. However, after the deduction of pay forfeited by the sentence of a court-martial, if any, or otherwise authorized by law to be withheld, the deductions authorized by this section may not reduce the pay actually received for any month to less than one-third of his basic pay for that month.

(c) Subject to subsection (b), an amount due the United States from an enlisted member may be deducted from his pay on final statement, or from his savings on his clothing allowance.

(d) If he considers it in the best interest of the United States, the Secretary may have remitted or cancelled any part of an enlisted member's indebtedness to the United States or any of its instrumentalities remaining unpaid before, or at the time of, that member's honorable discharge.

(e) The amount of any damage, or cost of repairs, to arms or equipment caused by the abuse or negligence of a member of the Air Force who had the care of, or was using, the property when it was damaged shall be deducted from his pay.

(f) If, upon final settlement of the accounts of a commissioned officer of the Air Force charged with the issue of an article of military supply, there is a deficiency of that article, or if an article of military supply with whose issue a commissioned officer is charged is damaged, the value of the lost article or the amount of the damage shall be charged against the officer and deducted from his monthly pay, unless he shows to the satisfaction of the Secretary, by one or more affidavits setting forth the circumstances, that he was not at fault.

(g) An amount due the United States from an officer of the Air Force for rations bought on credit, and for articles bought on credit under section 9621 (a) (1) of this title, shall be deducted from the next pay due that officer after the sale is reported.

§ 9838. Settlement of accounts: affidavit of squadron commander

In the settlement of the accounts of the commanding officer of a squadron for clothing and other military supplies, his affidavit may be received to show—

(1) that vouchers or squadron books were lost;

(2) anything tending to prove that any apparent deficiency of those articles was caused by unavoidable accident, or by loss in actual service without his fault; or

(3) that all or part of the clothing and supplies was properly used.

The affidavit may be used as evidence of the facts set forth, with or without other evidence, as determined by the Secretary of the Air Force to be just and proper under the circumstances.

§ 9839. Settlement of accounts: oaths

The Secretary of the Air Force may detail any employee of the Department of the Air Force to administer oaths required by law in the settlement of an officer's accounts for clothing and other military supplies. An oath administered under this section shall be without expense to the person to whom it is administered.

§ 9840. Final settlement of officer's accounts

Before final payment upon discharge may be made to an officer of the Air Force who has been accountable or responsible for public property, he must obtain a certificate of nonindebtedness to the United States from each officer to whom he was accountable or responsible for property. He must also make an affidavit, certified by his commanding 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.

SEC. 2. Title 32 of the United States Code, entitled "National Guard", is revised, codified, and enacted into law, and may be cited as "Title 32, United States Code, § —", as follows:

TITLE 32.—NATIONAL GUARD

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CHAPTER 1.—ORGANIZATION

Sec.
101. Definitions.
102. General policy.
103. Branches and organizations.
104. Units: location; organization; command.
105. Inspection.
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107. Apportionment of appropriations.
108. Forfeiture of Federal benefits.
109. Maintenance of other troops.
110. Regulations.

§ 101. Definitions

In addition to the definitions in sections 1–5 of title 1, the following definitions apply in this title:

(1) "Territory" means Alaska, Hawaii, or any Territory organized after this title is enacted, so long as it remains a Territory.

(2) "National Guard" means the Army National Guard and the Air National Guard.

(3) "Army National Guard" means that part of the organized militia of the several States and Territories, Puerto Rico, the Canal Zone, and the District of Columbia, active and inactive, that—

(A) is a land force;

(B) is trained, and has its officers appointed, under the sixteenth clause of section 8, article I, of the Constitution;

(C) is organized, armed, and equipped wholly or partly at Federal expense; and

(D) is federally recognized.

(4) "Army National Guard of the United States" means the reserve component of the Army all of whose members are members of the Army National Guard.

(5) "Air National Guard" means that part of the organized militia of the several States and Territories, Puerto Rico, the Canal Zone, and the District of Columbia, active and inactive, that—

(A) is an air force;

(B) is trained, and has its officers appointed, under the sixteenth clause of section 8, article I, of the Constitution;

(C) is organized, armed, and equipped wholly or partly at Federal expense; and

(D) is federally recognized.

(6) "Air National Guard of the United States" means the reserve component of the Air Force all of whose members are members of the Air National Guard.

(7) "Officer" means commissioned or warrant officer.

(8) "Enlisted member" means a person enlisted in, or inducted, called, or conscripted into, an armed force in an enlisted grade.

(9) "Grade" means a step or degree, in a graduated scale of office or military rank, that is established and designated as a grade by law or regulation.

(10) "Rank" means the order of precedence among members of the armed forces.

(11) "Active duty" means full-time duty in the active military service of the United States. It includes such Federal duty as duty on the active list, full-time training duty, annual training duty, and attendance, while in the active military service, at a school designated as a service school by law or by the Secretary of the military department concerned.

(12) "Supplies" includes material, equipment, and stores of all kinds.

(13) "Shall" is used in an imperative sense.

(14) "May" is used in a permissive sense. The words "no person may . . ." mean that no person is required, authorized, or permitted to do the act prescribed.

(15) "Includes" means "includes but is not limited to".

(16) "Pay" includes basic pay, special pay, incentive pay, retired pay, and equivalent pay, but does not include allowances.

§ 102. General policy

In accordance with the traditional military policy of the United States, it is essential that the strength and organization of the Army National Guard and the Air National Guard as an integral part of the first line defenses of the United States be maintained and assured at all times. Whenever Congress determines that more units and organizations are needed for the national security than are in the regular components of the ground and air forces, the Army National Guard of the United States and the Air National Guard of the United States, or such parts of them as are needed, together with such units of other reserve components as are necessary for a balanced force, shall be ordered to active Federal duty and retained as long as so needed.

§ 103. Branches and organizations

The Army National Guard of each State and Territory, Puerto Rico, the Canal Zone, and the District of Columbia includes such members of the staff corps corresponding to the staff corps of the Army as the Secretary of the Army may authorize.

§ 104. Units: location; organization; command

(a) Each State and Territory, Puerto Rico, and the Canal Zone may fix the location of the units and headquarters of its National Guard.

(b) Except as otherwise specifically provided in this title, the organization of the Army National Guard and the composition of its units shall be the same as those prescribed for the Army, subject, in time of peace, to such general exceptions as the Secretary of the Army may authorize; and the organization of the Air National Guard and the composition of its units shall be the same as those prescribed for the Air Force, subject, in time of peace, to such general exceptions as the Secretary of the Air Force may authorize.

(c) To secure a force the units of which when combined will form complete higher tactical units, the President may designate the units of the National Guard, by branch of the Army or organization of the Air Force, to be maintained in each State and Territory, Puerto Rico, the Canal Zone, and the District of Columbia. However, no change in the branch, organization, or allotment of a unit located entirely within a State may be made without the approval of its governor.

(d) To maintain appropriate organization and to assist in training and instruction, the President may assign the National Guard to divisions, wings, and other tactical units, and may detail commissioned officers of the National Guard or of the Regular Army or the Regular Air Force, as the case may be, to command those units. However, the commanding officer of a unit organized wholly within a State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia may not be displaced under this subsection.

(e) To insure prompt mobilization of the National Guard in time of war or other emergency, the President may, in time of peace, detail a commissioned officer of the Regular Army to perform the duties of chief of staff for each fully organized division of the Army National Guard, and a commissioned officer of the Regular Air Force to perform the duties of the corresponding position for each fully organized wing of the Air National Guard.

(f) Unless the President consents—

(1) an organization of the National Guard whose members have received compensation from the United States as members of the National Guard may not be disbanded; and

(2) the actual strength of such an organization in commissioned officers or enlisted members may not be reduced below the minimum strength prescribed by the President.

§ 105. Inspection

(a) The Secretary of the Army shall have an inspection made at least once a year by inspectors general, or, if necessary, by any other commissioned officers of the Regular Army detailed for that purpose, to determine whether—

(1) the amount and condition of property held by the Army National Guard are satisfactory;

(2) the Army National Guard is organized as provided in this title;

(3) the members of the Army National Guard meet prescribed physical and other qualifications;

(4) the Army National Guard and its organization are properly uniformed, armed, and equipped and are being trained and instructed for active duty in the field, or for coast defense; and

(5) Army National Guard records are being kept in accordance with this title.

The Secretary of the Air Force has a similar duty with respect to the Air National Guard.

(b) The reports of inspections under subsection (a) are the basis for determining whether the National Guard is entitled to the issue of military property as authorized under this title and to retain that property; and for determining which organizations and persons constitute units and members of the National Guard.

§ 106. Annual appropriations

Sums will be appropriated annually, out of any money in the Treasury not otherwise appropriated, for the support of the Army National Guard and the Air National Guard, including the issue of arms, ordnance stores, quartermaster stores, camp equipage, and other military supplies, and for the payment of other expenses authorized by law.

§ 107. Apportionment of appropriations

(a) Appropriations for the Army National Guard under section 106 of this title shall be apportioned among the States and Territories, Puerto Rico, the Canal Zone, and the District of Columbia under equitable procedures to be prescribed by the Secretary of the Army and in direct ratio to the respective actual strengths in enlisted members of the active Army National Guard in those jurisdictions on the date of apportionment. Appropriations for the Air National Guard under section 106 of this title shall be apportioned among the States and Territories, Puerto Rico, the Canal Zone, and the District of Columbia under equitable procedures to be prescribed by the Secretary of the Air Force and in direct ratio to the respective actual strengths in enlisted members of the active Air National Guard in those jurisdictions on the date of apportionment.

(b) Under such regulations as the Secretary concerned may prescribe, apportioned appropriations are available for—

(1) the necessary expenses of members of a regular or reserve component of the Army or the Air Force traveling on duty in connection with the National Guard;

(2) the necessary expenses of officers of the Regular Army or the Regular Air Force on duty in the National Guard Bureau or with the Army General Staff or the Air Staff, traveling to and from annual conventions of the National Guard Association of the United States or the Adjutants General Association;

(3) the transportation of supplies furnished to the National Guard as permanent equipment;

(4) the office rent and necessary office expenses of officers of a regular or reserve component of the Army or the Air Force on duty with the National Guard;

(5) the expenses of the National Guard Bureau, including clerical services;

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(6) the promotion of rifle practice, including the acquisition, construction, maintenance, and equipment of shooting galleries and suitable target ranges;

(7) such incidental expenses of authorized encampments, maneuvers, and field instruction as the Secretary considers necessary; and

(8) other expenses of the National Guard authorized by law.

(c) The expenses of enlisted members of the Regular Army or the Regular Air Force on duty with the National Guard shall be paid from appropriations for the Army National Guard or the Air National Guard, as the case may be, but not from the allotment of a State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia. Payable expenses include allowances for subsistence and quarters under sections 251 and 252 of title 37 and expenses for medicine and medical attendance.

§ 108. Forfeiture of Federal benefits

If, within a time to be fixed by the President, a State does not comply with or enforce a requirement of, or regulation prescribed under, this title its National Guard is barred, wholly or partly as the President may prescribe, from receiving money or any other aid, benefit, or privilege authorized by law.

§ 109. Maintenance of other troops

(a) In time of peace, a State or Territory, Puerto Rico, the Virgin Islands, the Canal Zone, or the District of Columbia may maintain no troops other than those of its National Guard and State defense forces.

(b) Nothing in this title limits the right of a State or Territory, Puerto Rico, the Virgin Islands, the Canal Zone, or the District of Columbia to use its National Guard or its State defense forces within its borders in time of peace, or prevents it from organizing and maintaining police or constabulary.

§ 110. Regulations

The President shall prescribe regulations, and issue orders, necessary to organize, discipline, and govern the National Guard.

CHAPTER 3.—PERSONNEL

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§ 301. Federal recognition of enlisted members

To be eligible for Federal recognition as an enlisted member of the National Guard, a person must have the qualifications prescribed by the Secretary concerned for the grade, branch, position, and type of unit or organization involved. He becomes federally recognized upon enlisting in a federally recognized unit or organization of the National Guard.

§ 302. Enlistments

Original enlistments in the National Guard are for three years, and reenlistments for one or three years. However, if an emergency is declared by Congress, the President may, by proclamation, extend an enlistment until six months after the termination of that emergency.

§ 303. Active and inactive enlistments and transfers

(a) Under regulations to be prescribed by the Secretary of the Army, a person qualified for enlistment in the active Army National Guard may be enlisted in the inactive Army National Guard for a single term of one or three years. Under regulations prescribed by the Secretary of the Air Force, a person qualified for enlistment in the active Air National Guard may be enlisted in the inactive Air National Guard for a single term of one or three years.

(b) Under such regulations as the Secretary of the Army may prescribe, an enlisted member of the active Army National Guard, not formerly enlisted in the inactive Army National Guard, may be transferred to the inactive Army National Guard. Under such regulations as the Secretary of the Air Force may prescribe, an enlisted member of the active Air National Guard, not formerly enlisted in the inactive Air National Guard, may be transferred to the inactive Air National Guard. Under such regulations as the Secretary concerned may prescribe, a person enlisted in or transferred to the inactive Army National Guard or the inactive Air National Guard may be transferred to the active Army National Guard or the active Air National Guard, as the case may be.

(c) A person enlisted in the inactive Army National Guard or inactive Air National Guard is not entitled to pay under section 301 of title 37.

(d) In time of peace, no enlisted member may be required to serve for a period longer than that for which he enlisted in the active or inactive National Guard.

§ 304. Enlistment oath

Each person enlisting in the National Guard shall sign an enlistment contract and subscribe to the following oath:

"I do hereby acknowledge to have voluntarily enlisted this ------ day of ----------, 19----, in the ---------- National Guard of the State of ---------- for the period of ------ year(s), under the conditions prescribed by law, unless sooner discharged by proper authority.

"I, ----------, do solemnly swear (or affirm) that I will bear true faith and allegiance to the United States of America and to the State of ----------; that I will serve them honestly and faithfully against all their enemies whomsoever; and that I will obey the orders of the President of the United States and the Governor of ---------- and the orders of the officers appointed over me, according to law and regulations."

The oath may be taken before any officer of the National Guard of the State or Territory, or of Puerto Rico, the Canal Zone, or the District of Columbia, as the case may be, or before any other person authorized by the law of the jurisdiction concerned to administer oaths of enlistment in the National Guard.

§ 305. Federal recognition of commissioned officers: persons eligible

Only persons selected from the following categories are eligible for Federal recognition as commissioned officers of the National Guard:

(1) Members of the National Guard.

(2) Members of the Army, Navy, Air Force, or Marine Corps.

(3) Former officers of the Army, Navy, Air Force, or Marine Corps.

(4) Former enlisted members of the Army, Navy, Air Force, or Marine Corps who were discharged honorably or under honorable conditions.

(5) Graduates of the United States Military Academy, the United States Naval Academy, or the United States Air Force Academy.

(6) Graduates of a school, college, university, or officer's training camp who received military instruction under the supervision of a commissioned officer of the Regular Army or the Regular Air Force, and whose fitness for appointment has been certified by that officer.

(7) Civilians who are specially qualified for duty in a technical or staff branch or organization.

§ 307. Federal recognition of officers: examination; certificate of eligibility

(a) To be eligible for Federal recognition as an officer of the National Guard, a person must—

(1) receive an appointment with a view to filling a vacancy in a federally recognized unit or organization of the National Guard;

(2) have the qualifications prescribed by the Secretary concerned for the grade, branch, position, and type of unit or organization involved; and

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(3) except as provided in subsection (d), pass an examination for physical, moral, and professional fitness to be prescribed by the President, and subscribe to the oath of office prescribed by section 312 of this title.

(b) The examination prescribed by subsection (a)—

(1) shall be conducted, for the Army National Guard, by a board of three commissioned officers designated by the Secretary of the Army from members of the Regular Army or the Army National Guard of the United States, or both, and for the Air National Guard, by a board of three commissioned officers designated by the Secretary of the Air Force from members of the Regular Air Force or the Air National Guard of the United States, or both; and

(2) may be held before original appointment or promotion.

(c) If such a board finds a person qualified, the Chief of the National Guard Bureau may issue to him a certificate of eligibility for Federal recognition for the office for which he was found qualified. If he is originally appointed or promoted within two years to that office, he is entitled to Federal recognition without further examination, except as to physical condition.

(d) Subject to subsection (a) (1) and (2) and to such physical examination as may be prescribed, Federal recognition shall be extended to each officer of the Army Reserve who has qualified for appointment as an officer of the Army National Guard in his reserve grade. Similarly, Federal recognition shall be extended to each officer of the Air Force Reserve who has qualified for appointment as an officer of the Air National Guard. Federal recognition extended under this subsection is effective from the date of appointment in the Army National Guard or the Air National Guard, as the case may be.

§ 308. Federal recognition of officers: temporary recognition

(a) The Secretary of the Army may authorize the extension of temporary Federal recognition as an officer of the Army National Guard to any person who has passed the examination prescribed in section 307 (b) of this title, pending his appointment as a reserve officer of the Army. The Secretary of the Air Force may do likewise for a person who has passed that examination pending his appointment as a reserve officer of the Air Force. Temporary recognition so extended may be withdrawn at any time. If not sooner withdrawn or replaced by permanent recognition upon appointment as a reserve officer in the same grade, it terminates six months after its effective date.

(b) To be eligible for temporary Federal recognition under subsection (a), a person must take an oath that during the period of temporary recognition he will perform his Federal duties as if he had been appointed as a reserve officer of the Army or the Air Force, as the case may be.

§ 312. Appointment oath

Each person who is appointed as an officer of the National Guard shall subscribe to the following oath:

"I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of _____ against

all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will obey the orders of the President of the United States and of the Governor of the State of ----------, that I make this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office of ---------- in the National Guard of the State of ---------- upon which I am about to enter, so help me God."

§ 313. Appointments and enlistments: age limitations

(a) To be eligible for original enlistment in the National Guard, a person must be at least 17 years of age and under 45, or under 64 years of age and a former member of the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps. To be eligible for reenlistment, a person must be under 64 years of age.

(b) To be eligible for appointment as an officer of the National Guard, a person must be a citizen of the United States at least 18 years of age and under 64.

§ 314. Adjutants general

(a) There shall be an adjutant general in each State and Territory, Puerto Rico, the Canal Zone, and the District of Columbia. He shall perform the duties prescribed by the laws of that jurisdiction.

(b) The President shall appoint the adjutant general of each Territory, Puerto Rico, the Canal Zone, and the District of Columbia and prescribe his grade and qualifications. To be eligible for appointment as adjutant general of a Territory, Puerto Rico, or the Canal Zone, a person must be a citizen of that jurisdiction.

(c) The President may detail as adjutant general of the District of Columbia any retired commissioned officer of the Regular Army or the Regular Air Force recommended for that detail by the commanding general of the District of Columbia National Guard. An officer detailed under this subsection is entitled to the basic pay and allowances of his grade.

(d) The adjutant general of each State and Territory, Puerto Rico, the Canal Zone, and the District of Columbia, and officers of the National Guard, shall make such returns and reports as the Secretary of the Army or the Secretary of the Air Force may prescribe, and shall make those returns and reports to the Secretary concerned or to any officer designated by him. Each Secretary shall send with his annual report to Congress an abstract of the returns and reports of the adjutants general and such comments as he considers necessary for the information of Congress.

§ 315. Detail of regular members of Army and Air Force to duty with National Guard

(a) The Secretary of the Army shall detail commissioned officers of the Regular Army to duty with the Army National Guard of each State and Territory, Puerto Rico, the Canal Zone, and the District of Columbia. The Secretary of the Air Force shall detail commissioned officers of the Regular Air Force to duty with the Air National Guard of each State and Territory, Puerto Rico, the Canal Zone, and the District of Columbia. With the permission of the President, an officer so detailed may accept a commission in the Army National Guard

or the Air National Guard, as the case may be, terminable in the President's discretion, without prejudicing his rank and without vacating his regular appointment.

(b) The Secretary of the Army may detail enlisted members of the Regular Army for duty with the Army National Guard of each State and Territory, Puerto Rico, the Canal Zone, and the District of Columbia. The Secretary of the Air Force may detail enlisted members of the Regular Air Force for duty with the Air National Guard of each State and Territory, Puerto Rico, the Canal Zone, and the District of Columbia.

§ 316. Detail of members of Army National Guard for rifle instruction of civilians

The President may detail officers and noncommissioned officers of the Army National Guard to duty as instructors at rifle ranges for the training of civilians in the use of military arms.

§ 317. Command during joint exercises with Federal troops

When any part of the National Guard that is not in Federal service participates in an encampment, maneuver, or other exercise for instruction, together with troops in Federal service, the command of the post, air base, or other place where it is held, and of the troops in Federal service on duty there, remains with the officers in Federal service who command that place and the Federal troops on duty there, without regard to the rank of the officers of the National Guard not in Federal service who are temporarily participating in the exercise.

§ 318. Compensation for disablement during training

A member of the National Guard is entitled to the hospital benefits, pay and allowances, pensions, and other compensation provided by law or regulation for a member of the Regular Army or the Regular Air Force, as the case may be, of corresponding grade and length of service, whenever he is in training under section 502, 503, 504, or 505 of this title—

(1) for a period of more than 30 days, and is disabled in line of duty from disease while so employed; or

(2) for any period of time, and is disabled in line of duty from injury while so employed.

§ 319. Compensation for disablement during training when not covered by section 318 of this title

(a) Under regulations to be prescribed by the President, a member of the National Guard—

(1) who is injured, or contracts a disease, in line of duty while traveling to or from, or while attending, an encampment, maneuver, or other exercise, or a service school, under section 503, 504, or 505 of this title; or

(2) who is injured in line of duty while performing an aerial flight;

is entitled to the benefits of subsection (b).

(b) So far as any benefit named in this subsection is not provided for him under section 318 of this title, a member covered by subsection (a) is entitled to—

(1) the hospitalization, rehospitalization, and medical and surgical care in a hospital and at his home appropriate for the treatment of his injury or disease until the resulting disability cannot be materially improved by further hospitalization or treatment;

(2) the basic pay and allowances, whether in money or in kind, to which he was entitled at the time when the injury was incurred or the disease contracted, during the period of his hospitalization or rehospitalization, but not for more than a total of six months after the end of his prescribed tour of training;

(3) subsistence during hospitalization or rehospitalization when he is not entitled to pay and allowances under clause (2); and

(4) necessary transportation incident to his hospitalization, rehospitalization, and return to his home when he is discharged from the hospital.

§ 320. Hospitalization: when Secretary may require

(a) The Secretary of the Army or the Secretary of the Air Force, as the case may be, may order the hospitalization, medical and surgical treatment, and domiciliary care, for as long as necessary, of any member of the Army National Guard or the Air National Guard, respectively, in training under section 502, 503, 504, or 505 of this title, or on duty under section 316 of this title, and may incur obligations with respect thereto.

(b) Subsection (a) applies whether or not the member was injured, or contracted a disease, in line of duty, except in the case of—

(1) a member of the National Guard in armory-drill status, unless he incurs an injury while participating in an aerial flight under section 502 (e) of this title; or

(2) a member of the National Guard treated in a private hospital, or by a civilian physician, while on leave of absence for more than 24 hours.

§ 321. Death gratuity

The Secretary of the Army or the Secretary of the Air Force, as the case may be, shall have a death gratuity paid to the widow, child, or other dependent relative named in section 3688 or 8688 of title 10 of a member of the National Guard who dies from a disability incurred in line of duty while he is in training under section 502, 503, 504, or 505 of this title—

(1) for a period of more than 30 days, if the death is caused by disease; or

(2) for any period of time, if the death is caused by injury.

The death gratuity shall be equal to, and shall be paid under the same conditions as apply to, the death gratuity payable under section 3688 or 8688 of title 10 for a member of the Regular Army or the Regular Air Force, as the case may be, of corresponding grade and length of service.

