

[CHAPTER 690]

AN ACT

To provide for the creation, organization, administration, and maintenance of a Naval Reserve and a Marine Corps Reserve.

June 25, 1938
[H. R. 10594]
[Public, No. 732]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Naval Reserve Act of 1938".

Naval Reserve Act
of 1938.

TITLE I—DISSOLUTION OF EXISTING RESERVE AND ORGANIZATION OF NEW RESERVE

Title I—Dissolu-
tion of Existing Re-
serve and Organi-
zation of New Reserve.

SECTION 1. The Naval Reserve established under the Act of February 28, 1925, is hereby abolished, and in lieu thereof there is hereby created and established, as a component part of the United States Navy, a Naval Reserve which shall consist of the Fleet Reserve, the Organized Reserve, the Merchant Marine Reserve, and the Volunteer Reserve: *Provided*, That all men who on the date of this Act are members of the Fleet Naval Reserve as the result of sixteen or more years of active naval service, are hereby transferred to the Fleet Reserve created by this Act, and shall continue to receive the same pay, allowances, and benefits which they were legally entitled to receive at the time of approval of this Act, and all other members of the Fleet Naval Reserve are hereby transferred to the Organized Reserve; and all officers and men who on the date of this Act are members of the Merchant Marine Naval Reserve and Volunteer Naval Reserve (including aviation cadets), are hereby transferred to the Merchant Marine Reserve and Volunteer Reserve, respectively: *Provided further*, That such transfers of officers and men shall be for the unexpired period of their current appointments or enlistments in the Naval Reserve and in the same grades, ranks or ratings, and with the same dates of precedence held by them on the date of such transfer: *And provided further*, That nothing contained in this Act shall affect the status or pay of members of the Naval Reserve Force or the Naval Reserve heretofore retired with or without pay, except that members of the Honorary Retired List on the date of the approval hereof are hereby transferred to the Honorary Retired List for the Naval Reserve created by section 309, title III, of this Act.

Establishment as
part of the Navy in
lieu of existing Naval
Reserve.

43 Stat. 1080.
34 U. S. C., ch. 15;
Supp. III, ch. 15.
Classes.

Provisos.
Transfer of present
Fleet Naval Reserve
members.

Transfers to Mer-
chant Marine Reserve
and Volunteer Re-
serve.

Term of service.

Status of members
heretofore retired.

Honorary Retired
List.

Post, p. 1183.

Marine Corps Re-
serve.
Establishment as
part of Marine Corps
in lieu of present or-
ganization.

Proviso.
Classes.

Laws repealed.

43 Stat. 1080, 1276;
45 Stat. 1476; 46 Stat.
375; 47 Stat. 431, 439,
801; 48 Stat. 813.

34 U. S. C., ch. 15;
Supp. III, ch. 15.

SEC. 2. The United States Marine Corps Reserve established under the Act of February 28, 1925, is hereby abolished, and in lieu thereof there is hereby created and established as a component part of the United States Marine Corps, a Marine Corps Reserve under the same provisions in all respects (except as may be necessary to adapt said provisions to the Marine Corps) as those contained in this Act or which may hereafter be enacted providing for the Naval Reserve: *Provided*, That the Marine Corps Reserve shall consist of the Fleet Marine Corps Reserve, the Organized Marine Corps Reserve, and the Volunteer Marine Corps Reserve, corresponding, as near as may be, to similar classes of the Naval Reserve.

SEC. 3. The Act of February 28, 1925, entitled "An Act for the creation, organization, administration, and maintenance of a Naval Reserve and a Marine Corps Reserve" (43 Stat. 1080), as amended by the Acts of March 4, 1925, section 19 (43 Stat. 1276); March 2, 1929 (45 Stat. 1476); May 23, 1930, section 2 (46 Stat. 375); June 30, 1932, section 1 (47 Stat. 431, 439); February 14, 1933 (47 Stat. 801); and May 29, 1934, section 17 (48 Stat. 813), as contained in the United States Code, title 34, chapter 15, is hereby repealed.

Composition of
Naval Reserve.

Provisos.
Appointment of fe-
male registered nurses
in Volunteer Reserve.
Other services pro-
hibited, except Naval
Militia.

Civil employment,
etc., not affected.