§ 322. Discharge of enlisted members

(a) An enlisted member of the National Guard shall be discharged when—

(1) he becomes 64 years of age; or

(2) his Federal recognition is withdrawn.

(b) An enlisted member who is discharged from the National Guard is entitled to a discharge certificate similar in form and classification to the corresponding certificate prescribed for members of the Regular Army or the Regular Air Force, as the case may be.

(c) In time of peace, an enlisted member of the National Guard may be discharged before his enlistment expires, under such regulations as may be prescribed by the Secretary of the Army or the Secretary of the Air Force, as the case may be.

§ 323. Withdrawal of Federal recognition

(a) Whenever a member of the National Guard ceases to have the qualifications prescribed under section 301 of this title or ceases to be a member of a federally recognized unit or organization of the National Guard, his Federal recognition shall be withdrawn.

(b) Under regulations to be prescribed by the President, the capacity and general fitness of an officer of the National Guard for continued Federal recognition may be investigated at any time by an efficiency board composed of commissioned officers of—

(1) a regular or reserve component of the Army who outrank him and who are detailed by the Secretary of the Army, if he is a member of the Army National Guard; or

(2) a regular or reserve component of the Air Force who outrank him and who are detailed by the Secretary of the Air Force, if he is a member of the Air National Guard.

If the findings of the board are unfavorable to the officer and are approved by the President, his Federal recognition shall be withdrawn.

(c) If a member of the Army National Guard of the United States or the Air National Guard of the United States is transferred to the Army Reserve or the Air Force Reserve, as the case may be, under section 3259, 3352 (a), 8259, or 8352 (a) of title 10, his Federal recognition is withdrawn.

§ 324. Discharge of officers; termination of appointment

(a) An officer of the National Guard shall be discharged when—

(1) he becomes 64 years of age; or

(2) his Federal recognition is withdrawn.

The official who would be authorized to appoint him shall give him a discharge certificate.

(b) Subject to subsection (a), the appointment of an officer of the National Guard may be terminated or vacated as provided by the laws of the State or Territory of whose National Guard he is a member, or by the laws of Puerto Rico, the Canal Zone, or the District of Columbia, if he is a member of its National Guard.

§ 325. Relief from National Guard duty when ordered to active duty

(a) Each member of the Army National Guard of the United States or the Air National Guard of the United States who is ordered to active duty is relieved from duty in the National Guard of his State or Territory, or of Puerto Rico, the Canal Zone, or the District of Columbia, as the case may be, from the effective date of his order to active duty until he is relieved from that duty.

(b) So far as practicable, members, organizations, and units of the Army National Guard of the United States or the Air National Guard of the United States ordered to active duty shall be returned to their National Guard status upon relief from that duty.

§ 326. Courts-martial of National Guard not in Federal service: composition, jurisdiction, and procedures

In the National Guard not in Federal service, there are general, special, and summary courts-martial constituted like similar courts of the Army and the Air Force. They have the jurisdiction and powers, except as to punishments, and shall follow the forms and procedures, provided for those courts.

§ 327. General courts-martial of National Guard not in Federal service

(a) In the National Guard not in Federal service, general courts-martial may be convened by the President or by the governor of a State or Territory, Puerto Rico, or the Canal Zone, or by the commanding general of the National Guard of the District of Columbia.

(b) A general court-martial may sentence to—

(1) a fine of not more than $200;
(2) forfeiture of pay and allowances;
(3) a reprimand;
(4) dismissal or dishonorable discharge;
(5) reduction of a noncommissioned officer to the ranks; or
(6) any combination of these punishments.

§ 328. Special courts-martial of National Guard not in Federal service

(a) In the National Guard not in Federal service, the commanding officer of a garrison, fort, post, camp, air base, auxiliary air base, or other place where troops are on duty, or of a brigade, regiment, wing, group, detached battalion, separate squadron, or other detached command, may convene special courts-martial. Special courts-martial may also be convened by superior authority.

(b) A special court-martial may not try a commissioned officer.

(c) A special court-martial has the same powers of punishment as a general court-martial, except that a fine imposed by a special court-martial may not be more than $100 for a single offense.

§ 329. Summary courts-martial of National Guard not in Federal service

(a) In the National Guard not in Federal service, the commanding officer of a garrison, fort, post, camp, air base, auxiliary air base, or other place where troops are on duty, or of a regiment, wing, group, detached battalion, detached squadron, detached company, or other detachment, may convene a summary court-martial consisting of one commissioned officer. The proceedings shall be informal.

(b) A summary court-martial may sentence to a fine of not more than $25 for a single offense, to forfeiture of pay and allowances, and to reduction of a noncommissioned officer to the ranks.

§ 330. Confinement instead of fine

In the National Guard not in Federal service, a court-martial may, instead of imposing a fine, sentence to confinement for not more than one day for each dollar of the authorized fine.

§ 331. Dismissal or dishonorable discharge

In the National Guard not in Federal service, no sentence of dismissal or dishonorable discharge may be executed until it is approved by the governor of the State or Territory, Puerto Rico, or the Canal Zone, whichever is concerned, or, in the case of the National Guard of the District of Columbia, by its commanding general.

§ 332. Compelling attendance of accused and witnesses

In the National Guard not in Federal service, the president of a court-martial or a summary court officer may—

(1) issue a warrant for the arrest of any accused person who, having been served with a warrant and a copy of the charges, disobeys a written order by the convening authority to appear before the court;

(2) issue subpenas duces tecum and other subpenas;

(3) enforce by attachment the attendance of witnesses and the production of books and papers; and

(4) sentence for refusal to be sworn or to answer, as provided in actions before civil courts.

§ 333. Execution of process and sentence

In the National Guard not in Federal service, the processes and sentences of its courts-martial shall be executed by the civil officers prescribed by the laws of the States concerned. In a State where no provision is made for executing those processes and sentences, and in the Territories, Puerto Rico, the Canal Zone, and the District of Columbia, the process or sentence shall be executed by a United States marshal or deputy marshal, who shall make a return to the military officer issuing the process or the court imposing the sentence.

CHAPTER 5.—TRAINING

Sec.

501. Training generally.
502. Required drills and field exercises.
503. Participation in field exercises.
504. National Guard schools and small arms competitions.
505. Army and Air Force schools and field exercises.
506. Assignment and detail of members of Regular Army or Regular Air Force for instruction of National Guard.
507. Instruction in firing; supply of ammunition.

§ 501. Training generally

(a) The discipline, including training, of the Army National Guard shall conform to that of the Army. The discipline, including training, of the Air National Guard shall conform to that of the Air Force.

(b) The training of the National Guard shall be conducted by the several States and Territories, Puerto Rico, the Canal Zone, and the District of Columbia in conformity with this title.

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§ 502. Required drills and field exercises

(a) Under regulations to be prescribed by the Secretary of the Army or the Secretary of the Air Force, as the case may be, each company, battery, squadron, and detachment of the National Guard, unless excused by the Secretary concerned, shall—

(1) assemble for drill and instruction, including indoor target practice, at least 48 times each year; and

(2) participate in training at encampments, maneuvers, outdoor target practice, or other exercises, at least 15 days each year.

(b) An assembly for drill and instruction may consist of a single ordered formation of a company, battery, squadron, or detachment, or, when authorized by the Secretary concerned, a series of ordered formations of parts of those organizations. However, to have a series of formations credited as an assembly for drill and instruction, all parts of the unit must be included in the series within seven consecutive days of the same calendar month.

(c) The total attendance at the series of formations constituting an assembly shall be counted as the attendance at that assembly for the required period. No member may be counted more than once or receive credit for more than one required period of attendance, regardless of the number of formations that he attends during the series constituting the assembly for the required period.

(d) No organization may receive credit for an assembly for drill or indoor target practice unless—

(1) the number of members present equals or exceeds the minimum number prescribed by the President;

(2) the period of military duty or instruction for which a member is credited is at least one and one-half hours; and

(3) the training is of the type prescribed by the Secretary concerned.

(e) An appropriately rated member of the National Guard who performs an aerial flight under competent orders may receive credit for attending drill for the purposes of this section, if the flight prevented him from attending a regularly scheduled drill.

§ 503. Participation in field exercises

(a) Under such regulations as the President may prescribe, the Secretary of the Army and the Secretary of the Air Force, as the case may be, may provide for the participation of the National Guard in encampments, maneuvers, outdoor target practice, or other exercises for field or coast-defense instruction, independently of or in conjunction with the Army or the Air Force, or both.

(b) Amounts necessary for the pay, subsistence, transportation, and other proper expenses of any part of the National Guard of a State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia participating in an exercise under subsection (a) may be set aside from funds allocated to it from appropriations for field or coast-defense instruction.

(c) Members of the National Guard participating in an exercise under subsection (a) may, after being mustered, be paid for the period beginning with the date of leaving home and ending with the date of return, as determined in advance. If otherwise correct, such a payment passes to the credit of the disbursing officer.

§ 504. National Guard schools and small arms competitions

(a) Under such regulations as the President may prescribe, the Secretary of the Army may provide for assemblies of members of the Army National Guard—

(1) to attend schools conducted by commissioned officers of the Regular Army detailed by the Secretary; or

(2) to participate in small arms competitions.

Similarly, the Secretary of the Air Force may provide for assemblies of members of the Air National Guard—

(1) to attend schools conducted by commissioned officers of the Regular Air Force detailed by the Secretary; or

(2) to participate in small arms competition.

(b) Assemblies under subsection (a) for members of the National Guard of a State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia may be held inside or outside its boundaries.

§ 505. Army and Air Force schools and field exercises

Under such regulations as the President may prescribe and upon the recommendation of the governor of any State or Territory, Puerto Rico, or the Canal Zone, or of the commanding general of the National Guard of the District of Columbia, the Secretary of the Army may authorize a limited number of members of its Army National Guard to—

(1) attend any service school except the United States Military Academy, and to pursue a regular course of study at the school; or

(2) be attached to an organization of the branch of the Army corresponding to the organization of the Army National Guard to which the member belongs, for routine practical instruction at or near an Army post during field training or other outdoor exercise.

Similarly, the Secretary of the Air Force may authorize a limited number of members of the Air National Guard to—

(1) attend any service school except the United States Air Force Academy, and to pursue a regular course of study at the school; or

(2) be attached to an organization of the Air Force corresponding to the organization of the Air National Guard to which the member belongs, for routine practical instruction at an air base during field training or other outdoor exercise.

§ 506. Assignment and detail of members of Regular Army or Regular Air Force for instruction of National Guard

(a) The President shall assign for instruction of the National Guard such members of the Regular Army or the Regular Air Force as he considers necessary.

(b) The Secretary of the Army may detail members of the Regular Army to attend an encampment, maneuver, or other exercise, for field or coast-defense instruction of the Army National Guard. Similarly, the Secretary of the Air Force may detail members of the Regular Air Force to attend exercises for field or coast-defense instruction of the Air National Guard. Members so detailed shall instruct the members of the National Guard at the exercise, as directed by the Secretary concerned, or as requested by the governor or commanding officer of the National Guard there assembled.

§ 507. Instruction in firing; supply of ammunition

Ammunition for instruction in firing and for target practice may be furnished, in such amounts as may be prescribed by the Secretary of the Army or the Secretary of the Air Force, as the case may be, to units of the National Guard encamped at a post, camp, or air base. The instruction shall be under the direction of a commissioned officer selected for that purpose by the proper military commander.

CHAPTER 7.—SERVICE, SUPPLY, AND PROCUREMENT

Sec.

701. Uniforms, arms, and equipment to be same as Army or Air Force.
702. Issue of supplies.
703. Purchases of supplies by States from Army or Air Force.
704. Accountability: relief from upon order to active duty.
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§ 701. Uniforms, arms, and equipment to be same as Army or Air Force

So far as practicable, the same types of uniforms, arms, and equipment as are issued to the Army shall be issued to the Army National Guard, and the same types of uniforms, arms, and equipment as are issued to the Air Force shall be issued to the Air National Guard.

§ 702. Issue of supplies

(a) Under such regulations as the President may prescribe, the Secretary of the Army and the Secretary of the Air Force may buy or manufacture and, upon requisition of the governor of any State or Territory, Puerto Rico, or the Canal Zone, or the commanding general of the National Guard of the District of Columbia, issue to its Army National Guard and Air National Guard, respectively, the supplies necessary to uniform, arm, and equip that Army National Guard or Air National Guard for field duty.

(b) Whenever the Secretary concerned is satisfied that the Army National Guard or the Air National Guard, as the case may be, of any State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia is properly organized, armed, and equipped for field duty, funds allotted to that jurisdiction for its Army National Guard or Air National Guard may be used to buy any article issued by the Army or the Air Force, as the case may be.

(c) Under such regulations as the President may prescribe, the issue of new types of equipment, small arms, or fie'd guns to the National Guard of any State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia shall be without charge against appropriations for the National Guard.

(d) No property may be issued to the National Guard of a State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia, unless that jurisdiction makes provision, satisfactory to the Secretary concerned, for its protection and care.

§ 703. Purchases of supplies by States from Army or Air Force

(a) Subject to the approval of the Secretary of the Army, any State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia may buy from the Department of the Army, for its National Guard or the officers thereof, supplies and military publications furnished to the Army, in addition to other supplies issued to its Army National Guard. On the same basis, it may buy similar property from the Department of the Air Force. A purchase under this subsection shall be for cash, at cost plus transportation.

(b) In time of actual or threatened war, the United States may requisition for military use any property bought under subsection (a). Credit for the return in kind of property so requisitioned shall be given to the State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia from which it is received.

(c) Proceeds of sales by the Department of the Army and the Department of the Air Force under this section shall be credited to the appropriations from which the property was purchased, shall not be covered into the Treasury, and may be used to replace property sold under this section.

§ 704. Accountability: relief from upon order to active duty

Upon ordering any part of the Army National Guard of the United States or the Air National Guard of the United States to active duty, the President may, upon such terms as he may prescribe, relieve the State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia, whichever is concerned, of accountability for property of the United States previously issued to it for the use of that part.

§ 705. Purchase of uniforms and equipment by officers of National Guard from Army or Air Force

Officers of the Army National Guard not in Federal service may buy articles of individual clothing and equipment from the Department of the Army, under such regulations as the Secretary of the Army may prescribe. On the same basis, officers of the Air National Guard not in Federal service may buy those items from the Department of the Air Force. Purchases under this section shall be for cash, at average current costs, including overhead, as determined by the Secretary concerned.

§ 706. Return of arms and equipment upon relief from Federal service

So far as practicable, whenever units, organizations, or members of the National Guard are returned to their National Guard status under section 325 (b) of this title, arms and equipment that the Secretary concerned determines are sufficient to accomplish their peacetime mission shall be returned with them.

§ 707. Use of public buildings for offices by instructors

Whenever practicable, instructors of the National Guard shall use State armories or other public buildings for offices.

§ 708. Property and fiscal officers

(a) The governor of each State and Territory, Puerto Rico, and the Canal Zone, and the commanding general of the National Guard of the District of Columbia, shall appoint, designate or detail, subject to the approval of the Secretary of the Army and the Secretary of the Air Force, a qualified commissioned officer of the National Guard of that jurisdiction who is also a commissioned officer of the Army National Guard of the United States or the Air National Guard of the United States, as the case may be, to be the property and fiscal officer of that jurisdiction. If the officer is not on active duty, the President may order him to active duty, with his consent, to serve as a property and fiscal officer.

(b) Each property and fiscal officer shall—

(1) before entering upon the duties of that assignment, give a good and sufficient bond to the United States, in an amount to be determined by the Secretary of the Army and the Secretary of the Air Force, for the faithful performance of his duties and for the safekeeping and proper disposition of Federal property intrusted to his care;

(2) receipt and account for all funds and property of the United States in the possession of the National Guard for which he is property and fiscal officer; and

(3) make returns and reports concerning those funds and that property, as required by the Secretary concerned.

(c) When he ceases to hold that assignment, a property and fiscal officer resumes his status as an officer of the National Guard.

(d) The Secretary concerned shall have an inspection of the accounts and records of each property and fiscal officer pertaining to his department made by an Inspector General of his department at least once during each year.

(e) The Secretaries shall prescribe a maximum grade, commensurate with the functions and responsibilities of the office, but not above colonel, for the property and fiscal officer of the United States for the National Guard of each State or Territory, Puerto Rico, the Canal Zone, and the District of Columbia.

(f) The Secretary of the Army and the Secretary of the Air Force shall prescribe joint regulations necessary to carry out subsections (a)–(e).

(g) A property and fiscal officer may intrust money to an officer of the National Guard to make disbursements as his agent. Both the officer to whom money is intrusted, and the property and disbursing officer intrusting the money to him, are pecuniarily responsible for that money to the United States. The agent officer is subject, for misconduct as an agent, to the liabilities and penalties prescribed by law in like cases for the property and fiscal officer for whom he is acting.

§ 709. Caretakers and clerks

(a) Under such regulations as the Secretary of the Army may prescribe, funds allotted by him for the Army National Guard may be spent for the compensation of competent persons to care for material,

armament, and equipment of the Army National Guard. Under such regulations as the Secretary of the Air Force may prescribe, funds allotted by him for the Air National Guard may be spent for the compensation of competent persons to care for material, armament, and equipment of the Air National Guard. A caretaker employed under this subsection may also perform clerical duties incidental to his employment and other duties that do not interfere with the performance of his duties as caretaker.

(b) Enlisted members of the National Guard and civilians may be employed as caretakers under this section. However, if a unit has more than one caretaker, one of them must be an enlisted member. Compensation under this section is in addition to compensation otherwise provided for a member of the National Guard.

(c) Under regulations to be prescribed by the Secretary concerned, material, armament, and equipment of the Army National Guard or Air National Guard of a State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia may be placed in a common pool for care, maintenance, and storage. Not more than 15 caretakers may be employed for each of those pools.

(d) Under regulations to be prescribed by the Secretary concerned, one commissioned officer of the National Guard in a grade below major may be employed for each pool set up under subsection (c) and for each squadron of the Air National Guard. Commissioned officers may not be otherwise employed under this section.

(e) Funds appropriated by Congress for the National Guard are in addition to funds appropriated by the several States and Territories, Puerto Rico, the Canal Zone, and the District of Columbia for the National Guard, and are available for the hire of caretakers and clerks.

(f) The Secretary concerned shall fix the salaries of clerks and caretakers authorized to be employed under this section, and shall designate the person to employ them.

§ 710. Reports of survey

(a) All military property issued by the United States to the National Guard remains the property of the United States.

(b) If property issued to the National Guard is lost, damaged, or destroyed, or becomes unserviceable or unsuitable, a survey of the circumstances thereof shall be made by a disinterested commissioned officer of the Regular Army or the Army National Guard detailed by the Secretary of the Army, or by a disinterested commissioned officer of the Regular Air Force or the Air National Guard detailed by the Secretary of the Air Force, as the case may be. The report of the surveying officer shall be sent to the Secretary concerned or to an officer designated by him to receive those reports.

(c) The Secretary concerned or his designated representative may relieve the State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia, whichever is concerned, or further accountability and pecuniary liability for the property. However, if it was lost, damaged, or destroyed through negligence, the money value of the property or the damage thereto shall be charged (1) to the State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia, whichever is concerned, to be paid from its funds or from any non-Federal funds; or (2) to the member to whom the loss, damage,

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or destruction is charged from pay due him for duties performed in his status as a member of the National Guard.

(d) If property surveyed under this section is found to be unserviceable or unsuitable, the Secretary concerned or his designated representative shall direct its disposition by sale or otherwise. The proceeds of the following under this subsection shall be deposited in the Treasury under section 725c (b) (22) of title 31:

(1) A sale.

(2) A stoppage against a member of the National Guard.

(3) A collection from a person, or from a State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia, to reimburse the United States for the loss or destruction of, or damage to, the property.

(e) If a State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia, whichever is concerned, neglects or refuses to pay for the loss or destruction of, or damage to, property charged against it under subsection (c), the Secretary concerned may bar it from receiving any part of appropriations for the Army National Guard or the Air National Guard, as the case may be, until the payment is made.

(f) Instead of the procedure prescribed by subsections (b)–(d), property issued to the National Guard that becomes unserviceable through fair wear and tear in service may, under regulations to be prescribed by the Secretary concerned, be sold or otherwise disposed of after an inspection, and a finding of unserviceability because of that wear and tear, by a commissioned officer of the Regular Army or the Regular Air Force, as the case may be, designated by the Secretary. The State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia, whichever is concerned, is relieved of accountability for that property.

§ 711. Disposition of obsolete or condemned property

Each State and Territory, Puerto Rico, the Canal Zone, and the District of Columbia shall, upon receiving new property issued to its National Guard to replace obsolete or condemned issues of property, return the replaced property to the Department of the Army or the Department of the Air Force, as the case may be, or otherwise dispose of it, as the Secretary concerned directs. No money credit may be allowed for property disposed of under this section.

§ 712. Disposition of proceeds of condemned stores issued to National Guard

The following shall be covered into the Treasury:

(1) The proceeds from sales of condemned stores issued to the National Guard of a State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia, and not charged against its allotment.

(2) The net proceeds from collections made from any person to reimburse the United States for the loss or destruction of, or damage to, property described in clause (1).

(3) Stoppage against members of the National Guard for the loss or destruction of, or damage to, property described in clause (1).

§ 713. Official mail: free transmission

Units and headquarters of the National Guard, whether or not in Federal service, have the same privilege of free mailing of official matter as the Department of Defense.

PARTS OF TITLE 10 ADOPTED FOR COAST AND GEODETIC SURVEY

SEC. 3. (a) The rules of law that apply to the Armed Forces under the following provisions of title 10, Armed Forces, United States Code, including changes in those rules made after the effective date of this Act, apply also to the Coast and Geodetic Survey:

(1) Chapter 61, Retirement or Separation for Physical Disability.

(2) Chapter 69, Retired Grade, except sections 1375 and 1376 (a).

(3) Chapter 71, Computation of Retired Pay, except formula No. 3 of section 1401.

(4) Chapter 73, Annuities Based on Retired or Retainer Pay.

(5) Chapter 75, Death Benefits; Care of the Dead.

(6) Such other provisions of subtitle A as may be adopted for applicability to the Coast and Geodetic Survey by any other provision of law.

(b) The authority vested by title 10, United States Code, in the "military departments" or "the Secretary concerned" with respect to the provisions of law referred to in subsection (a) shall be exercised, with respect to the Coast and Geodetic Survey, by the Secretary of Commerce or his designee.

AMENDMENTS TO PUBLIC HEALTH SERVICE ACT

SEC. 4. Title II of the Public Health Service Act is amended by adding the following at the end thereof:

"SEC. 221. (a) Commissioned officers of the Service or their surviving beneficiaries are entitled to all the rights, benefits, privileges, and immunities now or hereafter provided for commissioned officers of the Army or their surviving beneficiaries under the following chapters of title 10, United States Code:

"(1) Chapter 55, Voting by Members of the Armed Forces, but only when commissioned officers of the Service are entitled to military benefits under section 212 of this Act.

"(2) Chapter 61, Retirement or Separation for Physical Disability.

"(3) Chapter 69, Retired Grade, except sections 1375 and 1376 (a).

"(4) Chapter 71, Computation of Retired Pay, except formula No. 3 of section 1401.

"(5) Chapter 73, Annuities Based on Retired or Retainer Pay.

"(6) Chapter 75, Death Benefits; Care of the Dead.

"(7) Chapter 163, Military Claims, but only when commissioned officers of the Service are entitled to military benefits under section 212 of this Act.

"(b) The authority vested by title 10, United States Code, in the 'military departments' or 'the Secretary concerned' with respect to the rights, privileges, immunities, and benefits referred to in subsection (a) shall be exercised, with respect to commissioned officers of the Service, by the Secretary of Health, Education, and Welfare or his designee."

SEC. 5. Section 211 (g) of the Public Health Service Act is amended to read as follows:

"(g) For the purposes of retirement or separation for physical disability under chapter 61 of title 10, United States Code, a commissioned officer of the Service shall be credited, in addition to the service described in section 1208 (a) (2) of that title, with his service, other than commissioned service, with the Public Health Service. For such purposes, section 1208 (a) (2) is applicable to officers of the Reserve Corps and to officers of the Regular Corps."

AMENDMENTS TO TITLE 14, COAST GUARD

SEC. 6. Section 41 of title 14, United States Code, is amended to read as follows:

"§ 41. Grades and ratings

"In the Coast Guard there shall be a vice admiral; rear admirals; captains; commanders; lieutenant commanders; lieutenants; lieutenants (junior grade); ensigns; chief warrant officers, W–4; chief warrant officers, W–3; chief warrant officers, W–2; cadets; warrant officers, W–1; and enlisted men. Enlisted men shall be distributed in ratings established by the Secretary."

SEC. 7. (a) Title 14, United States Code, is amended by inserting the following section before section 351:

"§ 350. Recruiting campaigns

"The Secretary shall initiate and carry forward an intensified voluntary enlistment campaign to obtain the required personnel strengths."

(b) The analysis of chapter 11, title 14, United States Code, is amended by inserting the following item:

"350. Recruiting campaigns."

SEC. 8. (a) Section 351 of title 14, United States Code, is amended to read as follows:

"§ 351. Enlistments; term, grade

"(a) Under regulations prescribed by the Secretary, the Commandant may enlist men for minority or terms of full years not exceeding six years.

"(b) The Secretary shall prescribe the grades or ratings for persons enlisting in the Regular Coast Guard."

(b) The analysis of chapter 11, title 14, United States Code, is amended by striking out "351. Enlistments." and inserting in place thereof the following item:

"351. Enlistments; term, grade."

SEC. 9. (a) Title 14, United States Code, is amended by inserting the following new sections after section 434:

"§ 435. 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 Coast Guard in grades not above lieutenant may be made from warrant officers and chief and first-class petty officers of the Regular Coast Guard including retired members on active duty.

"(c) Temporary appointments in the Coast Guard Reserve in grades not above lieutenant may be made from warrant officers and chief and first-class petty officers of the Coast Guard Reserve on active duty.

"(d) Temporary appointments in warrant officer grades under this section shall be made by the Secretary 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.

"(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 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.

"(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 appointed from that date.

"(h) A temporary appointment under this section is 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.

"(i) When his temporary appointment under this section is terminated or expires, each member of the Coast Guard on active duty shall have the grade he would hold if he had not received any such appointment."

"§ 436. 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 Regular Coast Guard or the Coast Guard Reserve serving on active duty in the grade of ensign 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, under such regulations as he prescribes, may promote to the next higher warrant officer grade any member of the Regular Coast Guard or the Coast Guard Reserve serving on active duty in a warrant officer grade below chief warrant officer, W–4.

"(d) The grade of commodore in the Coast Guard 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 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 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 also make the report required by section 437 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 promotions or appointments, 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 Coast Guard on active duty shall have the grade he would hold if he had not received any such appointment."

"§ 437. Officers having less than 20 years of service; discharge during war or emergency for unsatisfactory performance of duty

"(a) A board of officers convened under section 436 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 (1) unsatisfactory performance of duty in his present grade, and (2) that he would not satisfactorily perform the duties of a higher grade.

"(b) An officer in the Regular Coast Guard 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 may not be discharged under this section before the final disposition of his case. Thereafter, he shall be separated from the Coast Guard either under this section or under another provision of law, in the discretion of the Secretary.

"(d) An 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 or promoted.

"(e) In a computation to determine the grade and status to which an officer may revert under this section, all active service as a temporary or reserve officer is included.

"(f) An 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, but the payment may not be more than one year's basic pay."

"§ 438. Laws not applicable to warrant officers of former Life Saving Service, Lighthouse Service, Bureau of Marine Inspection and Navigation, and Bureau of Customs

"Sections 101, 515, 555–557, 559–565, 597–599, 745, 1164–1167, 1255, 1263, 1293, 1371, and 1401 of title 10, and section 438 of this title, do not affect any right, privilege, or benefit provided for warrant officers by section 431, 432, or 433 of this title."

(b) The analysis of chapter 11, title 14, United States Code, is amended by adding the following items at the end thereof:

"435. Temporary appointments in time of war or national emergency.
"436. Temporary promotions in time of war or national emergency.
"437. Officers having less than 20 years' service; discharge during war or emergency for unsatisfactory performance of duty.
"438. Laws not applicable to warrant officers of former Life Saving Service, Lighthouse Service, Bureau of Marine Inspection and Navigation, and Bureau of Customs."

SEC. 10. (a) Title 14, United States Code, is amended by inserting the following new section after section 462:

"§ 462a. Retired rear admirals; active duty pay and retired pay after two years of active duty

"An 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 entitled—

"(1) when on active duty, to the basic pay and allowances of a rear admiral of the upper half; and

"(2) when not on active duty, to retired pay equal to 75 percent of the basic pay of a rear admiral of the upper half."

(b) The analysis of chapter 13, title 14, United States Code, is amended by inserting the following item:

"462a. Retired rear admirals; active duty pay and retired pay after two years of active duty."

SEC. 11. (a) Title 14, United States Code, is amended by inserting the following new section after section 471:

"§ 471a. Motor vehicles; transportation on permanent change of station

"When a member of the Coast Guard 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."

(b) The analysis of chapter 13, title 14, United States Code, is amended by inserting the following item:

"471a. Motor vehicles; transportation on permanent change of station."

SEC. 12. (a) Title 14, United States Code, is amended by inserting the following new section after section 492:

"§ 492a. Distinguished flying cross

"The President may present, but not in the name of Congress, a distinguished flying cross of appropriate design, with accompanying ribbon, to any person who, while serving in any capacity with the Coast Guard, distinguishes himself by heroism or extraordinary achievement while participating in an aerial flight."

(b) The analysis of chapter 13, title 14, United States Code, is amended by inserting the following item:

"492a. Distinguished flying cross."

SEC. 13. Sections 494 and 497 of title 14, United States Code, are amended by inserting the words "distinguished flying cross," after the words "distinguished service medal,".

SEC. 14. (a) Title 14, United States Code, is amended by inserting the following new section after section 509:

§ 510. Shore patrol duty; payment of expenses

"An officer or cadet of the Coast Guard who is assigned shore patrol duty away from his vessel or other duty station may be paid his actual expenses."

(b) The analysis of chapter 13, title 14, United States Code, is amended by adding the following item at the end thereof:

"510. Shore patrol duty; payment of expenses."

SEC. 15. (a) Title 14, United States Code, is amended by inserting the following new sections before section 754:

"§ 751a. Organization

"The Coast Guard Reserve is the reserve component of the Coast Guard. It shall be organized, administered, trained, and supplied under the direction of the Commandant of the Coast Guard. The departments and offices of the Coast Guard shall hold the same relation and responsibility to the Coast Guard Reserve as they do to the Regular Establishment."

"§ 752a. Authorized strength

"Whenever the authorized strength of the Coast Guard Reserve is not prescribed by law, it shall be prescribed by the President. Subject to the authorized strength of the Coast Guard Reserve, the authorized strength in members in each grade is that which the Secretary determines to be necessary to provide for mobilization requirements. The Secretary shall review those determinations at least once each year and revise them if he considers it necessary. No member of the Coast Guard Reserve may be reduced in his reserve grade without his consent as a result of such a determination."

"§ 753a. Coast Guard Reserve Policy Board

"A Coast Guard Reserve Policy Board shall be convened at least once a year at the seat of government to consider, recommend, and report to the Secretary on reserve policy matters. At least half of the members of the Board must be officers of the Coast Guard Reserve."

(b) The analysis of chapter 21, title 14, United States Code, is amended by inserting the following items:

"751a. Organization.
"752a. Authorized strength.
"753a. Coast Guard Reserve Policy Board."

SEC. 16. (a) Title 14, United States Code, is amended by inserting the following new sections after section 757:

"§ 758a. Reserve student aviation pilots; reserve aviation pilots; appointments in commissioned grade

"(a) Under such regulations as the Secretary prescribes, enlisted members of the Coast Guard Reserve may be designated as student aviation pilots.

"(b) A member who is not a qualified 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 is entitled to have uniforms and equipment issued to him at Government expense.

"(e) Under regulations prescribed by the Secretary, a student aviation pilot of the Coast Guard Reserve may be designated an aviation pilot upon the successful completion of flight training.

"(f) While on active duty, an aviation pilot of the Coast Guard 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 obliged 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 Coast Guard 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 Coast Guard Reserve may, if qualified under regulations prescribed by the Secretary, be appointed an ensign in the Coast Guard Reserve."

"§ 759a. Wartime appointments or promotions; retention of grade upon release from active duty

"(a) A member of the Coast Guard Reserve who, while on active duty, is promoted under section 436 of this title or appointed under section 435 of this title is entitled, upon release from that duty, to the highest grade satisfactorily held by reason of such a promotion or appointment as determined by the Secretary.

"(b) If a member so released is recalled to active duty, he shall, unless otherwise entitled to a higher grade, be recalled in the grade given him under subsection (a)."

(b) The analysis of chapter 21, title 14, United States Code, is amended by inserting the following items:

"758a. Reserve student aviation pilots; reserve aviation pilots; appointments in commissioned grade.
"759a. Wartime appointments or promotions; retention of grade upon release from active duty."

SEC. 17. Section 762 of title 14, United States Code, is amended by adding the following new subsection:

"(e) The husband of a member of the Women's Reserve of the Coast Guard may not be considered a dependent unless he is in fact dependent on her for over half of his support; and a child of such a member may not be considered a dependent unless he is in fact dependent on her for over half of his support."

AMENDMENTS TO TITLE 18, CRIMES AND CRIMINAL PROCEDURE

SEC. 18. (a) Title 18, United States Code, is amended by inserting the following new section after section 1384:

"§ 1385. Use of Army and Air Force as posse comitatus

"Whoever, except in cases and under circumstances expressly authorized by the Constitution or Act of Congress, willfully uses any part of the Army or the Air Force as a posse comitatus or otherwise to execute the laws shall be fined not more than $10,000 or imprisoned not more than two years, or both. This section does not apply in Alaska."

(b) The analysis of chapter 67 of title 18, United States Code, is amended by adding the following item at the end thereof:

"1385. Use of Army and Air Force as posse comitatus."

AMENDMENTS TO TITLE 28, JUDICIARY AND JUDICIAL PROCEDURE

SEC. 19. (a) Title 28, United States Code, is amended by inserting the following new section after section 1442:

"§ 1442a. Members of armed forces sued or prosecuted

"A civil or criminal prosecution in a court of a State of the United States against a member of the armed forces of the United States

on account of an act done under color of his office or status, or in respect to which he claims any right, title, or authority under a law of the United States respecting the armed forces thereof, or under the law of war, may at any time before the trial or final hearing thereof be removed for trial into the district court of the United States for the district where it is pending in the manner prescribed by law, and it shall thereupon be entered on the docket of the district court, which shall proceed as if the cause had been originally commenced therein and shall have full power to hear and determine the cause."

(b) The analysis of chapter 89, title 28, United States Code, is amended by inserting the following item:

"1442a. Members of armed forces sued or prosecuted."

AMENDMENTS TO CAREER COMPENSATION ACT OF 1949

SEC. 20. (a) Section 201 (e) of the Career Compensation Act of 1949 (37 U. S. C. 232 (e)) is amended by—

(1) striking out the comma after the words "active list" and inserting in place thereof the word "or";

(2) inserting the words ", and all members of the uniformed services, and all members of the Army National Guard and the Air National Guard who are not Reserves of the Army or the Air Force, as the case may be," after the words "when on active duty,";

(3) striking out the word "or" before the words "when participating";

(4) striking out the following words: "and in addition thereto, all members of the National Guard and the Air National Guard when they are entitled by law to receive from the Federal Government the same pay as that authorized for members of the regular components of the uniformed services of corresponding grade or rank,"; and

(5) inserting the following proviso after the first proviso thereof: "*Provided further*, That members of the National Guard called into Federal service for a period of 30 days or less are entitled to pay and allowances from the day of their appearing at the place of company rendezvous, but this provision shall not be construed to authorize any species of expenditure previous to arriving at such places of rendezvous which is not provided by law to be paid after their arrival at such places of rendezvous;".

(b) Section 301 (a) of the Career Compensation Act of 1949 (37 U. S. C. 251 (a)) is amended by inserting the following sentence before the last sentence: "Aviation cadets of the Air Force are entitled to receive the same allowance for subsistence as is now or may hereafter be authorized for officers of the Air Force."

(c) Section 304 of the Career Compensation Act of 1949 (37 U. S. C. 254) is amended by adding the following new subsection at the end thereof:

"(d) Officers entitled to receive basic pay are, while serving as senior members of the Military Staff Committee of the United Nations, in addition to the personal money allowance authorized by subsection (a), entitled to receive a personal money allowance of $2,200 per annum."

(d) Title III of the Career Compensation Act of 1949 (37 U. S. C. 251 et seq.) is amended by adding the following new sections at the end thereof:

"UNIFORM ALLOWANCES—INITIAL REIMBURSEMENTS

"SEC. 305. (a) An officer of a reserve component is entitled to an initial sum not to exceed $200 as reimbursement for the purchase of required uniforms and equipment, either—

"(1) upon first reporting for active duty (other than for training) for a period in excess of 90 days; or

"(2) upon completion, as a member of a reserve component, but not as a member of the Army without specification of component or the Air Force without specification of component, of not less than 14 days active duty; or

"(3) after the performance of 14 periods of not less than two hours' duration each, of inactive-duty training as a member in the Ready Reserve of a reserve component: *Provided*, That only duty requiring the wearing of the uniform shall be counted for the purpose of this section: *Provided further*, That any initial uniform reimbursement or allowance heretofore or hereafter received as an officer under the provisions of any other law is a bar to the entitlement for any initial sum authorized under the provisions of this section: *And provided further*, That any individual who has served on active duty as an officer of a regular component of the armed forces of the United States may not be qualified for entitlement under this section by duty performed within two years after separation from such regular component.

"(b) An officer of a reserve component is entitled to an additional sum of not to exceed $50 for reimbursement for the purchase of required uniforms and equipment, upon completion of each period after July 9, 1952, of four years of service as prescribed in section 1332 (a) (2) of title 10, United States Code, performed in an active status in a reserve component and which shall include at least 28 days of active duty: *Provided*, That any period of active duty for a period in excess of 90 days shall be excluded in determining the period of four years required for eligibility under this subsection: *Provided further*, That a person who receives or has heretofore received a uniform reimbursement or allowance as an officer is not entitled to the reimbursement provided in this subsection until the expiration of not less than four years from the date of entitlement to the last reimbursement or allowance: *And provided further*, That until four years after July 9, 1952, an officer may elect to receive the uniform reimbursement not to exceed $50 to which he may be entitled under existing regulations issued pursuant to section 302 of the Naval Reserve Act of 1938, as amended, or section 11 of the Act of August 4, 1942, as amended. This subsection does not apply to officers of the Army without component or of the Air Force without component.

"(c) An officer of a reserve component entering on active duty is entitled, for each time of such entry or reentry on active duty of more than ninety days' duration to a further sum not to exceed $100 as reimbursement for additional uniforms and equipment required on such duty: *Provided*, That the reimbursement provided by this sub-

section is not payable to any officer who, under any provision of law, has received an initial uniform reimbursement or allowance in excess of $200 during his current tour of active duty or within a period of two years prior to entering on his current tour of active duty: *Provided further*, That the reimbursement provided in this subsection is not payable to any officer entering on active duty within two years after completing a previous period of active duty of more than 90 days' duration.

"(d) The receipt of a uniform and equipment reimbursement as an officer of one of the reserve components is a bar to entitlement to a uniform reimbursement upon transfer to or appointment in another, except where a different uniform is required: *Provided*, That reimbursement for uniforms and equipment upon transfer to or appointment in another reserve component within the limits and under the conditions prescribed by subsections (a) and (c) of this section may be made in accordance with regulations approved by the Secretary of Defense or the Secretary of the Treasury in the case of the Coast Guard when the Coast Guard is operating as a service in the Treasury Department. This subsection does not apply to members of the Army without component or of the Air Force without component.

"(e) Subject to standards, policies, and procedures prescribed by the Secretary of Defense, the Secretary of each military department shall prescribe such regulations as he considers necessary to carry out this section. The Secretary of the Treasury, with the concurrence of the Secretary of the Navy, shall prescribe such regulations as he considers necessary to carry out this section, so far as it relates to the Coast Guard, except when the Coast Guard is operating as a service in the Navy. So far as practicable, regulations for all reserve components shall be uniform."

"UNIFORM GRATUITY UPON TEMPORARY APPOINTMENT

"SEC. 306. Enlisted members of the Navy, Marine Corps, or Coast Guard are entitled to $250 as a uniform gratuity upon initial appointment under section 5597 of title 10, United States Code, or under section 435 of title 14, United States Code."

(e) Section 501 (a) of the Career Compensation Act of 1949 (37 U. S. C. 301 (a)) is amended by striking out the words "by law and" after the words "to the extent provided for".

(f) Section 501 (b) of the Career Compensation Act of 1949 (37 U. S. C. 301 (b)) is amended by adding the following sentence at the end thereof: "Compensation under this section is not authorized for work or study performed by members of the reserve components in connection with correspondence courses of the armed forces."

AMENDMENT TO NATIONAL SECURITY ACT OF 1947

SEC. 21. Section 302 of the National Security Act of 1947, as amended (63 Stat. 585), is amended to read as follows:

"SEC. 302. The compensation of the Assistant Secretaries of Defense is that prescribed by law for assistant secretaries of executive departments. The Assistant Secretaries shall perform such duties as the Secretary of Defense may prescribe."

AMENDMENTS TO UNIVERSAL MILITARY TRAINING AND SERVICE ACT

SEC. 22. (a) Section 4 (b) of the Universal Military Training and Service Act, as amended (50 App. U. S. C. 454 (b)), is amended by adding the following sentence at the end thereof: "The Secretaries of the Army, Navy, and Air Force, with the approval of the Secretary of Defense (and the Secretary of the Treasury with respect to the United States Coast Guard), may provide, by regulations which shall be as nearly uniform as practicable, for the release from training and service in the armed forces prior to serving the periods required by this subsection of individuals who volunteered for and are accepted into organized units of the Army National Guard and Air National Guard and other reserve components."

(b) Section 4 (d) (3) of the Universal Military Training and Service Act, as amended (50 App. U. S. C. 454 (d) (3)), is amended to read as follows:

"(3) Each person who is inducted into the National Security Training Corps shall serve in the armed forces or the National Security Training Corps for a total of eight years, unless he is sooner discharged because of personal hardship under regulations prescribed by the Secretary of Defense. Each person covered by this subsection who is not a Reserve, and who is qualified, shall, upon his release from training, be transferred to a reserve component of an armed force to complete the service required by this subsection."

(c) Section 4 (f) of the Universal Military Training and Service Act (50 App. U. S. C. 454 (f)) is amended to read as follows:

"(f) Notwithstanding any other provision of law, any person who is inducted into the armed forces under this Act and who, before being inducted, was receiving compensation from any person may, while serving under that induction, receive compensation from that person."

(d) Section 8 of the Universal Military Training and Service Act (50 App. U. S. C. 458) is amended to read as follows:

"SEC. 8. No bounty may be paid to induce any person to be inducted into an armed force. A clothing allowance authorized by law is not a bounty for the purposes of this section. No person liable for training and service under this Act may furnish a substitute for that training or service. No person may be enlisted, inducted, or appointed in an armed force as a substitute for another. No person liable for training and service under section 4 may escape that training and service or be discharged before the end of his period of training and service by paying money or any other valuable thing as consideration for his release from that training and service or liability therefor."

AMENDMENT TO ARMED FORCES LEAVE ACT OF 1946

SEC. 23. Section 3 (a) of the Armed Forces Leave Act of 1946 (37 U. S. C. 31a (a)) is amended by adding the following sentence at the end thereof: "Full-time training, or other full-time duty for a period of more than 29 days, performed by a member of the Army National Guard of the United States or the Air National Guard of the United States in his status as a member of the National Guard under sections 316 and 502–505 of title 32, United States Code, and for which he is entitled to pay, shall be considered active service for the purpose of this subsection."

AMENDMENT TO CANAL ZONE CODE

SEC. 24. Chapter 1 of title 2, Canal Zone Code, is amended by inserting the following new section after section 5:

"5a. The militia of the Canal Zone shall be organized under such rules and regulations, not in conflict with the provisions of title 32, United States Code, as the President prescribes."

AMENDMENT TO ACT OF JUNE 25, 1938, CH. 690

SEC. 25. Section 203 of the Act of June 25, 1938, ch. 690 (52 Stat. 1178), is amended by adding the following at the end thereof:

"A fractional year of six months or more shall be considered a full year for the purposes of this section in computing basic pay. A person eligible to transfer to the Fleet Reserve under this section and under section 6330 of title 10, United States Code, may elect the section under which he is to be transferred."

AMENDMENT TO ACT OF JULY 29, 1941, CH. 327

SEC. 26. Section 1 of the Act of July 29, 1941, ch. 327 (55 Stat. 607), is amended by adding the following at the end thereof:

"If such a school is discontinued, the vessels shall be immediately returned to the United States. No person may be sentenced to or received at such a school as a punishment, or commutation of punishment, for a crime."

AMENDMENT TO ACT OF JULY 23, 1947, CH. 301

SEC. 27. Section 16 of the Act of July 23, 1947, ch. 301 (61 Stat. 413), as amended, is amended to read as follows:

"SEC. 16. Notwithstanding the limitations contained in subsection (a) of section 435, and subsection (a) of section 436, of title 14, United States Code, the authority granted by those sections may be exercised until—

"(1) such time as the Secretary of the Treasury determines that the number of officers holding permanent appointments on the active list of the Coast Guard is equal to 95 percent of the number of such officers authorized by law, exclusive of extra numbers; or

"(2) January 1, 1957;

whichever occurs earlier."

AMENDMENTS TO ACT OF AUGUST 1, 1947, CH. 433

SEC. 28. (a) Subsections (b) and (c) of section 1 of the Act of August 1, 1947, as amended (50 U. S. C. 158), are redesignated as subsections "(a)" and "(b)", respectively.

(b) Section 3 of the Act of August 1, 1947, as amended (50 U. S. C. 159), is amended by deleting the words "Secretary of Defense and the", "in the National Military Establishment and", "the Secretary or", and the word "respectively", wherever it appears.

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RESERVES AND NATIONAL GUARDSMEN WHO ARE FEDERAL EMPLOYEES

SEC. 29. (a) Each Reserve of the armed forces or member of the National Guard who is an officer or employee of the United States or the District of Columbia, permanent or temporary indefinite, without regard to classification or terminology peculiar to the Civil Service system, is entitled to leave of absence from his duties, without loss of pay, time, or efficiency rating for each day, but not more than 15 days in any calendar year, in which he is on active duty, or is engaged in field or coast defense training under sections 502–505 of title 32, United States Code.

(b) Each person covered by subsection (a) who is ordered to active duty, or to duty under sections 502–505 of title 32, United States Code, is entitled, upon release from duty, to be restored to the position held by him when ordered to duty.

(c) Any Reserve or member of the National Guard may accept any civilian position under the United States or the District of Columbia and may receive the pay incident to that employment in addition to pay and allowances as a Reserve or member of the National Guard. Membership in a reserve component of the armed forces or in the National Guard does not prevent a person from practicing his civilian profession or occupation before, or in connection with, any department of the United States.

(d) When he is not on active duty, or when he is on active duty for training, a Reserve is not considered to be an officer or employee of the United States or a person holding an office of trust or profit or discharging any official function under, or in connection with, the United States because of his appointment, oath, or status, or any duties or functions performed or pay or allowances received in that capacity.