Active duty of
members, including
retired list, in time of
war or emergency.
Post, p. 1183.

In time of peace.

Provisos.
Aviation cadets,
service.
Release from active
duty.

Discharge.

Provisos.
Discharge for cause,
hearing.

Separation of offi-
cers and enlisted men
on active duty.

Retired list subject
to Navy laws, etc.

Commissioned offi-
cers on active duty,
etc.

SEC. 4. The Naval Reserve shall be composed of male citizens of the United States and of the insular possessions of the United States who have attained the age of seventeen years and who, by appointment or enlistment therein under regulations prescribed by the Secretary of the Navy or by transfer thereto as in this Act provided, obligate themselves to serve in the Navy in time of war or when in the opinion of the President a national emergency exists: *Provided*, That female registered nurses may be appointed in the Volunteer Reserve under regulations prescribed by the Secretary of the Navy: *Provided further*, That no officer or man of the Naval Reserve shall be a member of any other naval or military organization except the Naval Militia: *And provided further*, That no existing law shall be construed to prevent any member of the Naval Reserve from accepting employment in any civil branch of the public service nor from receiving the pay and allowances incident to such employment in addition to any pay and allowances to which he may be entitled under the provisions of this Act, nor as prohibiting him from practicing his civilian profession or occupation before or in connection with any department of the Federal Government.

SEC. 5. Any member of the Naval Reserve, including those on the honorary retired list created by section 309, title III, of this Act, or who may have been retired, may be ordered to active duty by the Secretary of the Navy in time of war or when in the opinion of the President a national emergency exists and may be required to perform active duty throughout the war or until the national emergency ceases to exist; but in time of peace, except as otherwise provided in this Act, he shall be ordered to or continued on active duty with his own consent only: *Provided*, That aviation cadets may be required to serve on active duty for a continuous period of four years from date of appointment: *Provided further*, That the Secretary of the Navy may release any member from active duty either in time of war or in time of peace.

SEC. 6. In time of peace no officer or man of the Naval Reserve shall be discharged except upon expiration of his term of service or upon his own request or for full and sufficient cause, in the discretion of such administrative authority as the Secretary of the Navy may designate: *Provided*, That within a reasonable time prior to discharge for cause, officers shall be given an opportunity to be heard by the Secretary of the Navy, or such administrative authority or other agency as he may designate, which opportunity will be considered as having been given through the mailing of notice to their address on file in the Navy Department: *Provided further*, That officers and enlisted men of the Naval Reserve on active duty shall be subject to separation therefrom in the same manner as may be provided by or in pursuance of law for the separation of officers and enlisted men of the Regular Navy: *And provided further*, That members of the Fleet Reserve and officers and enlisted men who may have heretofore been transferred to the retired list of the Naval Reserve Force or the Naval Reserve or the honorary retired list with pay or may hereafter be so transferred, shall at all times be subject to the laws, regulations, and orders for the government of the Navy, and shall not be discharged therefrom prior to the expiration of their term of service, without their consent, except by sentence of a court martial, or, in the discretion of the Secretary of the Navy, when sentenced by civil authorities to confinement in a State or Federal penitentiary as a result of a conviction for a felony.

SEC. 7. Commissioned officers of the Naval Reserve, including those on the honorary retired list or who may have been retired, when