FUND FOR PAYING CERTAIN NATIONAL GUARD OFFICERS

SEC. 30. The pay and allowances for the Chief of the National Guard Bureau and officers ordered to active duty from the Army National Guard of the United States or the Air National Guard of the United States under section 3496 or 8496 of title 10, United States Code, shall be paid out of the funds appropriated for the pay of the Army National Guard or the Air National Guard.

DISBURSEMENT OF PAY OF MEMBERS OF NATIONAL GUARD

SEC. 31. All amounts appropriated for the pay, under section 501 of the Career Compensation Act of 1949, as amended (37 U. S. C. 301), of enlisted members of the Army National Guard of the United States or the Air National Guard of the United States for attending regular periods of duty and instruction shall be disbursed and accounted for by officers and agents of the Finance Corps of the Army or finance officers of the Air Force, as the case may be. All such disbursements shall be made for such three-month periods for

the various units of the Army National Guard or the Air National Guard as may be prescribed in regulations issued by the Secretary of the Army or the Secretary of the Air Force, as the case may be, and on pay rolls prepared and authenticated as prescribed in those regulations.

MILITIA: RETENTION OF ANCIENT PRIVILEGES

SEC. 32. (a) Any corps of artillery, cavalry, or infantry existing in any of the States on the passage of the Act of May 8, 1792, which by the laws, customs, or usages of those States has been in continuous existence since the passage of that Act, shall be allowed to retain its ancient privileges, subject, nevertheless, to all duties required by law of militia: *Provided*, That those organizations may be a part of the National Guard and entitled to all the privileges thereof, and shall conform in all respects to the organization, discipline, and training to the National Guard in time of war: *Provided further*, That for purposes of training and when on active duty in the service of the United States they may be assigned to higher units, as the President may direct, and shall be subject to the orders of officers under whom they shall be serving.

(b) The First Corps Cadets, antedating, and continuously existing in the State of Massachusetts since, the Act of May 8, 1792, now designated as the 126th Tank Battalion, 26th Infantry Division, hereby declared to be a corps as defined in subsection (a) of this Act for all purposes thereof and now incorporated in the Organized Militia and a part of the National Guard of Massachusetts, shall be allowed to retain its ancient privileges and organization. The First Corps Cadets is hereby declared to be entitled to a lieutenant colonel in command and a major second in command; and those officers, when federally recognized, are entitled to the pay provided by law for their respective grades: *Provided*, That nothing in this section or other provisions of law shall be considered to be in derogation of any other ancient privileges to which the First Corps Cadets is entitled under the laws, customs, or usages of the State of Massachusetts.

MEDALS AND OTHER DEVICES

SEC. 33. (a) The Secretary of the Army shall procure, and issue without charge to any person entitled thereto, the following service medals, and any ribbon, clasp, star, or similar device prescribed as a part of that medal:

(1) Civil War campaign medal;
(2) Indian campaign medal;
(3) Spanish campaign medal;
(4) Spanish War service medal;
(5) Cuban occupation medal;
(6) Puerto Rico occupation medal;
(7) Philippine campaign medal;
(8) Philippine Congressional medal;
(9) China campaign medal;
(10) Cuban pacification medal;
(11) Mexican service medal;

(12) Mexican border service medal;
(13) Victory medal and clasps; and
(14) fourragere as an individual decoration.

(b) Under regulations prescribed by the Secretary, any medal or other device issued under subsection (a) that is lost, destroyed, or becomes unfit for use, without fault or neglect of the owner, may be replaced at cost. However, if the owner is a member of the Army or the Air Force, the medal or device may be replaced without charge.

(c) The Secretary may spend, from any appropriation for the support of the Army, amounts necessary to provide medals and devices under this section.

(d) If a person dies before a medal or device is presented to him under subsection (a), it may be presented to his family.

BACHELOR OF SCIENCE DEGREE FROM MERCHANT MARINE ACADEMY

SEC. 34. Under conditions prescribed by the Secretary of Commerce, the Superintendent of the United States Merchant Marine Academy may confer the degree of bachelor of science upon graduates of the Academy.

DEGREES FOR PERSONS WHO GRADUATED BEFORE ACCREDITING OF SERVICE ACADEMIES

SEC. 35. Under conditions prescribed by the Secretary of the Army, the Secretary of the Navy, or the Secretary of Commerce, as the case may be, the Superintendent of the United States Military Academy, the Superintendent of the United States Naval Academy, or the Superintendent of the United States Merchant Marine Academy, respectively, may confer the degree of bachelor of science upon living graduates of that Academy who were graduated before the date of accrediting of that Academy and who have met the requirements of that Academy for that degree.

PAYMENT OF OFFICERS OF CORPS OF ENGINEERS

SEC. 36. Regular officers of the Corps of Engineers of the Army, and reserve officers of the Army who are assigned to the Corps of Engineers, who are employed primarily on duty connected with nonmilitary public works prosecuted under the direction of the Chief of Engineers, including river and harbor improvements, flood control, and other such works, shall, while so employed, be paid their pay and allowances from the appropriation for the works upon which they are employed.

NITRATE PLANTS

SEC. 37. (a) The President of the United States may make, or cause to be made, such investigation as in his judgment is necessary to determine the best, cheapest, and most available means for the production of nitrates and other products for munitions of war and useful in the manufacture of fertilizers and other useful products by water power or any other power as in his judgment is the best and

cheapest to use; and is also hereby authorized to designate for the exclusive use of the United States, if in his judgment such means is best and cheapest, such site or sites, upon any navigable or nonnavigable river or rivers or upon the public lands, as in his opinion will be necessary for national defense; and is further authorized to construct, maintain, and operate, at or on any site or sites so designated, dams, locks, improvements to navigation, power houses, and other plants and equipment or other means than water power as in his judgment is the best and cheapest, necessary or convenient for the generation of electrical or other power and for the production of nitrates or other products needed for munitions of war and useful in the manufacture of fertilizers and other useful products.

(b) The President is authorized to lease, buy, or acquire, by condemnation, gift, grant, or devise, such lands and rights of way as may be necessary for the construction and operation of such plants, and to take from any lands of the United States, or to buy or acquire by condemnation materials, minerals, and processes, patented or otherwise, necessary for the construction and operation of such plants and for the manufacture of such products.

(c) The products of such plants shall be used by the President for military and naval purposes to the extent that he may deem necessary, and any surplus which he shall determine is not required shall be sold and disposed of by him under such regulations as he may prescribe.

(d) The President is hereby authorized to employ such officers, agents, or agencies as may in his discretion be necessary to enable him to carry out the purposes herein specified, and to authorize and require such officers, agents, or agencies to perform any and all of the duties imposed upon him by the provisions hereof.

(e) The plant or plants provided for under this section shall be constructed and operated solely by the Government and not in conjunction with any other industry or enterprise carried on by private capital.

RETIRED GRADE FOR CERTAIN GENERAL OFFICERS

SEC. 38. The President, by and with the advice and consent of the Senate, may in his discretion extend the privilege granted by sections 3962 (a) and 8962 (a) of title 10, United States Code, to officers, heretofore or hereafter retired, who served in the grade of general or lieutenant general after December 7, 1941, and before July 1, 1946.

ADDITIONAL SERVICE CREDITABLE TO CERTAIN REGULARS

SEC. 39. In addition to service with which he may be credited under section 1208 (a) (2) of title 10, United States Code, a member of a regular component of the armed forces shall be credited, for the purposes of chapter 61 of title 10, United States Code, with all service as—

(1) a cadet at the United States Military Academy, if appointed before August 24, 1912;

(2) a midshipman at the United States Naval Academy, if appointed before March 4, 1913;

(3) an Army field clerk; and
(4) a field clerk, Army Quartermaster Corps.

AVAILABILITY OF CERTAIN MILITARY APPROPRIATIONS

SEC. 40. Moneys appropriated to the Departments of the Army, Navy, or Air Force for procurement of technical military equipment and supplies, the construction of public works, and for research and development, including moneys appropriated to the Department of the Navy for the procurement, construction, and research and development of guided missiles, remain available until spent unless otherwise provided in the appropriation act concerned.

INDEFINITE APPOINTMENTS FOR CERTAIN RESERVES

SEC. 41. Each person who was a reserve officer on July 9, 1952, and who did not hold an appointment for an indefinite term on that date, shall be given an appointment for an indefinite term in place of the appointment he then held, if after written notification by competent authority before July 2, 1953, the officer agrees in writing to have that appointment continued for an indefinite term. In the event such officer does not agree in writing, the term of his current appointment shall not be changed by this section.

PHILIPPINE SCOUTS

SEC. 42. The President is authorized to form the Philippine Scouts into such branches and tactical units as he may deem expedient, within the limit of strength prescribed by law, organized similarly to those of the Regular Army.

REAL PROPERTY TRANSACTIONS OF FEDERAL CIVIL DEFENSE ADMINISTRATION

SEC. 43. (a) The Administrator of the Federal Civil Defense Administration, or his designee, must come to an agreement with the Committees on Armed Services of the Senate and the House of Representatives before entering into any of the following transactions by or for the use of that administration:

(1) An acquisition of fee title to any real property, if the estimated price is more than $25,000.

(2) A lease of any real property to the United States, if the estimated annual rental is more than $25,000.

(3) A lease of real property owned by the United States, if the estimated annual rental is more than $25,000.

(4) A transfer of real property owned by the United States to another Federal agency or to a State, if the estimated value is more than $25,000.

(5) A report of excess real property owned by the United States to a disposal agency, if the estimated value is more than $25,000.

If a transaction covered by clause (1) or (2) is part of a project, the agreement must be based on the general plan for that project, including an estimate of the total cost of the lands to be acquired or leases to be made.

(b) The Administrator shall report quarterly to the Committees on Armed Services of the Senate and the House of Representatives on transactions described in subsection (a) that involve an estimated value of more than $5,000 but not more than $25,000.

(c) This section applies only to real property in the United States, Alaska, Hawaii, and Puerto Rico. It does not apply to real property for river and harbor projects or flood-control projects, or to leases of Government-owned real property for agricultural or grazing purposes.

(d) A statement in an instrument of conveyance, including a lease, that the requirements of this section have been met, or that the conveyance is not subject to this section, is conclusive.

APPOINTMENT OF UNITED STATES MILITARY ACADEMY GRADUATES IN AIR FORCE

SEC. 44. (a) Notwithstanding any other provision of law, a cadet who graduates from the United States Military Academy may, upon graduation and before the effective date of section 541 of title 10, United States Code, be appointed a second lieutenant in the Regular Air Force.

(b) Notwithstanding any other provision of law, no person who was a cadet at the United States Military Academy may be originally appointed in a commissioned grade in the Regular Air Force under this section before the date on which his classmates at the Academy are graduated and appointed as officers. No person who was a cadet at, but did not graduate from, the Academy may be credited, upon appointment as a commissioned officer of the Regular Air Force, with longer service than that credited to any member of his class at the Academy whose service in the Air Force, or in the Army and the Air Force, has been continuous since graduation.

(c) A graduate of the United States Military Academy who is originally appointed a second lieutenant in the Regular Air Force under this section is not entitled to any service credit under this section.

(d) Rank among graduates of each class of the United States Military Academy who, upon graduation, are appointed in the Regular Air Force under this section shall be fixed under regulations prescribed by the Secretary of the Air Force.

(e) The authorized strength in any regular grade is automatically increased to the minimum extent necessary to give effect to each appointment made under this section. An authorized strength so increased is increased for no other purpose, and while he holds that grade the officer whose appointment caused the increase is counted for the purpose of determining when other appointments, not under this section, may be made in that grade.

PROHIBITION OF COLLECTIONS FROM ASSIGNEES, ETC.

SEC. 45. No collection or reclamation shall be made by the United States on account of any money paid to assignees, transferees, or allottees, or to others for them, under assignments, transfers, or allotments of pay and allowances made under authority of law where liability might exist with respect to such assignments, transfers, or allotments or the use of such moneys, because of the death of assignors, transferors, or allotters.

REGULAR WARRANT OFFICERS: DEFERMENT OF SEPARATION WITH COMPLETION OF 20 YEARS OF SERVICE OR AT AGE 60

SEC. 46. (a) The separation of any person who, on November 1, 1954, was a male permanent warrant officer of a regular component of an armed force, and who upon attaining the age of 62 has completed less than 20 years of active service that could be credited to him under section 511 of the Career Compensation Act of 1949 (37 U. S. C. 311), may be deferred by the Secretary concerned until he completes 20 years of that service, but not later than that date which is 60 days after the date on which he attains the age of 64.

(b) The separation of any person who, on November 1, 1954, was a female permanent warrant officer of a regular component of an armed force, and who upon attaining the age of 55 has completed less than 20 years of active service that could be credited to her under section 511 of the Career Compensation Act of 1949 (37 U. S. C. 311), may be deferred by the Secretary concerned until she completes 20 years of that service, but not later than that date which is 60 days after the date on which she attains the age of 60.

AMENDMENT TO ACT OF AUGUST 10, 1946, CH. 952

SEC. 47. Section 9 of the Act of August 10, 1946, ch. 952 (60 Stat. 997), is amended to read as follows:

"SEC. 9. Members of the Navy and Marine Corps who become eligible and apply for transfer to the Fleet Reserve or Fleet Marine Corps Reserve and members of the Fleet Reserve and Fleet Marine Corps Reserve may elect to receive retainer and retired pay computed under the provisions of this Act and sections 6330 and 6331 of title 10, United States Code, or under laws in effect on August 9, 1946."

SUSPENSION OF CERTAIN SECTIONS OF TITLE 10 AND AMENDMENTS TO OFFICER PERSONNEL ACT OF 1947

SEC. 48. (a) Except as they may apply to women officers of the Regular Navy or the Regular Marine Corps appointed under section 5590 of title 10, United States Code, enacted by section 1 of this Act, the following sections of title 10 cease to operate whenever the number of male officers serving on active duty in the grade of ensign or above in the line of the Navy does not exceed the number of male officers holding permanent appointments in the grade of ensign or above on the active list in the line of the Regular Navy: Sections 5505, 5508, 5596, 5651–5663, 5701–5703, 5705–5711, 5751, 5753–5759, 5761, 5762, 5764–5770, 5785, 5786, 5791, 6371–6384, 6386, 6407.

(b) For the purposes of subsection (a), the following officers may not be considered officers serving on active duty:

(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, or drilling the Naval Reserve or the Marine Corps Reserve.

(4) Officers of the Naval Reserve ordered to temporary active duty for the purpose of prosecuting special work.

(c) Title IV of the Officer Personnel Act of 1947 (61 Stat. 869), as amended, is amended by adding the following new section at the end thereof:

"SEC. 437. (a) Except when suspended under section 426 (c), this Act is operative only when the number of male officers serving on active duty in the grade of ensign or above in the line of the Navy does not exceed the number of male officers holding permanent appointments in the grade of ensign or above on the active list in the line of the Regular Navy.

"(b) For the purposes of subsection (a), the following officers may not be considered officers serving on active duty:

"(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, or drilling the Naval Reserve or the Marine Corps Reserve.

"(4) Officers of the Naval Reserve ordered to temporary active duty for the purpose of prosecuting special work.

"(c) This Act does not apply to women officers appointed in the Regular Navy or the Regular Marine Corps under section 5590 of title 10, United States Code."

(d) Sections 411 (a), 416, 421, 423, and 430 of the Officer Personnel Act of 1947 (34 U. S. C. 211e, 306p, 306q, 306s, 410p) are amended by striking out the words "titles I through IV" wherever they appear and inserting in place thereof the words "titles I and II".

SAVING AND SEVERABILITY CLAUSES

SEC. 49. (a) In sections 1–48 of this Act, it is the legislative purpose to restate, without substantive change, the law replaced by those sections on the effective date of this Act. However, laws effective after March 31, 1955, that are inconsistent with this Act shall be considered as superseding it to the extent of the inconsistency.

(b) References that other laws, regulations, and orders make to the replaced law shall be considered to be made to the corresponding provisions of sections 1–48.

(c) Actions taken and offenses committed under the replaced law shall be considered to have been taken or committed under the corresponding provisions of sections 1–48.

(d) If a part of this Act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this Act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

(e) In chapter 47 of title 10, United States Code, enacted by section 1 of this Act, no inference of a legislative construction is to be drawn from the part in which any article is placed nor from the catchlines of the part or the article as set out in that chapter.

(f) The enactment of this Act does not increase or decrease the pay or allowances, including retired pay and retainer pay, of any person.

(g) The enactment of this Act does not affect the status of persons who, on the effective date of this Act, have the status of warrant officers of the Army Mine Planter Service.

RESTATEMENT OF SUSPENDED OR TEMPORARILY SUPERSEDED PROVISIONS

SEC. 50. If on the effective date of this Act a provision of law that is restated in this Act and repealed by section 53 would have been in a suspended or temporarily superseded status but for its repeal, the provisions of this Act that restate that provision have the same suspended or temporarily superseded status.

EFFECTIVE DATE OF UNIFORM CODE OF MILITARY JUSTICE

SEC. 51. Chapter 47 of title 10, United States Code, enacted by section 1 of this Act, takes effect January 1, 1957.

EFFECTIVE DATES OF CERTAIN SECTIONS OF TITLE 10 RELATING TO UNITED STATES AIR FORCE ACADEMY

SEC. 52. (a) Section 541 of title 10, United States Code, enacted by section 1 of this Act, takes effect (1) in the year in which the initial class graduates from the United States Air Force Academy, or (2) upon the rescission of the agreement under which graduates of the United States Military Academy and the United States Naval Academy may volunteer for appointment in the Air Force, whichever is earlier.

(b) Section 9342 (a) of title 10, United States Code, enacted by section 1 of this Act, takes effect four years after the entrance of the initial class at the United States Air Force Academy.

REPEAL PROVISIONS

SEC. 53. The following laws are repealed except with respect to rights and duties that matured, penalties that were incurred, and proceedings that were begun, before the effective date of this act and except as provided in section 49:

SCHEDULE OF LAWS REPEALED

a. Revised Statutes

R. S.	U. S. Code		R. S.	U. S. Code	
Section	Title	Section	Section	Title	Section
214	5	181	431	5	457
215	5	185, 186	432	5	458
216	5	190	436	5	463
217	5	191	565	34	1147
218	5	198	1006	34	1145
220	10	1363	1095	Uncodified	
224	5	199	1096	Uncodified	
225	10	1302, 1303	1097	Uncodified	
228	5	215	1098	10	498
229	5	216	1111	10	1140, 1161
286	34	953	1116	10	621
287	34	954	1118	10	622
415	5	411	1122	10	235
417	5	412	1125	10	238
418	5	413	1127	10	239
419	5	429	1135	10	1259e
420	5	430		34	541
421	5	432	1136	10	1339
422	5	433, 434	1138	10	1315
423	Uncodified		1141	10	1195a
424	5	436	1143	10	1259d
425	5	437		34	541
426	5	438	1144	10	1237
428	5	418	1145	10	1232
429	5	466	1149	10	1239
430	5	431	1150	10	1315

a. Revised Statutes—Continued

R. S.	U. S. Code		R. S.	U. S. Code	
Section	Title	Section	Section	Title	Section
1153	10	185	1307	10	908
1158	10	183	1308	10	835
1169	10	82	1309	10	1061
1175	10	726	1310	10	1066
1183	10	176	1311	10	1042
1191	10	1312	1312	10	1065
1192	10	1314	1313	10	1063
1199	10	62	1314	10	1062, 1081
1201	10	63	1317	10	1098
1209	10	521	1319	10	1096
1210	10	522	1320	10	1099
1211	10	524	1322	10	1105
1212	10	528	1323	10	1102
1222	10	576	1324	10	1044
1223	10	577	1325	10	1104
1224	10	495	1327	Uncodified	----------
1225	10	1182a	1328	Uncodified	----------
	34	1129, 1130	1329	Uncodified	----------
1226	10	516, 1392	1330	10	1144
1231	10	1172	1331	10	1041
1232	10	608	1333	10	1080
1234	10	497	1334	10	1131
1237	10	610	1335	10	1132
1242	10	1317	1336	10	1133
1243	10	943	1337	10	1135
1244	10	944	1338	10	1085
1246	10	961	1341	10	1142
1247	10	962	1344–1361	10	1451–1458
1248	10	963	1362	34	1
1249	10	964	1369	34	11
1250	10	965	1370	34	23
1254	10	1025	1373	34	24
1255	10	1024	1374	34	25
1256	10	1023	1375	5	451
1258	10	1021, 1022	1378	34	11
1259	10	990, 996	1380	34	323
1260	10	1178	1382	34	63
1261	10	671a	1383	34	64
1264	10	691	1384	34	65
1266	10	849	1385	34	66
1268	10	861	1389	34	67
1270	10	806	1393	34	76
1274	10	971	1395	34	11
1275	10	984	1396	34	91
1276	10	786	1397	34	95
1285	10	695	1398	34	96
1291	10	893	1410	34	146
1293	10	716b	1411	Uncodified	----------
1294	10	729	1413	34	11, 79, 141
1296	10	831, 1391	1414	34	142
1298	10	834	1415	34	143
1299	10	875c	1418	34	182
1300	10	875	1419	34	161
1301	10	875b	1420	34	161, 163
1302	10	874	1421	34	177
1303	10	871	1422	34	201
1304	10	872	1426	34	192

a. Revised Statutes—Continued

R. S.	U. S. Code		R. S.	U. S. Code	
Section	Title	Section	Section	Title	Section
1427	34	193	1504	34	282
1428	34	211	1505	34	283
1429	34	194	1506	34	341
1430	34	219	1507	34	342
1431	34	220	1508	34	345
1432	34	218	1509	34	346
1433	34	217	1510	34	347
1434	34	216	1511	34	1021
1436	34	225	1512	34	1031
1437	10	1366	1515	34	1043
	34	447	1516	34	1044
1438	34	144	1518	34	1046
1439	34	145	1519	34	1053
1440	34	226	1520	Uncodified	
1442	34	228	1521	34	1057
1443	34	381	1526	34	1056
1448	34	411	1527	34	1101
1449	34	413	1532	34	462
1450	34	414	1533	34	463
1451	34	415	1534	34	452
1452	34	416	1535	34	453
1453	34	417	1542	34	501
1455	34	412	1543	34	502
1456	34	385	1544	34	507
1457	34	389	1546	34	510
1458	34	400	1547	34	591
1459	34	401	1549	34	529
1462	34	421	1550	34	594
1463	34	424	1551	34	595
1464	34	425	1554	5	418
1465	34	426	1555	5	418
1466	34	241	1557	34	881
1467	34	242	1560	34	862
1468	34	246	1571	34	224
1469	34	247	1576	34	932
1470	34	248	1582	34	904
1471	5	440	1583	34	905
1473	Uncodified		1591	34	993
1474	34	251	1592	34	994
1475	34	251	1593	34	998
1477	34	251	1603	34	651
1482	34	397	1604	34	652
1483	34	258	1605	34	670
1485	34	244	1606	34	671
1486	34	245	1607	34	672
1487	34	913	1609	34	694
1488	34	253	1610	34	695
1489	34	249	1611	34	717
1490	34	250	1616	34	711
1493	34	271	1617	34	713
1494	34	272	1619	34	712
1495	34	273	1620	34	714
1496	34	274	1622	34	681
1498	34	275	1623	34	681
1499	34	276	1664	10	1312
1500	34	277	1665	50	63
1501	34	278	1666	50	55
1502	34	279	1669	50	56
1503	34	281	1671	50	57

a. Revised Statutes—Continued

R. S.	U. S. Code		R. S.	U. S. Code	
Section	Title	Section	Section	Title	Section
1998	10	624	4630	34	1151
3715	10	1198	4636	34	1146
3725	34	576	4637	34	1147
3728	34	580	4638	34	1148
3730	34	581	4639	34	1149
3731	10	1207	4640	34	1150
	34	583	4641	34	1151
3748	10	1316	4644	34	1152
4613	34	1131	4645	34	1153
4614	34	1132	4646	34	1154
4615	34	1133	4647	34	1155
4617	34	1134	4650	34	1156
4618	34	1135	4651	34	1157
4619	34	1136	4652	34	1158
4621	34	1137	4687	33	886
4622	34	1138	4688	33	887
4623	34	1139	4749	10	1433
4624	34	1140	5297	50	201
4625	34	1141	5298	50	202
4626	34	1142	5299	50	203
4627	34	1143	5300	50	204
4628	34	1144	5310	50	214
4629	34	1145			

b. Statutes at Large

Statutes at Large					U. S. Code	
Date	Chapter	Section	Volume	Page	Title	Section
1798						
June 22	56		1	569	Uncodified	
1799						
Feb. 25	10		1	618	Uncodified	
1800						
Apr. 22	29		2	39	Uncodified	
1801						
Mar. 3	20	1, 3	2	110	Uncodified	
1802						
Feb. 6	4		2	129	Uncodified	
1809						
Mar. 3	33	2	2	544	Uncodified	
1815						
Mar. 3	93	1	3	231	Uncodified	
1838						
May 24	104		4	304	Uncodified	

b. Statutes at Large—Continued

Statutes at Large					U. S. Code	
Date	Chapter	Section	Volume	Page	Title	Section
1852						
May 25	J. Res. III		4	605	Uncodified	
1854						
June 30	142	1	4	718	Uncodified	
Do	171		4	742	Uncodified	
1857						
Mar. 2	21		5	153	Uncodified	
1848						
Aug. 29	267		5	546	Uncodified	
Aug. 31	276		5	576	Uncodified	
1846						
Aug. 10	176	1 (proviso on p. 100)	9	100	Uncodified	
1852						
Aug. 31	109	1 (5th through 9th lines of 2d par. on p. 102.)	10	102	Uncodified	
1854						
Mar. 27	J. Res. 8		10	592	Uncodified	
1855						
Mar. 3	198	1 (proviso on p. 675; and 1st par. on p. 676.)	10	675, 676	Uncodified	
1861						
July 31	31		12	284	Uncodified	
Dec. 21	1	8	12	330	Uncodified	
1862						
July 16	184		12	587	34	505.
1864						
June 25	151	1	13	182	Uncodified	
1870						
July 15	294	20	16	319	10	16.
1874						
Mar. 4	44		18	19	5	187.
June 20	335	(proviso on p. 116)	18	116	Uncodified	
June 22	392		18	191	Uncodified	
June 23	453		18	203	34	1066.
Do	458		18	244	10	62.
					Uncodified	
Do	486		18	282	50	52.
1875						
Mar. 1	115		18	337	10	16.
Mar. 3	130	(17th. par. under "War Department.")	18	388	10	198.
Do	131	(proviso of 1st sentence of 1st par. under "War Department.")	18	410	50	64a.
Do	133	(4th, 5th, and 10th provisos)	18	453, 454, 455	10	1376.
					50	84.