employed on active duty or on training duty with pay or when employed in authorized travel to and from such duty shall be deemed to have been confirmed in grade and qualified for all general service and shall receive the pay and allowances, including longevity pay, as provided by law for the reserve forces of the United States, and shall when traveling under orders or under competent authority receive transportation in kind, mileage, or actual expenses as provided by law for travel performed by officers of the Regular Navy. Midshipmen, warrant officers, nurses, and enlisted men of the Naval Reserve, including those on the honorary retired list, or who may have been retired, when employed on active duty or on training duty with pay or when employed in authorized travel to and from such duty, shall receive the same pay and allowances as received by midshipmen, warrant officers, nurses, and enlisted men of the Regular Navy of the same rank, grade, or rating, and of the same length of service which shall include service in the Navy, Marine Corps, Coast Guard, Naval Reserve Force, Naval Militia, National Naval Volunteers, Naval Reserve, Marine Corps Reserve Force, or Marine Corps Reserve. Aviation cadets shall receive the pay and allowances and other emoluments provided for them by the Act of April 15, 1935 (49 Stat. L. 157; U. S. C., Supp. III, title 34, ch. 15, sec. 861a): *Provided*, That for the purposes of computing increases in pay of commissioned officers on account of length of service, active service in the grade of aviation cadet shall be considered as commissioned service: *Provided further*, That when officers or men of the Naval Reserve perform active duty or training duty with pay for a period of less than thirty days such duty performed on the 31st day of any month shall be paid for at the same rate as for other days: *And provided further*, That officers and enlisted men of the Naval Reserve, while employed on active duty or on training duty, with pay, which involves the actual flying in aircraft in accordance with regulations prescribed by the Secretary of the Navy shall receive the same increase of pay of their grades, ranks, or ratings as may be received by officers and enlisted men in similar grades, ranks, and ratings in the Regular Navy for the performance of similar duty.

SEC. 8. Appropriations made to the various bureaus and offices of the Navy Department for part-time or intermittent employment of scientists, technicians, and other personnel in connection with the work of such bureaus and offices shall be available for the active-duty pay and allowances of such members of the Naval Reserve as, in the discretion of the Secretary of the Navy, may be placed on temporary active duty for the purpose of prosecuting such work.

SEC. 9. The Secretary of the Navy shall prescribe all necessary and proper regulations, not inconsistent with the provisions of this Act, for the recruiting, organization, government, administration, training, inspection, and mobilization of the Naval Reserve, and shall detail such officers and enlisted men of the Regular Navy and the Naval Reserve, and shall make available such vessels, material, armament, equipment, and other facilities of the Regular Navy as he may deem necessary and advisable for the development of the Naval Reserve in accordance with the provisions of this Act: *Provided*, That all officers and employees of the United States or of the District of Columbia who are members of the Naval Reserve shall be entitled to leave of absence from their respective duties without loss of pay, time, or efficiency rating, on all days during which they may be employed with or without pay under the orders or authorization of competent authority, on training duty for periods not to exceed fifteen days in any one calendar year.

Pay and allowances.

Midshipmen, warrant officers, etc.

Pay and allowances on active duty.

Aviation cadets, pay and allowances.

49 Stat. 157.
34 U. S. C., Supp.

III, § 861a.
Provisos.
Service credits in computing pay increases.

Pay for less than 30 days.

Employment on active duty involving actual flying in aircraft, etc.

Availability of appropriations.

General provisions. Regulations for organization, etc., of Naval Reserve.

Details of personnel, ships, etc., from the Navy.

Proviso.
Leaves of absence for training duty.

Maximum numerical strength, objective.

SEC. 10. Subject to appropriations made annually by the Congress, it is the purpose and intent of this Act that the United States Naval Reserve and the United States Marine Corps Reserve shall be administered with the definite objective of reaching the maximum numerical strength of trained and qualified officers and enlisted men in the several classes, as may be determined by the Secretary of the Navy, within a period of not more than ten years and, as nearly as may be possible, by equal annual increments.

Effective date of Act.

SEC. 11. This Act shall take effect on July 1, 1938, which date shall be construed as the date of the passage or approval thereof.

Title II—Fleet Reserve.

TITLE II—FLEET RESERVE

Composition.

SEC. 201. The Fleet Reserve shall be composed of officers and enlisted men transferred or assigned thereto in accordance with the provisions of this Act: *Provided*, That subject to their own consent, ex-officers and ex-enlisted men of the Regular Navy who have been honorably discharged therefrom after not less than four years' service therein, may, in the discretion of the Secretary of the Navy, be appointed or enlisted in the Naval Reserve in the ranks or ratings last held by them in the Regular Navy, and assigned to the Fleet Reserve created by this Act.

Computation of terms of service.