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b. Statutes at Large—Continued

Statutes at Large					U. S. Code	
Date	Chapter	Section	Volume	Page	Title	Section
1875						
Mar. 3	135	(1st proviso, and 2d clause)	18	467	10	1084, 1136.
Do	155		18	484	34	201.
1876						
June 30	159	(last sentence under "Bureau of Construction and Repair.")	19	69	34	509.
Do	159	(2d sentence under "Marine Corps.")	19	71	Uncodified	
July 5	167		19	74	10	1182a.
					34	1129, 1130.
Aug. 7	255	(last par.)	19	126	10	1067.
Aug. 12	263		19	131	10	915.
1877						
Feb. 27	69	1 (2d, 3d, 14th, 17th, 21st, 27th, 28th, 32d through 35th, 40th, and 42d pars.)	19	241, 242, 243, 244	5	185, 186, 451.
					10	104, 495, 622, 806, 990, 996, 1135, 1178, 1302, 1312, 1339.
					Uncodified	
1878						
Apr. 10	58		20	36	5	218.
June 11	180	2 (48th through 56th words of 1st sentence, and 2d sentence.)	20	103	10	189 (less 1st sentence).
Do	180	5 (last sentence)	20	107	10	190.
June 17	260		20	143	34	341.
June 18	263		20	145	10	15, 500, 664, 728, 801.
					Uncodified	
Do	267		20	165	34	276.
June 20	359	(19th par. under "Miscellaneous Objects.")	20	223	50	76.
1879						
Feb. 26	105		20	322	34	1126.
Mar. 3	182	(2d proviso under "Miscellaneous Objects.")	20	389	10	1459.
Do	183	(2d par. under "Miscellaneous.")	20	412	50	61.
May 12	5		21	3	34	161, 182.
June 23	35	(1st proviso under "Miscellaneous.")	21	31	10	722.
Do	35	4, 8	21	34, 35	10	1071, 1133, 1332.
1880						
June 1	115	(1st proviso)	21	153	10	1074.
June 8	129		21	164	5	428.
June 16	235	(2d sentence of 2d par. under "Geological Survey.")	21	274	43	33.
1881						
Jan. 20	24		21	317	Uncodified	
Feb. 23	73	2	21	338	34	161, 182.
Mar. 3	134	(words after last semicolon of 1st par. under "General Expenses.")	21	460	10	189.
Do	147		21	509	Uncodified	
Do	150		21	510	Uncodified	

b. *Statutes at Large*—Continued

Statutes at Large					U. S. Code	
Date	Chapter	Section	Volume	Page	Title	Section
1882						
June 30	254	(3d, 4th, and 5th provisos under "Pay Department.")	22	118	10	578, 942, 945, 970.
Do	254	(1st proviso under "Quartermaster's Department.")	22	119	10	801.
Do	254	3	22	122	10	873.
Do	255	(last sentence of 10th par.)	22	123	10	1068.
Aug. 5	391	1 (1st proviso on p. 285 to end of page.)	22	285	34	1055, 1057.
Do	391	1 (3d par., and 2d and 3d sentences of 4th par., on p. 286.)	22	286	34	386, 402.
Do	391	2 (last 2 sentences)	22	296	34	491.
Do	395		22	299	50	51.
1883						
Mar. 3	93	(2d proviso under "Pay Department.")	22	457	10	525.
Do	97	1 (2d par. on p. 472, as applicable to masters and junior grade lieutenants.)	22	472	34	1.
Do	97	2	22	481	34	222.
Do	120		22	487	5	218.
Do	141	5	22	599	34	492.
1884						
June 26	122		23	60	Uncodified	
July 5	214	6	23	104	10	1348.
Do	217	(last proviso under "Pay Department.")	23	108	10	1182a.
					34	1129, 1130.
Do	217	(proviso under "Subsistence of the Army.")	23	108	10	1238.
Do	217	(3d and 9th provisos under "Quartermaster's Department.")	23	109, 111	10	1374, 1377.
Do	217	(last sentence of 1st par. under "Medical Department.")	23	111, 112	10	96.
					Uncodified	
1885						
Jan. 30	43	3	23	295	5	467.
Feb. 14	67		23	305	10	947a.
Mar. 3	360	(provisos under "Armories and Arsenals.")	23	502	50	77.
1886						
July 26	781	(2d par. on p. 151)	24	151	50	59.
Aug. 4	903	(proviso under "Naval Academy.")	24	268	34	1082.
1887						
Jan. 29	72		24	372	10	1171.
1888						
May 1	212	(par. before "Public Works.")	25	112	10	1127.
June 1	338		25	165	10	671a.
Sept. 26	1037		25	491	10	1182a.
					34	1129, 1130.
Oct. 19	1210	(6th par. on p. 600)	25	600	5	417.

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1889						
Feb. 8	115		25	657	34	199.
Do	116		25	657	50	66.
Mar. 1	331		25	781	34	916.
Mar. 2	396		25	878	Uncodified	
1890						
Feb. 7	8		26	6	34	598.
Feb. 27	20		26	13	10	523, 526, 527.
Apr. 14	80		26	55	5	200.
					34	597.
June 13	423	(1st proviso under "Quartermaster's Department.")	26	152	10	1334.
July 11	667	(1st 26 words of 2d sentence under "Navy Department.")	26	254	5	420.
Aug. 18	797	(11th clause)	26	316	50	171.
Do	797	2 (last proviso)	26	320	50	54.
Aug. 30	837	1 (words after semicolon of 7th par. under "Office Expenses.")	26	382	33	887.
Do	837	1 (last proviso under "Pay")	26	400	10	861a.
Sept. 25	J. Res. 50		26	681	10	1427.
					34	371.
Sept. 30	1125		26	504	10	947a.
Oct. 1	1241		26	562	10	492, 556.
					Uncodified	
Do	1266	4 (proviso), 5-8, 9 (1st 35 words.)	26	653, 654	10	215.
					Uncodified	
Dec. 24	J. Res. 7	(last sentence)	26	1113	10	189.
1891						
Jan. 13	70		26	716	10	1182a.
					34	1129, 1130.
Feb. 5	J. Res.9		26	1113	10	1183.
Feb. 9	122		26	737	10	695.
Feb. 16	238		26	763	10	1021, 1022.
Feb. 24	284	(7th clause under "Miscellaneous.")	26	773	10	52.
Mar. 2	494	(proviso of last par. on p. 815.)	26	815	Uncodified	
Mar. 3	541	(12th through 37th words of 1st par. under "Navy Department.")	26	934	5	421.
1892						
May 9	62		27	27	5	192.
July 16	195	(last par. under "Miscellaneous.")	27	177	10	877.
					34	890.
Do	195	(last 15 words before proviso under "Subsistence of the Army.")	27	178	10	716b.
Do	195	(last proviso under "Quartermaster's Department.")	27	178	10	1335.
July 19	206	(2d par. under "Pay of the Navy.")	27	236	Uncodified	
Do	206	(6th par. on p. 243)	27	243	5	429, 437.
Do	206	(3d par. on p. 245)	27	245	34	222.

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1892						
July 23	237		27	262	10	1125.
					Uncodified	
July 27	270		27	276	10	94.
					Uncodified	
July 28	315		27	321	34	661, 662.
July 30	328		27	336	10	502, 503, 504.
					Uncodified	
1893						
Feb. 27	168	(3d proviso under "Miscellaneous.")	27	480	10	719.
Do	168	(7th proviso under "Incidental Expenses.")	27	484	10	1340.
Mar. 1	186	(3d clause, and 4th proviso)	27	515, 520	10	1076, 1124, 1134.
Mar. 3	212	(1st par. on p. 716)	27	716	34	863.
Do	212	(1st par. on p. 717)	27	717	5	446.
Nov. 3	13		28	7	10	1182a.
					34	1129, 1130.
1894						
May 11	J. Res. 26		28	583	10	1427.
					34	371.
July 26	165	(3d par. on p. 132)	28	132	5	449.
Do	167	(words after semicolon of 7th clause.)	28	151	10	1064.
Aug. 1	179		28	215	10	623, 625.
					Uncodified	
Aug. 6	228	(last sentence of 12th clause under "Miscellaneous.")	28	237	10	759.
Aug. 7	232	(proviso under "For Engineer's Office.")	28	246	10	190.
1895						
Jan. 12	23	77	28	621	5	458.
Jan. 16	29	(words after semicolon of 12th clause on p. 630.)	28	630	10	1075.
Feb. 12	83	(last sentence of 1st par. under "Subsistence Department.")	28	658	10	1197.
Mar. 2	177	(1st 55 words of 2d par., and last sentence of 3d par., under "War Department.")	28	787, 788	5	197, 216.
Do	186	(1st proviso on p. 826)	28	826	34	1127.
1896						
Feb. 18	22		29	8	10	1061, 1083, 1137.
Mar. 16	59	(1st proviso under "For Pay of Enlisted Men.")	29	60	10	862b.
May 2	J. Res. 51		29	473	10	1405.
May 22	231		29	133	5	150p.
June 5	331		29	251	5	428.
June 10	399	(provisos under "Pay of the Navy.")	29	361	34	232, 883, 931.
June 11	J. Res. 62		29	478	34	192.
1897						
Jan. 26	92		29	497	10	1421.
Feb. 4	146		29	511	10	1392.

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1897						
Feb. 10	214	(1st proviso under "Permanent Establishment.")	29	519	10	1112.
Feb. 13	221		29	526	34	322.
June 4	2	(9th par. on p. 39)	30	39	5	460.
Do	2	(par. under "Soldiers' Home, District of Columbia.")	30	54	24	58.
1898						
Mar. 15	69	(last sentence of 7th clause under "Ordnance Department.")	30	326	10	1208.
Apr. 11	J. Res. 21		30	737	50	178.
Apr. 22	187		30	361	10	1.
					Uncodified	
Apr. 26	191	1-6, 7 (last proviso)	30	364-366	10	1432.
					Uncodified	
May 4	234	(12th par. on p. 373)	30	373	5	447.
Do	234	(last 18 words of 1st par. on p. 374.)	30	374	5	457.
Do	234	(7th and last pars. on p. 380.)	30	380	34	21, 23.
Do	234	(2d sentence under "Armor and Armament.")	30	390	34	461.
May 26	363		30	420	10	864.
May 28	367		30	421	Uncodified	
June 17	463		30	474	34	121, 33, 887a.
June 29	538		30	525	Uncodified	
July 7	582		30	720	Uncodified	
Do	584		30	721	10	864.
July 8	636		30	722	10	1126.
1899						
Jan. 12	46		30	784	10	878.
					Uncodified	
Mar. 2	352	(less § 17)	30	977	10	232, 621, 894.
Mar. 3	413		30	1004	34	1, 124, 259, 260, 314, 324, 331, 332, 387, 431, 432, 593, 634, 637, 664, 865, 1158a.
					Uncodified	
Do	423	(1st proviso under "Ordnance Department.")	30	1073	50	66.
Do	429	363 (proviso) [added]			10	15.
1900						
May 26	586	(3d clause under "Miscellaneous.")	31	209	10	9.
Do	586	(1st proviso under "Ordnance Department.")	31	216	50	66.
June 6	786	29 (less last proviso)	31	330	10	15.
Do	791	(words before semicolon of 1st proviso under "Military Posts.")	31	624	10	1338.
Do	811		31	671	10	998.
June 7	859	(1st proviso on p. 685)	31	685	Uncodified	
Do	859	(2d sentence of 7th par. on p. 702.)	31	702	5	436.

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1901						
Feb. 1	190		31	746	Uncodified	
Feb. 2	192	(less 1st 15 words of last sentence of 1st par. of § 36, and § 38.)	31	748	10	107, 240, 334, 556a, 724, 1026a, 1392, 1427.
					34	371.
					Uncodified	
Feb. 26	607		31	810	10	1182a.
					34	1129, 1130.
Mar. 2	803	(1st 3 provisos under "Pay of Enlisted Men.")	31	896	10	894.
Do	803	(9th through 12th provisos under "Miscellaneous.")	31	902, 903	10	751, 844.
Do	804	(1st 3 provisos under "Permanent Establishment.")	31	911, 912	10	1096, 1140, 1161, 1163.
Do	804	(1st proviso under "Pay of Civilians.")	31	914	10	1085.
Mar. 3	852	(1st proviso on p. 1108)	31	1108	Uncodified	
Do	852	(2d par. on p. 1122)	31	1122	5	461, 465.
Do	852	(1st par. on p. 1129)	31	1129	34	334.
Do	852	(7th par. on p. 1132)	31	1132	Uncodified	
Do	852	(last par.)	31	1133	34	451.
Do	863		31	1440	34	1128.
Mar. 31	943		32	282	10	1346.
1902						
June 28	1300	(1st 3 provisos under "Permanent Establishment.")	32	409	10	1079, 1147, 1148.
June 30	1328	(proviso under "Pay of Officers of the Line.")	32	508	10	851.
July 1	1353		32	629	5	199.
Do	1368	(4th par. on p. 680)	32	680	34	908.
Do	1368	(3d par. on p. 686)	32	686	34	1031.
1903						
Jan. 12	J. Res. 2		32	1229	10	1427.
					34	371.
Jan. 21	196		32	775	10	457.
					32	11, 14, 71, 81a, 81b, 160.
					Uncodified	
Jan. 30	334		32	783	10	335, 537.
Feb. 25	775	(proviso under "Record and Pension Office.")	32	884	5	195.
Do	775	(2d par. under "Office of the Chief of Ordnance.")	32	885	10	196.
Mar. 2	975	(2d proviso under "Retired Officers.")	32	932	10	686.
Do	975	(2d proviso under "Philippine Scouts.")	32	934	10	626.
Do	975	(last proviso under "Transportation of the Army and its Supplies.")	32	939	10	1373.
Mar. 3	995	(2d proviso under "Permanent Establishment.")	32	1012	10	1072.
Do	1010	(pp. 1197, 1198, and 1st sentence on p. 1199.)	32	1197-1199	34	334, 634, 1034, 1063, 1066, 1067.
					Uncodified	

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1904						
Apr. 21	1403		33	225	10	1182a.
					34	1129, 1130.
Apr. 23	1485	(last par. under "Adjutant General's Department.")	33	262	5	192a.
Do	1485	(last par. under "The Corps of Engineers.")	33	263	Uncodified	
Do	1485	(proviso under "Retired Officers.")	33	264	10	991.
Do	1485	(1st and 2d provisos under "Miscellaneous.")	33	266	10	108, 892.
Do	1485	(last proviso under "Medical Department.")	33	273	10	1236.
Do	1485	(3d par. under "Ordnance Department.")	33	274	10	1402, 1404, 1417.
Do	1485	(13th par. under "Ordnance Department.")	33	276	50	65.
Apr. 27	1622	(lines 13 and 14 of 2d par., as applicable to machinists, on p. 324.)	33	324	34	124.
Do	1622	(last par. on p. 346)	33	346	34	331, 334
Do	1630	(2d sentence of 6th par. on p. 403.)	33	403	34	891.
Apr. 28	1762	(1st proviso under "Miscellaneous Objects, War Department.")	33	497	50	173.
Do	1766		33	518	10	1365.
					34	528.
1905						
Mar. 2	1307	(provisos under "Retired Officers.")	33	831	10	995.
Do	1307	(proviso under "Philippine Scouts.")	33	832	10	177.
Do	1307	(last proviso under "Medical Department.")	33	839	10	1236.
Do	1307	(last 55 words of last par. under "Ordnance Department.")	33	841	10	1262b.
					34	545.
					50	69.
Mar. 3	1404	(1st 2 provisos under "Permanent Establishment.")	33	850	10	1076, 1085, 1134.
Do	1404	(2d par. under "Pay of Civilians.")	33	853	10	1140, 1141.
Do	1481	(11th par. on p. 1111)	33	1111	Uncodified	
Do	1483	(1st par. on p. 1164)	33	1164	34	473.
1906						
Apr. 9	1370		34	104	34	1062, 1064, 1065, 1066, 1068.
June 12	3078	(1st proviso under "Retired Officers.")	34	245	10	995.
Do	3078	(17th par. under "Miscellaneous.")	34	246	10	835, 906.
Do	3078	(1st proviso under "Philippine Scouts.")	34	248	10	954.
Do	3078	(3d par. under "National Trophy and Medals for Rifle Contests.")	34	258	10	1288.
June 16	3338		34	296	34	343.

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1906						
June 22	3518		34	451	34	432.
June 25	3526		34	455	Uncodified	
June 29	3540	(last par. under "Fortifications and Other Works of Defense.")	34	463	50	177.
Do	3590	(last par. on p. 554)	34	554, 555	Uncodified	
Do	3590	(1st par., and proviso of 4th par., on p. 555.)	34	555	Uncodified	
Do	3590	(2d par. on p. 556)	34	556	Uncodified	
Do	3590	(proviso of 3d par. on p. 557)	34	557	Uncodified	
Do	3590	(5th par. on p. 564)	34	564	5	433.
Do	3590	(1st par. on p. 577)	34	577	34	1036.
Do	3590	(last par. on p. 578)	34	578	34	1041.
Do	3612		34	620	34	1128.
June 30	3914	(last par. under "State or Territorial Homes for Disabled Soldiers and Sailors.")	34	750	10	868.
Do	3937		34	817	34	1124, 1125.
Do	3938		34	817	50	62a.
Dec. 11	1		34	841	34	564.
1907						
Feb. 27	J. Res. 17		34	1422	10	1402.
Mar. 2	2508	(1st 2 provisos under "Permanent Establishment.")	34	1063	10	1069, 1097.
Do	2511	(proviso under "The Military Secretary's Department.")	34	1158	5	192a.
Do	2511	(1st proviso under "Pay of Officers of the Line.")	34	1159	10	891.
Do	2511	(proviso under "Miscellaneous.")	34	1163	Uncodified	
Do	2511	(1st proviso under "Subsistence Department.")	34	1165	10	725.
Do	2511	(words between 9th and 10th semicolons under "Quartermaster's Department.")	34	1166	10	801.
Do	2511	(1st proviso under "Quartermaster's Department.")	34	1167	10	723.
Do	2511	(2d proviso under "Barracks and Quarters.")	34	1168	10	728.
Do	2511	(6th and 8th provisos under "Transportation of the Army and Its Supplies.")	34	1170, 1171	10	845, 1371.
Do	2511	(last par. under "Manufacture of Arms.")	34	1174	32	34.
Do	2512	(proviso on p. 1176)	34	1176	34	200.
Do	2515		34	1217	10	947, 980.
					34	432, 431.
Do	J. Res. 18		34	1423	10	1427.
					34	371.
1908						
Apr. 23	150		35	66	10	93, 101, 102.
					Uncodified	

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1908						
May 11	163	(3d sentence of 3d par., last proviso, and 12th par., under "Pay of Enlisted Men.")	35	108, 110	10	802, 905, 1432.
Do	163	(last proviso under "Subsistence Department.")	35	117	32	48.
Do	163	(4th par. under "National Trophy and Medals for Rifle Contests.")	35	125	50	63.
May 13	166	(last par. on p. 127 through last par. on p. 128.)	35	127–129	34 5	383, 865. 442, 443.
Do	166	(2d par. on p. 129)	35	129	Uncodified	
Do	166	(4th par. on p. 132)	35	132	Uncodified	
Do	166	(3d par. on p. 146)	35	146	Uncodified	
Do	166	(1st par., less words before proviso, on p. 153.)	35	153	34	1102, 1103.
Do	166	(2d par. on p. 153)	35	153	Uncodified	
Do	166	(3d par. on p. 155)	35	155	Uncodified	
Do	166	(last par. on p. 159)	35	159	34	461.
May 20	182		35	171	5	419.
May 27	204		35	399	32 Uncodified	81a, 81b, 157.
May 28	214	(1st proviso under "Permanent Establishment.")	35	430	10	1148.
Do	214	(33d par. under "Buildings and Grounds.")	35	441	10	1093.
Do	215		35	442	50 Uncodified	64.
May 30	227	(proviso on p. 505)	35	505	Uncodified	
1909						
Feb. 16	131	13	35	622	34	961.
Mar. 3	251	(7th par. under "Armament for Fortifications.")	35	730	10	1184.
Do	252	(proviso under "Medical Department.")	35	737	10	103.
Do	252	(1st proviso under "Subsistence Department.")	35	741	10	632.
Do.	252	(words between 8th and 9th semicolons under "Quartermaster's Department.")	35	742	10	804.
Do.	252	(1st proviso under "Transportation of the Army and Its Supplies.")	35	745	10	12.
Do.	252	(5th and 8th pars. under "National Trophy and Medals for Rifle Contests.")	35	750, 751	34 50	540. 70, 71.
Do.	255	(last proviso on p. 754)	35	754, 755	34	503, 512.
Do.	255	(words before semicolon of 2d proviso on p. 755.)	35	755	34	508.
Do.	255	(1st and 2d provisos on p. 756.)	35	756	34	962.
Do.	255	(1st proviso on p. 768)	35	768	34	533.
Do.	255	(2d par. on p. 773)	35	773	34	1111.
Do	255	(last proviso on p. 776)	35	776	Uncodified	

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1909						
Mar. 4	319		35	1069	50	68.
					Uncodified	
Do.	321	38	35	1096	34	1167.
1910						
Mar. 23	115	(proviso under "United States Service Schools.")	36	244	10	843.
Do.	115	(words between 10th and 11th semicolons under "Quartermaster's Department.")	36	252	10	805.
Do.	115	(words between 7th and 8th semicolons under "Transportation of the Army and Its Supplies.")	36	255	10	808.
Do.	115	(proviso under "Ordnance Stores and Supplies.")	36	261	32	43.
Do.	115	(last par. under "National Trophy and Medals for Rifle Contests.")	36	261	10	1222.
Apr. 12	157		36	297	Uncodified	
Apr. 19	174	(1st and 2d provisos, and 8th par., under "Permanent Establishment.")	36	312	10	1077.
Do.	174	(38th and 41st pars. under "Buildings and Grounds.")	36	323, 324	10	539, 1163.
Apr. 21	185		36	329	Uncodified	
June 17	297	(2d sentence of 3d par. on p. 508.)	36	508	5	458a.
June 22	331		36	591	5	466.
June 23	370		36	603	32	39a.
June 24	378	(1st 3 pars. on p. 606)	36	606	Uncodified	
Do.	378	(2d par. on p. 607)	36	607	34	599.
Do.	378	(1st par. on p. 613)	36	613	34	1128.
Do.	378	(3d proviso on p. 614)	36	614	34	253.
Do.	378	(last proviso on p. 619)	36	619, 620	34	542.
June 25	393		36	824	5	200.
					34	597.
1911						
Feb. 27	166	5	36	957	10	186, 188.
					Uncodified	
Mar. 3	207	(10th par. under "Permanent Establishment.")	36	1016	10	1070.
Do.	207	(15th par. under "Pay of Civilians.")	36	1019	10	1082.
Do.	209	(proviso under "Medical Department.")	36	1041	10	106.
Do.	209	(last par. under "Subsistence Department.")	36	1047	10	1253.
Do.	209	(3d, 4th, and 5th provisos under "Transportation of the Army and Its Supplies.")	36	1051	10	749, 1368, 1370.
Do.	209	(proviso under "Construction and Maintenance of Military Roads," etc.)	36	1052	10	994.
Do.	209	(last par. under "Medical Department.")	36	1054, 1055	10	124.