SEC. 202. For all purposes of this Act a complete enlistment during minority shall be counted as four years' service and any enlistment terminated within three months prior to the expiration of the term of such enlistment shall be counted as the full term of service for which enlisted: *Provided*, That all transfers from the Regular Navy to the Fleet Naval Reserve or to the Fleet Reserve, and all transfers of members of the Fleet Naval Reserve or the Fleet Reserve to the retired list of the Regular Navy, heretofore or hereafter made by the Secretary of the Navy, shall be conclusive for all purposes, and all members so transferred shall, from the date of transfer, be entitled to pay and allowances, in accordance with their ranks or ratings and length of service as determined by the Secretary of the Navy: *Provided further*, That the Secretary of the Navy, upon discovery of any error or omission in the service, rank, or rating for transfer or retirement, is authorized to correct the same and upon such correction the person so transferred or retired shall be entitled to pay and allowances, in accordance with his rank or rating and length of service as determined by the Secretary of the Navy.

Provisos.
Transfers conclusive.

Correction of errors.

Transfers of certain enlisted men to Reserve, after 16 years' service.

SEC. 203. Men serving in the Regular Navy, who, having enlisted therein on July 1, 1925, or prior thereto, or who having been discharged therefrom prior to July 1, 1925, and reenlisted in the Regular Navy within three months from the date of discharge, or who were serving in the Naval Reserve Force on July 1, 1925, in an enrollment entered into within four months from the date of their discharge from the Regular Navy and thereafter reenlisted in the Regular Navy within three months from the date of their discharge from the Naval Reserve created by the Act of February 28, 1925, shall be entitled to be transferred to the Fleet Reserve on the completion of sixteen or more years' naval service, and when so transferred shall, except when on active duty, be entitled to receive, if they have had sixteen but less than twenty years' naval service, pay at the rate of one-third the base pay they were receiving at the time of transfer, plus all permanent additions thereto, and if they have had twenty or more years' naval service, pay at the rate of one-half of the base pay they were receiving at the time of transfer, plus all permanent additions thereto: *Provided*, That the pay authorized in this section shall be increased 10 per centum for all men who may be credited with extraordinary heroism in the line of duty or whose average marks in

Pay, etc.

After 20 years' service or more.

Provisos.
Increase, for extraordinary heroism, etc.

conduct for twenty or more years shall not be less than 95 per centum of the maximum: *Provided further*, That the determination of the Secretary of the Navy as to the definition of extraordinary heroism shall be final and conclusive for all purposes.

SEC. 204. Men serving in the Regular Navy on the date of the passage of this Act, who first enlisted in the Navy after July 1, 1925, or who reenlisted therein after July 1, 1925, having been out of the Regular Navy for more than three months, and men who first enlist in the Regular Navy after the passage of this Act, may upon their own request be transferred to the Fleet Reserve upon the completion of at least twenty years' naval service: *Provided*, That they are physically and otherwise qualified to perform duty in time of war. After such transfer, except when on active duty, they shall be paid at the rate of one-half of the base pay they are receiving at the time of transfer: *Provided further*, That all enlisted men transferred to the Fleet Reserve in accordance with the provisions of Sections 1 and 203 of this Act shall, upon completion of thirty years' service, be transferred to the retired list of the Regular Navy, with the pay they were then legally entitled to receive and the allowances to which enlisted men of the Regular Navy are entitled on retirement after thirty years' service: *And provided further*, That all enlisted men transferred to the Fleet Reserve in accordance with the provisions of this section shall, upon completion of thirty years' service, be transferred to the retired list of the Regular Navy, with the pay they were then legally entitled to receive, plus all permanent additions thereto, and the allowances to which enlisted men of the Regular Navy are entitled on retirement after thirty years' service.

SEC. 205. The Secretary of the Navy, under such regulations as he may prescribe, may require any person hereafter when enlisting in the Regular Navy and may authorize any enlisted man in such service to obligate himself to serve four years in the Fleet Reserve upon termination of his enlistment in the Regular Navy: *Provided*, That upon termination of their enlistment in the Regular Navy, men who have so obligated themselves shall be transferred to the Fleet Reserve for the four-year period, unless they apply for reenlistment or extension of their enlistment in the Regular Navy, in which event they may be reenlisted or may extend their enlistment in the Regular Navy: *Provided further*, That, except as otherwise provided for in this Act, the men so transferred to the Fleet Reserve for the four-year period, and officers and men assigned thereto under the provisions of section 201 of this title shall not, in time of peace, be ordered to active duty, except with their own consent, and shall be under no obligation to perform training duty or drill during that period, but shall be paid in advance \$20 per annum.