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1911						
Mar. 3	209	(provisos under "Manufacture of Arms.")	36	1057	32	36.
Mar. 4	239	(3d par. on p. 1267)	36	1267	34	390.
Do	239	(2d proviso on p. 1274)	36	1274	34	527.
Do	265	3	36	1353	34	1123.
Do	266		36	1354	34	394.
Aug. 22	42		37	32	10	1014.
					34	582.
Dec. 22	6	(2d and 4th pars. under "Back Pay and Bounty.")	37	49	10	866, 867.
1912						
Mar. 7	53		37	73	34	1054.
Mar. 11	55		37	73	34	283.
Aug. 9	275	(2d and 4th provisos, and 65th and 66th clauses, under "Permanent Establishment.")	37	252, 254	10	1078, 1095, 1111.
Aug. 22	329		37	324	5	200.
Do	335	(last par. on p. 328)	37	328	34	388.
Do	335	(1st and 2d pars. on p. 329)	37	329	Uncodified	
Do	335	(1st 38 words of 3d par. on p. 329.)	37	329	34	422.
Do	335	(2d and 3d provisos on p. 329.)	37	329	34	994.
Do	335	(last par. on p. 330)	37	330	Uncodified	
Do	335	(1st and 3d pars. on p. 331)	37	331	34	184, 195.
Do	335	(1st par. on p. 335)	37	335	Uncodified	
Do	335	(2d par. on p. 342)	37	342	34	564.
Do	335	(4th through last pars. on p. 345.)	37	345	Uncodified	
Do	335	(1st proviso on p. 351)	37	351	Uncodified	
Do	335	(words after last semicolon under "Provisions, Marine Corps.")	37	352	Uncodified	
Do	335	(9th par. on p. 355)	37	355	34	514.
Do	336		37	356	10	624.
					34	161, 163.
Aug. 24	391	(last sentence under "Pay of Officers of the Line.")	37	571	10	537.
Do	391	(2d and 4th provisos under "Miscellaneous.")	37	575	10	53, 644, 746.
Do	391	(par. under "Field Artillery for Organized Militia.")	37	589	50	75.
Do	391	2–6	37	590–594	37	4c.
					Uncodified	
1913						
Mar. 2	93	(5th proviso under "Office of the Chief Signal Officer.")	37	705	Uncodified	
Do	J. Res. 11		37	1025	10	1252.
Mar. 4	148	(2d and 3d pars. under "Pay of the Navy.")	37	891, 892	34	880
					37	4c–1
Do	148	(1st and 3d pars. on p. 892)	37	892	34	870.
					Uncodified	

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1913						
Mar. 4	148	(2d, 3d, 4th, and 5th provisos under "Ordnance & Ordnance Stores.")	37	896	Uncodified	
Do	148	(1st par., less provisos, on p. 899.)	37	899	5	457.
Do	148	(1st proviso on p. 907)	37	907	34	1105.
Do	148	(last par. on p. 907)	37	907, 908	Uncodified	
July 9	5		38	103	34	1057.
					Uncodified	
Dec. 19	3		38	241	34	621, 685.
1914						
Apr. 25	71		38	350	5	196.
					Uncodified	
Apr. 27	72	(2d and 4th provisos under "Pay of Enlisted Men.")	38	354	10	603, 609.
Do	72	(3d proviso under "Transportation of the Army and Its Supplies.")	38	365	10	807.
Do	72	(last proviso, and last par., under "Manufacture of Arms.")	38	370	10	1185.
May 8	J. Res. 15		38	771	10	1255, 1256.
					34	550, 549.
June 30	130	(4th and 5th provisos under "Bureau of Ordnance.")	38	399	34	568.
Do	130	(2d par. on p. 403)	38	403	34	92, 93, 94.
Do	130	(1st par.)	38	404	34	3, 6.
Do	130	(2d par. on p. 404)	38	404	34	257, 573.
Do	130	(1st proviso on p. 406)	38	406	34	551.
Do	130	(4th par. on p. 408)	38	408	5	429, 434, 457, 467.
Do	130	(3d par. on p. 410)	38	410	Uncodified	
July 17	149		38	512	10	1179.
Aug. 1	223	(2d par. under "Quartermaster Corps.")	38	629	10	1345.
Oct. 13	J. Res. 48		38	780	34	442.
1915						
Mar. 3	76	(1st proviso under "Proving Ground, Sandy Hook, New Jersey.")	38	889	10	720.
Do	83	(proviso of 2d par. on p. 929)	38	929	Uncodified	
Do	83	(proviso on p. 931)	38	931	34	162, 203.
Do	83	(1st and 2d provisos of 3d par. on p. 932.)	38	932	34	917.
Do	83	(3d par. on p. 939)	38	939	Uncodified	
Do	83	(3d par. on p. 940, through 5th par. on p. 941.)	38	940, 941	Uncodified	
Do	83	(6th par. on p. 941)	38	941	34	433.
Mar. 4	143	(proviso under "Pay of Enlisted Men.")	38	1065	10	876.
Do	143	(2d proviso under "Miscellaneous.")	38	1069	10	718.
Do	143	(1st and 2d provisos under "Incidental Expenses, Quartermaster Corps.")	38	1074	10	1457a, 1457b, 1458.

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1915						
Mar. 4	143	(1st and last provisos under "Clothing, and Camp and Garrison Equipage.")	38	1078, 1079	10	1221, 1234.
					34	539.
Do	143	(2d proviso under "Medical Department.")	38	1080	10	1254.
Do	143	2	38	1085	10	1451–1458.
Do	146	(31st par. under "Buildings and Grounds.")	38	1137	10	1123.
Do	167		38	1191	10	1027, 1028.
					34	399a, 399b.
1916						
Feb. 15	24		39	9	Uncodified	
May 18	124		39	123	10	1182.
June 3	134		39	166	10	37, 38, 105, 181, 283, 291, 291a, 291b, 291c, 291d, 291e, 291g, 292–1, 294, 300, 321, 323, 324, 326, 327, 341, 342, 354, 365, 381, 382, 383, 384, 385, 385a, 385b, 386, 386a, 387, 387a, 389, 441, 442, 443, 457, 484a, 493, 494, 499, 511, 512, 512a, 513, 514, 535, 555a, 604, 605, 609, 627, 628, 628–1, 634, 652, 662, 785, 902a, 951, 971a, 992, 1011, 1026, 1176, 1180, 1181, 1393, 1419.
					32	1, 2, 3, 4, 4b, 4c, 5, 6, 7, 8, 10, 12, 13, 15, 16, 17, 21, 22, 24, 31, 33, 35, 39, 40, 42, 45, 46, 47, 49, 61, 62, 63, 64, 65, 66, 67, 68, 69, 72, 75, 82, 83, 91, 92, 93, 94, 95, 96, 97, 111, 112, 113, 113a, 114, 115, 121, 122, 123, 124, 125, 132, 133, 134, 144, 145, 146, 154, 156, 158, 160, 171, 172, 173, 174, 175, 176, 183, 186, 191, 192, 194.
					34	449.
					36	12.
					48	2.
					50	78, 79, 80.
					Uncodified	
June 12	140		39	223	34	443, 444, 445.
Aug. 11	314	(3d, 4th, 5th, and 7th provisos under "Permanent Establishment.")	39	493	10	1093, 1103.
Do	314	(proviso under "Pay of Civilians.")	39	497	10	1139.

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1916						
Aug. 29	417	(2d, 3d, and 4th pars. on p. 558.)	39	558	5	424, 425, 426, 427, 444, 445.
					34	504.
Do	417	(1st par. on p. 564)	39	564	34	482.
Do	417	(1st, and 4th through 6th, pars. under "Hospital Corps.")	39	572, 573	34	32, 34, 36, 37, 255, 259.
Do	417	(1st 3 pars. under "Naval Dental Corps.")	39	573, 574	34	11, 51, 52, 255, 396, 874.
Do	417	(28 words before 8th semicolon under "Bureau of Supplies and Accounts.")	39	575	Uncodified	
Do	417	(words between 10th and 11th semicolons under "Bureau of Supplies and Accounts.")	39	575	34	124.
Do	417	(2d and 3d provisos under "Bureau of Supplies and Accounts.")	39	575	34	171, 172, 173, 175.
Do	417	(pars. on p. 576)	39	576, 577	34	254, 321, 1035.
					Uncodified	
Do	417	(1st 5, and 7th through last, pars. on p. 577.)	39	577, 578	34	9, 10, 22, 82, 83b, 243.
					Uncodified	
Do	417	(pp. 578, 579)	39	578, 579	34	229, 390, 397, 992.
					Uncodified	
Do	417	(1st through last pars. on p. 580.)	39	580, 581	34	71, 73, 75, 183, 191.
Do	417	(1st, 4th, and 5th pars. on p. 581.)	39	581	34	3, 26, 865, 994.
					Uncodified	
Do	417	(2d proviso on p. 583)	39	583	34	746.
Do	417	(2d par. on p. 591)	39	591	34	433.
Do	417	(3d proviso on p. 606)	39	606	34	523.
Do	417	(4th proviso on p. 609)	39	609	34	621.
Do	417	(1st 4 provisos of last par. on p. 610.)	39	610, 611	34	639.
Do	417	(4th proviso on p. 611)	39	611	34	635.
Do	417	(1st par. on p. 611)	39	611	34	640.
Do	417	(last sentence of 3d par. on p. 611.)	39	611	34	665, 666.
Do	417	(1st and 2d provisos on p. 612.)	39	612	Uncodified	
Do	417	(4th par. on p. 612)	39	612	34	702.
					Uncodified	
Do	417	(last proviso on p. 613)	39	613	34	534.
Do	417	(2d par. on p. 614)	39	614	34	831.
Do	418	(6th proviso, and 6th and 8th pars., under "Office of the Chief Signal Officer.")	39	622, 623	10	1223, 1342, 1344.
Do	418	(last proviso under "Pay of Enlisted Men.")	39	624	32	155.
Do	418	(proviso under "Quartermaster Corps.")	39	626	10	1313.
Do	418	(proviso under "Medical Department.")	39	626	10	161.
Do	418	(1st proviso under "Retired Officers.")	39	627	10	990.
Do	418	(3d proviso under "Subsistence of the Army.")	39	630	10	1233.
					34	538.

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1916						
Aug. 29	418	(3d proviso under "Clothing and Camp and Garrison Equipage.")	39	635	10	1301.
Do	418	(2d proviso under "Medical Department.")	39	639	10	1224.
Do	418	(last par. under "Ordnance Department.")	39	645	10	1361.
Do	418	(3d and 11th provisos under "National Guard.")	39	646, 648	32	73, 182.
1917						
Mar. 4	180	(4th par. on p. 1171)	39	1171	34	233.
Do	180	(1st par. on p. 1182)	39	1182	34	1042.
Do	180	(3d par. on p. 1182)	39	1182	Uncodified	
Do	180	(1st and 2d provisos under "Marine Corps.")	39	1188	Uncodified	
Do	180	(proviso on p. 1191)	39	1191	34	974.
Apr. 25	6		40	38	34	184.
May 12	12	(last proviso under "Office of the Chief of Staff.")	40	41	10	1173.
Do	12	(proviso under "Washington-Alaska Cable and Telegraph System.")	40	43	10	1319.
Do	12	(1st and 2d provisos under "Retired Officers.")	40	48	10	974, 993.
Do	12	(par. under "Vocational Training.")	40	59	10	1177.
Do	12	(5th, 8th, and 10th provisos under "Ordnance Department.")	40	64, 65	10 32	745, 852. 184.
Do	12	(10th and 13th provisos under "National Guard.")	40	68	32	38, 74.
Do	12	(7th and 8th provisos under "Reserve Corps.")	40	72	10	371, 371b.
May 22	20	3, 5, 11, 17, 20	40	85, 87, 89	34 Uncodified	280, 284, 640.
May 29	22	(1st proviso under "Permanent Establishment.")	40	90	10	1085.
June 15	31		40	231	10	997.
July 2	35		40	241	50	171.
July 27	42		40	247	10	1343.
Oct. 6	81		40	384	10	894.
Do	101		40	397	10	125.
Do	103		40	397	34	171.
Dec. 20	5		40	430	34	1032.
1918						
Jan. 26	11		40	432	32	84.
Feb. 11	15		40	437	34	446.
Mar. 28	28	(2d par. under "Public Schools:")	40	470	10 34	913. 1001.
Mar. 29	31		40	499	34	942.
Mar. 30	36		40	500	10	322, 325.
Apr. 10	49		40	516	34	995, 996.
Apr. 11	51		40	518	50	171.
Apr. 20	60		40	534	10	755.
May 14	73		40	550	Uncodified	
June 27	108	(1st par. under "Pay of Civilians.")	40	623	10	1140, 1141.

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1918						
July 1	114	(2d par. on p. 705)	40	705	34	521.
Do	114	(4th par. on p. 708)	40	708–710	34	3, 11, 51, 52, 255, 396, 874.
Do	114	(last proviso on p. 714)	40	714	34	691c.
Do	114	(1st par. on p. 715)	40	715	Uncodified	
Do	114	(5th proviso on p. 716)	40	716	34	1057.
Do	114	(last par. on p. 716)	40	716, 717	5	441.
					34	866.
Do	114	(2d through last pars. on p. 717.)	40	717, 718	34	183, 423.
					Uncodified	
Do	114	(1st, 2d, and 4th pars. on p. 718.)	40	718	34	301, 911.
					Uncodified	
Do	114	(2d par. on p. 719)	40	719	34	434.
					Uncodified	
Do	114	(1st par. on p. 735)	40	735	34	641.
Do	114	(proviso on p. 736)	40	736	34	693.
July 8	137	(2d par. under "Armament of Fortifications.")	40	817	50	60.
July 9	143	(1st and 3d provisos, and 8th par., under "Office of the Chief Signal Officer.")	40	848, 849	10	293, 305, 1341.
Do	143	(5th proviso under "Transportation of the Army and Its Supplies.")	40	859	10	809.
Do	143	(8th through 16th pars. under "Ordnance Department.")	40	870–872	10	695, 1401, 1403, 1406, 1407, 1408, 1409, 1410, 1411, 1412, 1416, 1420, 1424.
Do	143	(proviso of 13th par. under "National Guard.")	40	875	32	9.
Do	143	subch. III (last par.)	40	878	32	49.
Do	143	subch. V	40	879	10	161, 162, 163, 782, 783, 850.
Do	143	subch. IX	40	881	10	274.
Do	143	subch. XV, § 8 (2d and last pars.).	40	888	50	172.
Do	143	subch. XVII	40	889	10	971a, 1393.
					Uncodified	
Do	143	subch. XVIII (1st, 2d, and 3d pars.).	40	892	10	445, 810, 822.
Do	143	subch. XX (1st, 2d, and 3d pars.).	40	893	10	14, 999, 1287.
Aug. 31	166	9	40	957	10	904, 1106.
1919						
Jan. 12	8		40	1054	34	537.
Feb. 4	14	(less 2d proviso of § 8)	40	1056	34	354, 355, 358, 356a, 356b, 358, 359, 360, 362, 363, 364.
Feb. 28	69	7, 9	40	1201, 1202	10	538, 643.
					23	5.
					34	448.
Do	70		40	1201	10	1394.
					34	607.
Do	80		40	1211	10	782

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July 11	8	(2d and 3d pars. under "Air Service.")	41	109	10	296, 297.
Do	8	(1st and 2d provisos under "Pay of Enlisted Men.")	41	110	10	863.
Do	8	(2d and 3d provisos, and 20th par., under "National Guard.")	41	127	32	122, 124.
Do	9	(1st par. on p. 139)	41	139	Uncodified	
Do	9	(3d proviso on p. 132)	41	132	34	600.
Do	9	(24th through 34th words of last par. on p. 146.)	41	146	34	1051.
Do	9	(1st proviso, and 1st par., on p. 147.)	41	147	5	449.
					34	302.
Do	9	(2d par. on p. 152)	41	152	Uncodified	
Do	9	(2d par. on p. 153)	41	153	34	435.
Do	9	(2d proviso on p. 154)	41	154	34	721.
Do	9	(proviso on p. 155)	41	155, 156	34	724.
July 26	28		41	272	10	1252.
Sept. 3	56		41	283	10	671a.
Sept. 17	61		41	286	10	1021, 1022.
					Uncodified	
Dec. 17	6		41	367	16	903.
1920						
Jan. 24	55		41	398	10	1411, 1412.
Feb. 10	64		41	403	50	62.
Feb. 28	91	208 (c)	41	464	10	1375a.
Mar. 30	112	(1st par., less provisos, under "Miscellaneous.")	41	548	10	1043.
Apr. 24	161	7	41	584	23	50.
May 10	175		41	594	10	298.
May 18	190	1–10, 11 (proviso), 12–15	41	601–605	10	683, 756, 784.
					33	861a, 864a.
					34	879b, 896.
					37	4a.
					42	62, 64.
					Uncodified	
May 21	194	6	41	613	10	1320.
May 29	214	(4th par. on p. 665)	41	665	5	459.
June 4	227		41	759	5	150j.
					10	15g, 37, 38, 105, 181, 283, 291, 291a, 291b, 291g, 292–1, 294, 300, 321, 323, 324, 326, 327, 341, 342, 354, 365, 381, 383, 384, 385, 386, 387, 387a, 389, 441, 442, 443, 484a, 493, 494, 499, 507, 507a, 511, 512, 512a, 513, 514, 535, 555a, 604, 605, 628, 628–1, 629, 630, 652, 652a, 662, 785, 902a, 951, 971a, 992, 1011, 1026, 1180, 1181.

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June 4	227		41	759	32	5, 7, 40, 42, 66, 111, 123, 124, 125, 132, 133, 134, 154, 156, 171, 172, 174, 175, 191.
					36	12.
					48	2.
					Uncodified	
Do	228	1 (3d and 4th provisos on p. 813).	41	813	34	524.
Do	228	1 (2d par. on p. 824)	41	824, 825	34	943.
Do	228	3 (3d proviso)	41	835	34	432, 879.
Do	228	5 (1st proviso)	41	836	34	312.
Do	228	7	41	836	34	176.
Do	228	8	41	836	10	1393.
June 5	240	(2d proviso under "Contingencies of the Army.")	41	949	10	1262.
Do	240	(6th proviso under "Air Service.")	41	954	10	295.
					34	731.
Do	240	(6th proviso under "Transportation of the Army and Its Supplies.")	41	960	10	1367.
Do	240	(2d and last provisos under "Quartermaster Supplies and Services for Rifle Ranges for Civilian Instruction.")	41	966	32	185.
Do	240	(last proviso under "Quartermaster Supplies, Equipment, and so forth, Reserve Officers' Training Corps.")	41	967	10	390.
Do	240	(par. under "Transportation of Wounded and Otherwise Disabled Soldiers, Sailors, or Marines when Traveling on Furlough.")	41	975	10	758.
					34	894a.
Do	240	(par. under "Purchase of Army Stores by Discharged Receiving Treatment from the Public Health Service.")	41	976	10	1235.
					34	536.
Do	240	(par. under "Rifles and Accessories for Organizations of War Veterans.")	41	976	50	62.
Do	261		41	1056	34	441.
June 14	286		41	1077	10	623, 625.
1921						
Mar. 1	88	2	41	1155	10	1257b.
Mar. 3	128	6	41	1352	50	85.
Mar. 4	156	(2d par.)	41	1365	42	43.
Do	166	2	41	1438	5	202.
June 30	33	(2d par. under "Pay of Enlisted Men.")	42	74	10	628, 630.
Do	33	(1st 29 words of 2d sentence under "Subsistence of the Army.")	42	77	10	1148.

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June 30	33	(8th and last provisos under "Transportation of the Army and Its Supplies.")	42	81	10 50	1369. 179.
Do	33	(1st proviso under "Clothing, and Camp and Garrison Equipage.")	42	82	10	833.
July 12	44	2	42	139	Uncodified	
Do	44	8	42	140	5 34	429, 439, 452, 455, 456. 732, 734.
Oct. 22	113		42	207	34	1053.
Nov. 9	199	5	42	213	23	5.
1922						
Mar. 1	90		42	401	32	42.
Mar. 8	95		42	415	34	261.
Do	99	(last proviso)	42	418	10	833.
June 30	253	(1st, 4th, and 5th pars. under "Finance Department.")	42	721, 723	10 Uncodified	10, 275, 302, 482a, 554, 592, 597, 978, 979.
Do	253	(last proviso under "Clothing and Equipage.")	42	729	10	1231.
Do	253	(last sentence, less provisos, of par. under "Horses for Cavalry, Artillery, Engineers, and so forth.")	42	731	10	1206.
Do	253	(1st proviso under "Arms, Uniforms, Equipment, and so forth, for Field Service, National Guard.")	42	749	10 32	362a. 159.
July 1	259	(1st par.)	42	811	5	443.
Sept. 14	307		42	840	10 32 Uncodified	362a, 902, 953. 159.
Sept. 22	423		42	1032	10 32	38. 22, 65, 66, 146, 154, 171, 172, 174, 175.
Dec. 28	16		42	1066	34	599.
1923						
Jan. 22	28	(last 24 words of 5th par.)	42	1142	50	74.
Mar. 2	178	(3d proviso under "Military Post Exchanges.")	42	1380	10	663.
Do	178	(2d proviso under "Organized Reserves.")		1381	10	368.
Do	178	(1st proviso under "Pay of Officers.")	42	1383	10	555.
Do	178	(6th and 13th pars. under "Miscellaneous.")	42	1385	10 33 34 42	717, 903. 862a. 912. 65.
Mar. 4	281		42	1507	10 32 Uncodified	362a, 366. 159.
1924						
Apr. 9	86	3	43	90	23	5.
June 3	244		43	363	32 Uncodified	47, 50, 62, 153, 156.

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June 6	275		43	470	10	604, 605, 981, 1026.
					32	42, 124, 154, 193.
					34	999.
					Uncodified	
June 7	291	(2d par. under "Finance Department.")	43	481	10	848.
					34	872.
Do	291	(last proviso under "Army Transportation.")	43	486	10	1375.
Do	291	(2d par. under "Ordnance Equipment for Rifle Ranges for Civilian Instruction.")	43	510	32	181.
1925						
Feb. 12	225	(2d par. under "Finance Department.")	43	895, 896	10	848.
					34	872.
Feb. 28	371		43	1075	10	511.
					32	4, 47, 66, 132, 133, 134, 171, 172, 173, 174, 175, 176.
					Uncodified	
Mar. 3	411		43	1099	10	328, 329, 330, 331, 975, 976, 1013.
Do	412		43	1100	10	11.
Do	413		43	1101	10	977.
Do	484		43	1255	10	488, 489, 490, 491.
Mar. 4	536	(less §§ 2 and 26 (last proviso))	43	1270	34	121, 123, 197, 259, 398, 551, 596, 701, 821, 877, 997, 1091.
					5	453.
1926						
Mar. 15	57		44	208	10	654, 654a.
Apr. 15	146	(4th and 5th provisos under "Finance Department.")	44	257	10	716a.
					34	914.
Do	146	(last par. under "Mileage of the Army.")	44	259	10	748a.
Do	146	(2d proviso under "Militia Bureau.")	44	282	32	143a.
Do	146	(2d proviso under "Organized Reserves.")	44	283	10	367a.
Apr. 16	148		44	297	Uncodified	
Apr. 27	192		44	328	10	1133a.
May 10	279		44	496	10	334.
May 11	288		44	531	10	362a.
					32	159.
May 13	289		44	531	10	1029, 1030, 1031, 1032.
May 17	302		44	557	10	847a, 847c, 847d.
					34	882a, 882c, 882d.
Do	313		44	562	10	1351, 1352.
May 19	333		44	564	10	971a.
Do	334		44	565	10	540.
					34	441a.
Do	335		44	565	Uncodified	
May 21	355	(proviso of 4th par. on p. 611.)	44	611	34	897.
May 28	417		44	673	32	42, 64, 65, 145, 146.
					Uncodified	
June 1	435		44	680	10	1209, 1210.

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1926						
June 8	492		44	703	10	1077, 1077a.
					34	1036a.
Do	494		44	704	10	628–1.
Do	495		44	705	10	535.
June 10	530		44	725	34	642.
June 24	668		44	764	34	735, 749, 749a.
					5	421a.
July 2	721	(less § 10 (r))	44	780	10	38, 291, 291a, 291b, 291c, 291d, 291e, 291g, 292–1, 292a, 294, 300, 310, 1026, 1428, 1429.
					34	364a.
					Uncodified	
July 3	774		44	888	34	285a, 671a.
Do	781		44	891	10	1393.
Do	803		44	914	10	1093a.
Do	807		44	915	10	292c.
Dec. 15	10		44	922	50	62b.
1927						
Feb. 14	128		44	1094	10	1138.
Do	129		44	1095	10	1318.
Do	130		44	1095	32	181a.
Do	134		44	1096	10	1395.
					34	608.
Mar. 3	310		44	1356	10	604a, 604b.
Do	383		44	1404	32	195.
Mar. 4	501		44	1416	10	596.
1928						
Feb. 25	104		45	148	34	524a.
Mar. 7	141		45	245	10	1206a.
Mar. 8	153		45	249	10	903.
Mar. 9	161		45	251	10	442.
Apr. 6	321		45	406	32	22.
Do	322		45	407	32	154.
Apr. 21	397		45	440	32	42.
May 11	522		45	498	34	71, 73, 285.
Do	523		45	498	34	224.
Do	524		45	498	34	244a.
May 12	528		45	500	10	1415a, 1415b, 1415c.
Do	529		45	500	32	154.
Do	530		45	501	10	386a.
May 14	544		45	509	50	81.
May 16	579		45	573	10	1137.
May 21	647		45	618	10	38.
Do	650		45	620	34	183a.
Do	656	(3d proviso on p. 633)	45	633	Uncodified	
May 22	676		45	698	10	875a.
Do	685		45	710	34	943.
Do	688		45	712	34	885.
May 23	713		45	718	10	596.
Do	716		45	720	10	951a.
May 24	736		45	737	10	1093a.
Do	737		45	737	10	1093b.
May 26	785		45	773	8	150p.
May 28	816		45	786	32	181a, 181b, 181c.
Do	820		45	788	34	1037.

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1928						
May 29	853	(last par. under "Ordnance Establishment.")	45	928	50	83.
Do	901	(pars. 27, 33, 37, and 60)	45	988, 989	10	1287, 1453.
					34	600.
					50	77.
Do	902		45	996	10	953a.
Dec. 10	18		45	1018	5	427a.
1929						
Jan. 19	78		45	1084	34	335a.
Do	80		45	1084	34	204.
Do	85		45	1090	24	31.
Do	86		45	1090	34	771, 772.
Jan. 28	109		45	1142	34	396.
Feb. 5	151		45	1150	34	91.
Feb. 15	209		45	1180	34	331a.
Feb. 21	288		45	1254	10	756a.
					34	896a.
Feb. 28	366	(1st proviso under "Finance Department.")	45	1353	10	801, 803.
Mar. 1	429		45	1430	34	546b.
Mar. 2	494		45	1482	34	226.
Do	524		45	1505	10	654, 654a.
1930						
Apr. 4	104		46	140	10	515.
					34	251a.
May 12	243		46	268	34	944.
May 23	311		46	375	34	751a.
June 11	462		46	556	34	773.
June 20	554		46	790	10	937.
June 21	563		46	793	10	1028a, 1028b.
					34	399c, 399d.
June 24	592		46	805	5	460a.
June 28	711	(less § 1)	46	829	32	47b.
Do	712		46	829	10	145a.
1931						
Feb. 14	184		46	1111	34	1091a.
Feb. 21	268		46	1203	5	150j–1, 150j–2, 150j–3.
					Uncodified	
Mar. 3	397	1	46	1482	Uncodified	
Do	429		46	1502	10	983.
1932						
Mar. 8	73		47	62	10	1212.
May 6	170		47	149	34	12.
June 30	318	(2d proviso on p. 424)	47	424	5	419a.
Do	327		47	451	34	916a.
Dec. 23	8		47	751	34	546d.
1933						
Feb. 14	51		47	800	10	1375b.
Feb. 28	137		47	1369	5	150p.
Mar. 2	184		47	1423	34	902a–902d.
Do	187		47	1424	10	1375b.

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1933						
May 25	37		48	73	10	486a.
					34	1057a.
					46	1126a.
June 15	87		48	153	10	38, 457, 513.
					32	4, 4b, 5, 31, 66, 112, 113, 113a, 114, 115, 123, 124, 125, 132, 133, 134, 160, 171, 172, 173, 174, 175, 176.
1934						
Mar. 5	44		48	396	10	1408a.
Mar. 27	95	(less § 1; and less § 2 (1st par., less 2d proviso).)	48	504	10	311.
					34	495, 496, 497.
May 26	353		48	806	10	1078a.
May 29	367		48	811	34	621, 626b, 665.
Do	368		48	814	34	12, 286g, 286h, 286i, 313a, 348u.
Do	369		48	815	50	62c.
June 26	751		48	1222	10	875a.
1935						
Apr. 25	82		49	162	34	358a.
Do	83		49	162	34	217b.
May 14	109		49	218	10	540.
					34	441a.
June 6	181		49	326	34	64.
June 15	256		49	377	10	1028a.
					34	399c.
Do	257		49	377	10	951b.
June 19	277		49	391	32	4, 42, 114, 123, 172.
June 24	291	3	49	421	10	756b.
					34	896b.
July 22	402		49	487	34	3, 13, 14, 286i, 732a, 883.
July 26	418		49	503	10	1594a.
July 31	422	(less § 5 (3d proviso), and less § 5a.)	49	505	10	292d, 943a, 971b, 1028d.
Aug. 12	511		49	610	10	1343a, 1343b, 1343c, 1343d.
Aug. 29	803		49	959	34	12.
Aug. 30	826		49	1013	50	62c.
Do	830		49	1028	10	456.
1936						
Jan. 16	3		49	1092	34	1073–1073e.
Feb. 12	63		49	1137	10	145a–1.
Feb. 27	89		49	1144	34	1033a.
Apr. 11	207		49	1202	32	181b.
May 1	252		49	1249	34	669b.
May 6	333		49	1263	5	430a.
June 15	547		49	1507	10	455a, 455b, 455c, 455f.
					32	164a, 164b, 164e.
					Uncodified	
June 16	587	(less § 2)	49	1524	10	291c, 291e, 292a–2, 292a–3, 292b–2.
June 20	629		49	1545	10	716a.
					34	914.

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1936						
June 20	632		49	1554	10	604, 605.
June 24	747		49	1900	10	981.
					34	999.
June 25	812		49	1926	10	311.
					34	496.
June 26	839		49	1974	10	181a.
1937						
Mar. 4	26		50	25	5	419b.
Apr. 14	78		50	63	34	533.
Do	79		50	63	50	61.
May 15	193		50	167	10	1259.
July 8	441		50	473	10	486a.
					34	1057a.
					46	1126a.
July 27	525		50	535	10	1192a.
July 30	545	4	50	549	10	1429.
					34	364a.
Do	547		50	550	34	399c-1.
Aug. 6	569		50	563	34	821.
1938						
Jan. 29	12		52	8	10	953a.
Mar. 26	52	(less § 2)	52	119	34	1116, 1118–1120.
Apr. 22	167		52	220	10	1026.
May 16	219		52	354	10	894.
May 17	243	3, 5, 6, 8–12	52	402, 403	34	498e, 498g–498k, 749b.
June 3	319		52	610	10	38.
June 11	337		52	641	10	291.
June 15	387		52	685	34	286h-1, 286h-2.
June 16	458		52	707	50	91, 92, 93, 94.
June 22	567		52	839	5	425a.
					34	685a.
June 25	688		52	1173	32	42a.
Do	690	201, 202, 204, 205, 206 (less 3d and 5th provisos), 207, 208, 304.	52	1178–1181	34	854, 854a, 854c-854g, 855c.
June 30	851		52	1252	34	524.
1939						
Apr. 3	35	(less § 11)	53	555	10	291, 292c-1, 298a, 298b, 311, 312, 456.
					34	496.
					50	94.
					Uncodified	
Apr. 25	87		53	590	34	556.
Apr. 26	89	2, 3	53	619	34	498d-1.
May 12	127		53	740	10	1026.
May 31	161		53	796	22	259.
June 8	195		53	814	34	1035a.
June 10	196		53	814	34	533.
July 14	267		53	1001	10	631.
Do	269		53	1002	10	38.
July 15	282		53	1042	10	455e.
					32	164d.

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July 15	283		53	1043	50	96.
Do	285		53	1043	34	552.
Do	287		53	1044	10	902a.
Do	289		53	1045	10	577.
July 25	338		53	1074	10	484a.
Do	349		53	1079	10	456.
Aug. 2	410	22–25 [added]			Uncodified	
Aug. 5	448		53	1210	34	1106, 1107.
Do	453		53	1213	10	292b–3.
Aug. 7	511		53	1239	5	220, 221.
1940						
Feb. 12	27	(proviso under "Air Corps")	54	25	10	298c.
Mar. 14	53		54	50	34	908.
Mar. 15	61		54	53	10	628–1.
Mar. 18	65		54	54	34	21.
Apr. 25	153	(less last proviso)	54	162	34	854e.
May 2	182		54	176	10	866a, 866b, 866c, 866d, 866e.
May 14	194		54	213	10	634.
May 27	212		54	221	34	331a.
Do	219		54	223	10	1086.
June 13	343	(1st proviso under "Travel of the Army.")	54	356	10	53, 746.
Do	343	(1st proviso under "National Guard.")	54	371	32	42.
Do	344	(less 2d proviso of § 3)	54	379	10	943a, 971b.
Do	346		54	382	10	1015.
Do	351		54	385	10	1133a.
June 14	364	3, 5, 7–11	54	394	34	498g–1, 498*l*, 601, 749c.
June 15	374		54	400	34	639a.
Do	375		54	400	34	736, 749c–1.
June 19	398		54	491	5	150p.
June 20	400		54	492	5	421b, 429, 430b, 435, 440, 441a, 448, 448a, 448b.
June 25	420	1	54	527	34	3, 84.
June 28	440	14	54	681	10	1262a.
					34	546e.
July 2	508		54	712	5	189a, 653.
					10	621a.
					50 App	701, 1171, 1172.
					Uncodified	
Do	519		54	726	10	381.
July 19	644	3, 8	54	780	34	493a, 495a, 749d.
Aug. 27	694		54	864	34	691d, 737, 737a, 738, 855c–1.
Sept. 9	717	(last proviso under "Military Posts.")	54	873	10	1336a.
Do	717	101	54	875	10	513.
Do	717	103	54	875	50 App	1171.
Sept. 11	718		54	884	34	821.
Sept. 24	729		54	959	Uncodified	
Oct. 4	742		54	963	10	291, 291a, 291b, 291c, 291e, 291g, 292–1, 294, 300.
Oct. 8	756	(4th proviso under "Military Posts.")	54	968	10	1336a.

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Oct. 8	757	401	54	1003	34	496a.
Do.	765		54	1023	34	853c-1, 853c-2, 853c-2a, 853c-3, 853c-4.
Oct. 14	858		54	1116	10	1026.
					Uncodified	
Do.	875	(less § 4)	54	1134	10	455e.
					32	42, 62, 156, 164d.
Oct. 15	885		54	1177	10	277.
Oct. 17	891		54	1192	10	937.
Oct. 21	904		54	1206	32	194.
1941						
Jan. 29	1		55	3	34	487.
Mar. 17	17		55	43	34	21.
May 13	113		55	189	10	535.
June 3	165	(less § 6)	55	239	10	296a, 297a, 299, 303, 304, 304a, 304b, 308a.
Do	167		55	241	10	298a-1.
June 6	175		55	246	34	1033a.
Do	176		55	246	34	554, 555.
June 24	231		55	260	34	493b.
Do	232		55	261	34	1131, 1132.
June 30	262	(4th proviso under "Finance Department.")	55	369	10	535.
Do	262	(last proviso under "Military Posts.")	55	375	10	1336a.
Do	263	5	55	395	10	957.
July 3	275		55	577	10	298a.
July 14	292		55	589	34	1036-1.
July 24	320	(less § 7 (b))	55	603	31	350-350k.
July 29	325		55	606	10	622.
Aug. 18	362		55	626	50 App	351-362.
Do	363		55	628	32	194.
Do	364	1, 4, 5	55	629, 630	34	181, 181a, 201a, 692, 692a.
Aug. 21	384		55	651	10	591, 591a, 593, 593a, 594, 599.
Aug. 25	409	201	55	680	5	471.
					10	921.
					34	865b.
Sept. 22	414		55	728	Uncodified	
Sept. 26	425		55	733	10	456a.
					38	12.
Oct. 30	465		55	758	10	1304.
Nov. 5	468		55	759	34	841a-841h.
Nov. 21	483		55	775	10	1371a.
Do	493		55	776	Uncodified	
Dec. 1	552		55	787	10	181b.
Dec. 10	562		55	796	10	456.
Dec. 12	566		55	797	10	628a.
					34	185.
Dec. 13	570		55	799	34	186, 201b.
Do	571		55	800	10	16a.
Dec. 15	573		55	800	34	427.
Dec. 23	619	2	55	853	34	498a-3.

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Jan. 20	8		56	9	Uncodified	
Do	10		56	10	5	425a.
					34	621, 622, 685a.
Jan. 23	15		56	13	34	533.
Feb. 3	35		56	47	34	432a, 623a.
Feb. 6	37		56	48	34	402a.
Do	40		56	50	Uncodified	
Do	43		56	51	34	557.
Feb. 16	77		56	94	Uncodified	
Feb. 21	106		56	97	34	902a.
Mar. 7	159		56	140	10	919.
Do	166	10 (proviso)	56	145	34	943.
Apr. 28	247	102	56	229	5	187a.
May 13	303		56	276	5	429, 446.
Do	304	2	56	277	34	498a–4.
June 5	327		56	308	34	909.
Do	329		56	309	34	685b.
Do	330		56	309	34	735.
Do	331		56	310	10	1151.
Do	340	13	56	317	50 App	1171.
June 6	382		56	328	10	1393.
June 16	418		56	371	34	749e, 749f.
June 19	419	1	56	371	34	915.
Do	420		56	372	34	995a.
June 27	451		56	422	34	338–338g.
June 30	461		56	463	50 App	701.
Do	462	4, 7	56	464, 465	34	350, 737, 737a, 853c–2a.
July 2	477	(4th and 5th provisos under "Finance Department.")	56	612	10	655.
July 3	484	(last proviso on p. 646)	56	646	34	528a.
July 8	493		56	649	10	299a, 299e, 304a, 308a.
July 9	501		56	655	10	1015.
Do	503	3, 4	56	656	34	498c–7, 498c–8.
July 20	508		56	662	10	1408b, 1423a.
Do	509		56	663	Uncodified	
July 28	528	(less § 5)	56	722	10	491a, 491b, 491c, 491d, 612.
					34	285b, 285c, 285d, 285e, 285f.
Aug. 4	547	(less § 12)	56	737	34	841h, 850a–850h, 850l, 850m.
Aug. 7	551	(less 2d proviso of § 1 on p. 745.)	56	743	34	354, 355, 356, 356a, 356b, 358, 359, 360, 362, 363, 364.
Aug. 18	553		56	746	34	1159–1166.
Sept. 16	561		56	753	50	301, 302, 303, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 341, 351, 352, 353, 354, 355.
					Uncodified	
Oct. 1	570		56	762	32	194.
Do	571		56	763	10	640.
					34	441a.
Oct. 6	580		56	769	10	1337a.
					34	558.
Oct. 10	686		56	780	34	853c–1.

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					Uncodified	
Oct. 14	604		56	787	10	558.
Oct. 26	627		56	989	10	1719.
Nov. 30	643		56	1023	34	350f (a).
Dec. 1	650		56	1024	34	1036a.
Dec. 14	729		56	1049	10	1061a.
Do	732		56	1050	10	511.
Dec. 15	736		56	1052	10	1412.
Dec. 17	738		56	1053	34	51a.
Do	763		56	1056	10	1423b.
Dec. 22	805		56	1072	10	164.
					Uncodified	
1943						
Mar. 6	13		57	14	Uncodified	
Apr. 9	38		57	59	34	350e, 350j.
Do	39		57	60	34	533.
Apr. 22	67		57	66	31	224d, 224e, 224f, 224g, 224h, 224i, 224i-1.
May 25	100		57	84	34	632b, 632c.
Do	101		57	84	34	338a, 338c.
June 15	125	2 (c)	57	153	34	933a, 963.
June 17	128	1	57	156	34	498c-11.
June 29	178		57	249	10	985, 985a, 985b, 985c, 985d, 985e, 985f, 985g, 985h.
July 1	185	(clause (f) of 2d par. under "Corps of Engineers.")	57	359	31	224j.
July 3	189	(less §§ 4 and 7)	57	372-374	31	223b, 223c.
July 7	191		57	380	Uncodified	
Do	193		57	383	10	1091-1.
					34	1032-1.
July 12	216		57	430	10	131, 383, 384, 387a.
Oct. 21	271		57	574	34	643-645.
Nov. 28	331		57	594	34	1073c-1, 1073d.
Dec. 17	343		57	599	10	903.
Dec. 23	380	305	57	642	Uncodified	
1944						
Jan. 20	2	2	58	4	34	163.
Mar. 10	86		58	113	10	1026c.
Mar. 29	141	1, 2	58	129	34	943.
					Uncodified	
Do	142		58	130	10	1086.
Mar. 31	147		58	135	34	1115-1115c.
Apr. 1	150		58	136	50	303, 321, 322, 323, 324, 325, 326, 327, 341, 351, 352, 353, 354.
					Uncodified	
May 31	218		58	265	34	498c-13.
June 17	262		58	280	34	524.
June 26	279		58	359	32	194.
June 28	291		58	393	Uncodified	
Do	300	(last par. under "Capital Outlay.")	58	515	5	76.
					10	914.
					34	1000.
Do	308	17	58	596	5	223.

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1944						
June 28	306		58	624	10	1213, 1214.
					34	555a, 555b.
July 1	359		58	671	34	542.
Do	360		58	671	50 App	701.
Do	370		58	678	34	1159, 1162.
July 3	399		58	723	46	791–799.
Aug. 21	404		58	727	Uncodified	
Sept. 27	428	3	58	754	34	857c–1.
Dec. 7	519		58	795	10	868.
Dec. 14	580		58	802	50 App	1691, 1692, 1693, 1694, 1695, 1696, 1697.
1945						
Feb. 13	1		59	3	34	821.
Feb. 28	11		59	9	34	228.
May 15	124		59	168	Uncodified	
May 29	135		59	225	31	222c, 222d, 223b.
June 1	168		59	230	50 App	1531, 1532, 1533, 1534.
June 2	172		59	230	10	1137.
June 9	181		59	235	10	385a.
June 29	194		59	262	34	350a (c), 350j (a).
Do	197		59	263	10	1026.
June 30	205		59	270	50 App	701.
July 6	282		59	465	34	524.
July 31	338		59	511	31	224l–1.
Sept. 24	385		59	536	34	900a, 900b.
Oct. 6	393	(less §§ 7, 11, 14)	59	538	10	635, 636, 948.
					34	187, 188, 189.
					50 App	639a, 1531, 1532, 1533, 1534.
Nov. 14	472		59	581	34	1137, 1140, 1159.
Nov. 24	492		59	586	34	1038.
Do	493		59	586	34	1036a.
Dec. 5	555		59	596	34	600a–600d.
Do	556		59	596	10	866f, 866g, 866h, 866i, 866j.
Dec. 7	559		59	603	34	1076f.
Dec. 11	562		59	605	34	1062a.
Dec. 28	597	(less § 4)	59	662	31	222f, 222h, 223d, 223e.
Do	601		59	663	10	505, 505a, 505b, 505c, 505d, 505e, 552c.
					Uncodified	
Do	604		59	666	5	456b–456d.
1946						
Feb. 18	30	(3d par. on p. 20)	60	20	37	112c.
Feb. 21	34		60	26	34	130, 350l (a), 410a–410d, 419, 419a, 419b.
					50 App	778.
Feb. 25	35	(less § 2)	60	30	10	868.
					34	941a.
Feb. 26	36		60	31	5	415b.
Mar. 14	93		60	56	Uncodified	
Mar. 20	104		60	56	31	222h.
Apr. 8	120		60	86	34	428.
Apr. 18	141	2–4, 8	60	92	34	2, 34, 151, 153, 691.

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1946						
Apr. 19	142		60	96	50	321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 341, 351, 352, 353, 354, 355.
May 23	269		60	215	50 App	701.
June 8	284		60	235	34	256.
June 10	298		60	236	34	1074.
June 26	489		60	309	Uncodified	
Do	493	1	60	311	10	1093c.
Do	495		60	312	10	1087, 1088, 1089.
June 28	514		60	332	31	223b, 223e.
June 29	523	1 (c, d)	60	343, 344	34	701, 701a.
July 8	543	120	60	499	34	603.
July 16	578		60	535	5	207a, 207b, 207c, 207d, 207e, 207f, 207g, 207h, 207i.
Do	583	19	60	566	5	187a, 223.
July 24	596	7, 10 (r)	60	643, 646	10	1026b–1.
					43	931b.
July 26	675	(less last proviso of § 2)	60	704	34	1108b.
Aug. 1	727		60	779	5	475–475f.
Aug. 2	739		60	863	46	799.
Do	740		60	804	34	1073c–2, 1073c–3.
Do	742		60	806	34	600d.
Do	753	207	60	837	5	191a, 275.
Do	753	424 (a) (4th clause)	60	847	Uncodified	
Do	756	1, 2, 4–9, 12–19, 22–24, 26, 28, 30, 33, 34, 36–38, 39 (less applicability to §§ 11 and 27), 40, and 41.	60	853–858	5	412a, 415c, 419c, 421c, 421d, 421e, 421f, 421g.
					34	21b, 367, 450b–1, 474, 486a, 488, 559, 584, 605, 606, 725, 822, 865a, 898, 899a, 901a, 911a, 915a, 915b, 1071.
Do	759		60	861	Uncodified	
Aug. 7	770	(pars. 17, 18, 24, 29, 33, 52, 54, 56, 57.)	60	867–871	10	310, 311, 1262a.
					32	181.
					34	491, 496, 546e.
					50	54.
Do	796	1, 2	60	892	34	855c.
Do	804	(less § 5)	60	897	34	546f–546l, 546k.
Aug. 8	877		60	925	10	505, 505a, 505b, 505c, 505d, 505e, 552c.
					Uncodified	
Do	884		60	932	34	21.
Do	916	13 (29th through 85th words)	60	958	30	236b.
Aug. 9	932		60	968	10	486a.
					34	1057a.
					46	1126a.
Aug. 10	952	(less § 4 (c).)	60	993	10	948, 958, 986.
					34	339, 854c, 854g.
					Uncodified	
Aug. 13	957	561	60	1011	22	956.
Do	957	562	60	1011	22	957.
Do	962		60	1057–1062	34	61, 405a, 821, 1020–1020f, 1032, 1039, 1049, 1045.

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1947						
Apr. 16	38	(less § 211)	61	41	10	166, 166a, 166b, 166b-1, 166b-2, 166c, 166d, 166d-1, 166e, 166f, 166g, 166h, 166i, 166j, 166k, 166l, 374, 375, 376.
					34	43-43l, 43k, 43l, 348b, 348c, 858-858c.
May 15	59		61	93	34	97.
Do	60		61	93	5	181a, 421b.
Do	61		61	93	10	1423a.
Do	67		61	95	10	505e.
May 16	68		61	96	34	3.
Do	77		61	99	34	61, 1020b-1020i, 1032, 1039.
June 28	162	(less § 6)	61	191	10	628, 636a.
					32	1, 4.
June 30	184		61	214	50 App	701.
July 1	188		61	234	10	1213, 1214.
					34	555a, 555b.
Do	189		61	235	34	625c-625g.
Do	192		61	238	10	371, 371a, 371b.
					32	75, 76.
					34	853g, 853g-1.
July 2	204		61	243	10	1257b.
					34	551b.
July 15	248	4	61	323	50 App	701.
July 25	321		61	423	10	1371a.
July 26	343	205 (less (b) and (c)). 206 (b), (c), 207 (less (c)), 208 (less (c)), 209-214.	61	501-506	5	171e, 171f, 171g, 171h, 171i, 181-1 (less (c)), 411 (b), (c), 626 (less (b) and (c)), 626c less (c).
					Uncodified	
Do	343	301 (b) (last sentence), 302, 303 (the words "Secretary of Defense, the.")	61	507, 508	5	171c-2, 171j, 181-2, 411b, 420a, 421a, 421b, 626a, 626b.
					Uncodified	
Do	343	402, 410 [added]			5	172a, 172i.
July 30	394		61	675	5	626s, 626s-1, 626s-2.
					10	1269, 1269a, 1269b.
					34	553a, 553b, 553c.
July 31	411	5	61	694	10	1257b.
					34	551b.
Do	420		61	705	34	1076-1076f.
Do	421		61	707	5	150p.
Aug. 1	433	(less applicability to National Advisory Committee for Aeronautics.)	61	715	5	171p, 171q, 171r, 230, 231, 476, 476a, 626t, 626w.
					50	159.
Do	434		61	715	10	1423a.
Do	439		61	718	34	493c.
Aug. 4	459	(less § 203)	61	734	10	156a, 156b, 156c, 156d, 156e, 156f, 156g, 156h, 505c.
					34	30a-30c, 30e-30l, 34, 34a, 128.

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1947						
Aug. 5	493		61	774	5	626s-3, 626s-4, 626s-5, 626s-6.
					10	1270, 1270a, 1270b, 1270d.
					34	522a, 522b, 522c, 522d.
Do	494		61	776	10	91a, 91b, 121a, 121b.
					34	21c, 21d, 51b, 51c.
Aug. 7	512	103, 112 (l), 114 (b)-(d), 115, 116.	61	798, 810, 811, 815	34	4, 410f (l), 626 (b)-(d), 864a.
					Uncodified	
Do	512	203, 211 (n), 212 (i), 214	61	816, 825, 827, 829	34	5, 305g (n), 410h (l).
					Uncodified	
Do	512	301-316 (less §§ 302 (f), 304 (e) (less words before 2d proviso), 304 (k) (1st, 2d, 4th and 5th provisos), 304 (t), 312 (f), 312 (m) (less applicability to (h), 314 (v), 316 (b), 316 (h) and 316 (n).)	61	829, 869	34	3c, 3d, 5a, 211a, 306, 306a-306m, 306t, 332c, 410j, 410*l*, 410m, 626-1, 864b.
Do	512	401-436 (less §§ 411 (a), 414 (last proviso), 416, 421, 423, 426 (c), 430, 433 (b) (as applicable to § 203), and 435.)	61	869-883	5	456c.
					34	2, 3, 5b, 10a, 21, 30e-30h, 30j, 43, 43b, 43d, 43g, 71, 72, 73, 77, 78, 93a, 97, 211b-211d, 235, 280, 283, 284, 306o, 306p, 306r, 338, 405a, 410c, 410d, 410n-410o, 410q, 622, 623b, 632d, 737, 737a.
Do	512	501-523 (less § 521 (b))	61	883-913	10	481, 506, 506a, 506b, 506c, 506d, 507, 517, 555a, 559, 559a, 559b, 559c, 559c-1, 559d, 559e, 559f, 559g, 559h, 559l, 941a, 971b, 971c, 1026, 1079a.
					34	241a.
Dec. 30	526	3	61	946	50 App	701.
1948						
Feb. 19	65		62	21	5	219b, 412b, 626e.
					41	151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161.
Feb. 27	76		62	37	5	151p.
Mar. 5	98		62	66	5	423a-423k.
Mar. 8	103		62	70	5	171o.
Mar. 9	104		62	71	Uncodified	
Mar. 11	107		62	71	5	150q, 150r, 150s, 150t.
Mar. 25	157		62	87	5	626k.
					32	62, 154, 156.
Apr. 15	188		62	172	10	1393.
May 4	254		62	208	34	921a, 921b.
Do	256		62	209	46	733-735.
May 7	267		62	211	10	1033, 1034, 1035.
					34	43m, 43n, 43o.
					Uncodified	
May 26	349		62	274	5	626l, 626m.

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1948						
May 28	352		62	276	5	189c, 189d, 415d, 415e, 626n, 626o.
June 1	357		62	279	10	1093c.
					34	1036–1.
June 3	395		62	302	34	350.
June 12	449	101–110	62	356	10	316, 316a, 316b, 316c, 316d, 316e, 506, 555a, 559, 559c, 559c–1, 559j, 559k, 559l, 559m, 559n, 559o, 591–1, 621b, 941a.
June 12	449	201–217	62	363–370	34	105–105k, 307 (a)–(r), 410r (a)–(k), 857–857g, 625h (a)–(d).
Do	449	301–310	62	371–375	5	627, 627a, 627b, 627c, 627d, 627e, 627f, 627g, 627h.
Do	450	3 (last proviso of 1st par., and last par., less last 3 provisos.)	62	379, 380	5	626p.
					10	1337b.
Do	450	4 (2d sentence)	62	380	10	1339.
Do	452		62	382	34	490.
June 16	479	3	62	462	34	911b–911d.
June 17	497	1	62	476	34	381, 383, 417.
June 19	501		62	477	5	626q, 626r.
					10	535, 535a.
Do	506		62	485	34	1020a, 1020c, 1020g, 1020h
Do	509		62	488	10	455f.
					32	164e.
Do	511		62	489	10	499.
Do	540		62	505	34	993a–993d.
June 24	616		62	583	34	1036–2.
Do	624		62	604	5	171p, 171r, 230, 476, 626t.
					50	159.
Do	625	2, 4 (a) (words between semicolon and proviso of 6th par., and last par.), 4 (d) (3), 4 (f), 8, 20 (last sentence), 201–249.	62	605, 608, 614, 627	10	61a, 62a, 65, 652a.
					50 App	452, 454, 458, 470.
Do	632	(2d proviso under "Finance Department.")	62	650	10	291c–1.
June 25	645	1(1232)	62	761	18	1232.
Do	650		62	1015	10	181c.
June 26	677		62	1052	Uncodified	
June 29	708	(less §§ 107 and 203 (f))	62	1081	10	580, 581, 582, 583, 584, 585, 587, 594, 943a, 971b, 1001, 1002, 1003, 1004, 1006, 1007, 1036, 1036a, 1036b, 1036c, 1036d, 1036e, 1036f, 1036g, 1036h, 1036l.
					34	440h, 440i, 440j, 440k, 440l, 440m, 440n, 440o, 440p, 440q.

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1948						
June 29	714		62	1094	10	1055, 1056, 1057, 1058, 1059, 1060.
					34	1083–1088.
Do	715		62	1095	50	481.
1949						
Mar. 12	18		63	12	34	61.
Mar. 17	23		63	14	34	429.
Apr. 14	50		63	45	5	150e, 150f, 150g, 150h, 150i.
Do	52		63	47	34	410b–1, 440h–1.
May 7	95		63	65	5	626c–1, 626c–2, 626c–3.
May 24	139	15 (b)	63	91	10	1393.
June 10	192		63	169	10	337, 338, 339, 340.
June 13	199		63	175	10	291, 291a, 291b, 291f–1, 291f–2, 291g, 292–1, 300.
					34	735a, 735b.
June 20	225	(less § 4)	63	201	10	456, 456–2.
					32	160a, 160c.
					34	855c–1, 855c–4.
June 25	248		63	277	34	410j (b).
June 29	278	(2d par. on p. 300)	63	300	5	463.
Do	278	(6th par. on p. 301)	63	301	34	461.
July 13	332	(less applicability to National Advisory Committee for Aeronautics.)	63	410	5	171p, 171r, 230, 476, 626t.
					50	159.
July 16	341		63	444	10	156i.
July 25	360		63	478	34	416.
Aug. 1	372		63	483	5	150m, 150n, 150o.
Aug. 4	393	1 (41), (43), (351), 6, 8, 9, 11–14, 16, 18.	63	497, 498, 508, 546, 559, 560	10	486a, 628a, 717, 1028b.
					14	41, 351.
					33	862a.
					34	185, 228, 338g, 399d, 423, 537, 912, 941a, 1057a.
					42	65.
					46	1126a.
Aug. 5	402	1	63	567	34	211a (o), 211c, 306f (d) (2), (5), 306t.
Aug. 8	403	5	63	576	5	626s, 626s–1, 626s–2.
					10	1269, 1269a, 1269b.
					34	553a, 553b, 553c.
Aug. 10	412	7, 8, 9, 10 (a) (last sentence of 301 (b)), 10 (b), 10 (c) (the words "Secretary of Defense, the"), 11 (402), 11 (410), 12 (b), 12 (d), 12 (h).	63	581–586, 590–592	5	171c–2, 171e, 171f, 171g, 171h, 171i, 171j, 172a, 172i, 181–2, 411b, 420a, 421a, 421b, 626, 626a, 626b, 626c.
					Uncodified	
Aug. 18	476		63	614	10	486a.
					34	1057a.
					46	1126a.
Sept. 7	547		63	693	10	1036a, 1036b.
					34	440l, 440j.
Oct. 5	596		63	702	34	228b.
Oct. 10	661		63	737	10	499a, 499b.

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1949						
Oct. 12	681	401–415	63	816	37	271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285.
Do	681	501 (f)	63	827	10	422.
					32	154.
					37	301.
Do	681	506	63	828	37	306.
Do	681	512	63	830	37	312.
Do	681	516	63	832	37	316.
Do	681	517	63	833	34	701.
					Uncodified	
Do	681	519	63	834	37	318.
Do	681	520	63	834	37	319.
Do	681	522 (a)	63	835	42	410n.
Do	681	522 (c) (as applicable to § 412 (a)).	63	836	Uncodified	
Do	681	524	63	836	37	112c.
Do	681	527	63	837	34	850c.
Do	681	528	63	837	10	303, 304, 304b.
Do	681	530	63	837	32	4b.
Do	681	531 (b) (10), (15), (17), (18), (21), (27), (28).	63	838, 839	10	274, 277, 512, 514, 644.
					34	350e.
Oct. 15	695	1 (words after 2d semicolon)	63	880	5	181–2, 411b, 626a.
Oct. 29	787	(proviso of 2d par. on p. 1007)	63	1007	34	1020m.
Do	787	617	63	1020	10	825.
Do	787	621	63	1020	5	171t.
1950						
Feb. 25	37		64	10	5	466.
Mar. 16	60		64	19	32	175.
Apr. 17	89		64	44	10	940, 940a.
May 3	154		64	103	Uncodified	
May 5	169	1*, 6–11, 13, 14 (f)	64	107–147	5	150j.
					10	15a, 507, 507a, 629, 652a.
					34	264–266, 389, 623c, 1066.
					50	551–556, 561–568, 571, 576–581, 586–593, 601–606, 611–629, 636–639, 646–663, 671–728, 731–739, 741.
May 10	175		64	158	37	285.
May 16	186	(less § 3 (f))	64	160	10	166a, 166b–1, 166b–2, 166c, 166d–1, 166f, 166g, 166i.
					34	43g, 43h.
May 22	191		64	186	10	604a, 604b.
Do	193		64	187	10	19.
					34	217a–2, 350k, 593a.
June 2	217	3	64	195	10	445.
June 23	344	(less § 2)	64	250	34	211a (r), 306 (a), 306b (a) (1), 306c (a) (8), 306d (a) (2), 626 (b), 626–1 (h), (l) (2), (m), (q–u), 410f (a), (b) (1–3), (c), (k).

* Repeal of section 1 of the Act of May 5, 1950, ch. 169, is effective on the effective date of chapter 47 of title 10, United States Code, enacted by section 1 of this Act.

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1950						
June 28	383	(less § 402 (j) and (m))	64	263	5	181-3, 181-4, 181-5.
					10	1a, 1b, 1c, 1d, 1e, 1f, 1g, 19a, 21a, 21b, 21c, 21d, 21e, 21f, 21g, 21h, 38, 61-1, 81-1, 177, 231a, 316-1, 456, 1195a, 1198, 1232, 1234, 1237, 1259d, 1259e, 1304, 1335, 1377, 1453, 1454.
					24	58.
					34	539, 540, 541.
					50	64, 66, 68, 70.
					Uncodified	
June 30	421		64	303	10	1092a, 1092b, 1092c, 1092d.
					34	1036a, 1039, 1047-1049.
July 10	454		64	321	5	235, 235a, 628, 628a.
					10	20, 20a, 20i, 20j, 20r, 20s, 20t, 481.
					Uncodified	
July 27	501		64	379	Uncodified	
Aug. 8	647	(2d sentence of 3d par.)	64	420	34	498m.
Sept. 11	945		64	829	50	881, 882, 883, 884, 885, 886, 887.
Sept. 27	1052	(last par. under "Department of the Navy.")	64	1061	5	471.
					10	921.
					34	865b.
Do	1058		64	1072	32	194.
Do	1059	1 (14), 2	64	1074	50 App	470.
					Uncodified	
Sept. 29	1111		64	1082	50	329.
Do	1112		64	1082	50	324, 352.
1951						
Jan. 6	1213	704, 706	64	1235, 1236	5	171v, 171w.
Mar. 10	4	4	65	4	34	493a-1.
June 19	144	1 (b), 1 (d) (words between semicolon and proviso of 6th par., and last par.) 1 (g) (last par.), 2 (a).	65	76, 78, 79	50 App	452, 454.
June 30	196	(less § 1 (h))	65	108	34	3d, 5a (g), 211a (n), 306 (a), 350d (a), (b), 626-1 (f).
July 30	254		65	130	10	628.
Aug. 3	287		65	151	34	902d.
Aug. 22	340	1	65	196	10	1149a.
					34	1052a.
Sept. 15	402		65	323	10	1393.
Sept. 19	407	(less § 310 (b) (1st sentence))	65	326	5	626-1, 626-2, 626c.
					10	1801, 1802, 1803, 1804, 1805, 1806, 1811, 1812, 1813, 1814, 1815, 1831, 1832, 1833, 1834, 1835, 1836, 1837, 1838, 1839, 1840.

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b. *Statutes at Large*—Continued

Statutes at Large					U. S. Code	
Date	Chapter	Section	Volume	Page	Title	Section
1951						
Sept. 28	434	601–606	65	365, 366	5	626s–3.
					10	1270.
					34	522a.
					40	551, 552, 553, 554.
Oct. 11	484		65	387	10	1305.
Oct. 18	513		65	450	5	456c.
Oct. 20	524		65	572	10	1861, 1862, 1863, 1864, 1865, 1866.
Oct. 25	562	4 (2), (3)	65	640	5	196, 197.
Do	563	101	65	641	50	171–1.
					Uncodified	
Do	588		65	655	5	191a, 275.
Oct. 31	652	(as applicable to § 4 (c) of the Act of Feb. 19, 1948, ch. 65.)	65	700	41	153.
Do	654	2 (2)–(8), (21)–(23), (26)–(28); 3 (2), (5); 4 (5), (6).	65	706–709	5	150p, 207a, 218, 626f.
					10	1209, 1213, 1214, 1259, 1262.
					32	45.
					34	492, 546b, 546d, 546f, 546g, 555a, 555b.
					50	64, 66, 68.
Do	655	53	65	728	10	1393.
1952						
May 19	310	1 (c) (as applicable to the Act of Oct. 12, 1949, ch. 681, §§ 527, 528).	66	80	10	301, 303.
					34	850c.
Do	310	4 (as applicable to the Act of Oct 12, 1949, ch. 681, § 412.)	66	80	37	282.
May 26	364		66	94	50	62.
June 24	457		66	155	10	81–2.
					34	21e.
June 28	479		66	282	5	171f, 411a (c).
July 1	539		66	318	5	173, 173a, 173b, 173c, 173d, 173e, 173f, 173g, 173h, 173i.
July 3	548		66	321	31	222c, 222d.
Do	570	1 (a) (4), 2 (c)	66	331, 334	31	223b.
					50 App	1171.
July 9	608	(less §§ 244, 257 (e), 804 (b))	66	481	5	181–3.
					10	1a, 1b, 371, 371b, 371c, 375, 376, 425, 513.
					32	4, 4b, 112, 113, 114, 115, 123, 124, 125, 132, 133, 156, 172, 173, 175, 176.
					34	429, 854d.
					50	901–905, 921–936, 941–956, 961–967, 971–975, 981, 982, 991–993, 1001–1010, 1021–1024, 1041–1053, 1071–1074, 1091–1093, 1111–1124.
					Uncodified	
July 10	630	609, 638	66	532, 537	10	895.
					41	162.
Do	654		66	575	10	377.
					34	890.

b. Statutes at Large—Continued

Statutes at Large					U. S. Code	
Date	Chapter	Section	Volume	Page	Title	Section
1952						
July 12	698		66	590	10	1036a.
					34	440i.
July 14	726	408	66	625	5	171z.
July 16	882		66	625	5	235b, 235c, 235d, 235e, 235f, 235g, 235h, 475g, 475h, 475i, 475j, 475k, 475*l*, 475m, 628b, 628c, 628d, 628e, 628f, 628g, 628h.
1953						
Mar. 14	7		67	6	Uncodified	
Mar. 31	13	(As applicable to the Act of July 3, 1952, ch. 570, § 2 (c)).	67	18	31	223b.
May 27	67		67	34	34	555d, 555e.
Do	69		67	35	10	386.
Do	71		67	36	10	166, 166a.
					34	43c.
June 30	172	(As applicable to the Act of July 3, 1952, ch. 570 § 2 (c)).	67	132	31	223b.
July 6	180		67	140	10	1028b, 1393.
					34	399d.
July 16	203		67	175	10	943a, 971b.
July 17	220	1 (a)–(d)	67	176	10	491a, 491b, 491c, 612.
					34	285b, 285c, 285d, 285e.
Do	222	1–3, 7	67	178, 179	36	12, 17, 17a, 17b.
Do	226	1–2	67	180, 181	10	1086.
					34	1091a.
Aug. 1	303		67	317	31	222c.
Do	305	606, 609, 624 (last proviso), 643, 645 (5th and 7th clauses).	67	350, 353, 357	5	174b.
					10	1287.
					31	649b.
					32	196.
					50	65.
					Uncodified	
Aug. 8	390		67	499	10	1241.
					34	533, 533a.
Do	393		67	501	37	371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381.
Do	398		67	521	10	385b.
1954						
Mar. 23	103		68	30	10	156a.
Apr. 1	127	2, 3(a), 5, 7, 8	68	47, 48	10	1092c-1, 1832, 1851, 1852 (a), 1854, 1856.
					34	1057-1.
Apr. 29	176		68	64	37	372.
May 5	180	(less § 401)	68	65	10	506d-1, 506d-2, 506d-3, 506d-4, 1843-1850.
					34	5a (a), (f), (g), (k), 5a-1, 5a-2, 626-1(a).
May 27	225		68	141	5	626*l*, 626m.

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b. Statutes at Large—Continued

Statutes at Large					U. S. Code	
Date	Chapter	Section	Volume	Page	Title	Section
1954						
May 29	249	(less §§ 14 (b) (3), 14 (g), 19 (h))	68	157	10	591, 591a, 593, 594, 600, 600a–600r, 631a.
					34	135–135e, 135g, 259a, 283, 330–330g, 430–430d.
June 3	251		68	168	10	1092a.
					34	1036a.
June 4	264	3	68	176	34	555f.
June 18	311	((b) as applicable to §312 (h))	68	256	34	410j.
June 30	432	732	68	356	10	1058.
					34	1086.
Do	433		68	357	10	506c, 506c–1, 559.
July 6	462		68	451	32	49.
July 15	507	(less §§ 7 (b), 14 (a), 14 (b), and 15.)	68	478	5	2151–2163.
Do	513		68	485	10	908a, 908b, 908c.
					34	937, 938, 939.
July 16	531		68	485	5	626*l*.
July 19	537		68	492	Uncodified	
Aug. 3	652		68	649	5	181–4, 181–5, 421a–1, 626, 626–1, 626–2.
Aug. 21	783		68	758	10	61–1, 65–70c.
Aug. 23	822		68	763	34	30a–1.
Aug. 27	1014		68	880	32	47.
Aug. 28	1039		68	896	10	389, 390.
Aug. 30	1076	(clauses 16, 21)	68	967, 968	5	466.
					34	1076b.
Aug. 31	1151		68	1006	Uncodified	
Sept. 3	1263	8 (the words "Secretary of Defense, the"), 12, 20.	68	1228, 1229, 1233	5	171j, 475c.
					10	877.
1955						
Mar. 2	9	1 (i)	69	9	50	654.

SCHEDULE OF LAWS REPEALED

c. Reorganization Plans

Statutes at Large					U. S. Code	
Year	Plan No.	Section	Volume	Page	Title	Section
1946	3	301	60	1099	5	457; Uncodified.
1953	6	1, 2 (less (c))	67	638	5	171h, 171i, 171z, 173, 173a, 173b, 173c, 173d, 173e, 173f, 173g, 173h.
					Uncodified	

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