SEC. 206. In time of peace all enlisted men transferred to the Fleet Reserve after sixteen years' or more service in the Regular Navy may be required to perform not more than two months' active duty in each four-year period and shall be examined physically at least once during each four-year period: *Provided*, That any pay which may be due any member of the Fleet Reserve shall be forfeited when so ordered by the Secretary of the Navy, upon failure, under such conditions as may be prescribed by the Secretary of the Navy, of such member to report for inspection: *Provided further*, That enlisted men heretofore or hereafter transferred to the Fleet Reserve after sixteen years' or more service in the Regular Navy, who are found not physically qualified upon such examination, shall be transferred to the retired list of the Regular Navy, with the pay they are then receiving, and in addition men coming under the cognizance of sections 1 and 203 of this Act, shall, upon the completion of thirty years' service, receive the allowances to which enlisted men of the Regular Navy are

Finality of determination.

Transfers to Fleet Reserve after 20 years' service.

Provisos.
Qualifications, pay, etc.

Transfers to retired list after 30 years' service.

Ante, pp. 1175, 1178.

Pay and allowances.

Obligation for period of service in Fleet Reserve.

Provisos.
Transfers to Fleet Reserve; exception.

Active duty restrictions, in peace time.

Limited active duty in time of peace.

Physical examination.

Provisos.
Forfeiture of pay for failure to report for inspection.

Transfer to retired list if found physically unqualified; pay, etc.

Ante, pp. 1175, 1178.

Additions to base pay and allowances on retirement after 30 years' service.

Transfer from Fleet Reserve to Regular Navy retired list, service included.

Double-time credit.

Ration allowance when hospitalized.

Title III—Provisions Applicable Only to the Organized Reserve, Merchant Marine Reserve, and Volunteer Reserve.

Application of regulations, etc., to members of Naval Reserve when on active duty, etc.

Provisos. Disciplinary action for offenses.

Involuntary retention or return to duty status.

Initial uniform allowance for officers.

Additional allowance thereafter.

Provisos. Condition.

Limitation.

Uniforms for aviation cadets. Further sum in time of war, etc.

entitled on retirement after thirty years' service: *Provided further*, That all men coming under the cognizance of section 204 of this title shall receive all permanent additions to their base pay, and the allowances to which enlisted men of the Regular Navy are entitled on retirement after thirty years' service: *Provided further*, That in the computation of service requisite for transfer of enlisted men of the Fleet Reserve to the retired list of the Regular Navy, service in the Army, Navy, Marine Corps, Coast Guard, Naval Reserve Force, Fleet Naval Reserve, Fleet Reserve, Marine Corps Reserve Force, and the Marine Corps Reserve and on the retired list of the Regular Navy shall be included: *And provided further*, That such service as may heretofore have been authorized by law to be counted as double time shall be credited as double time in this computation.

SEC. 207. Members of the Fleet Reserve and retired enlisted men shall receive the ration allowance prescribed by law for enlisted men of the Regular Navy when such men are hospitalized in a Federal hospital in accordance with law.

TITLE III—PROVISIONS APPLICABLE ONLY TO THE ORGANIZED RESERVE, MERCHANT MARINE RESERVE, AND VOLUNTEER RESERVE

SEC. 301. All members of the Naval Reserve, when employed on active duty, authorized training duty, with or without pay, drill, or other equivalent instruction or duty, or when employed in authorized travel to or from such duty, or appropriate duty, drill, or instruction, or during such time as they may by law be required to perform active duty, or while wearing a uniform prescribed for the Naval Reserve, shall be subject to the laws, regulations, and orders for the government of the Navy: *Provided*, That disciplinary action for an offense committed while subject to the laws, regulations, and orders for the government of the Navy shall not be barred by reason of release from duty status of any person charged with the commission thereof: *Provided further*, That for the purpose of carrying the provisions of this section into effect, members of the Naval Reserve may be retained on or returned to a duty status without their consent, but not for a longer period of time than may be required for disciplinary action.

SEC. 302. In time of peace, upon first reporting for active or training duty with pay, after enactment hereof, at a location where uniforms are required to be worn, or after the authorized performance of fourteen drills, a commissioned or warrant officer of the Naval Reserve shall be paid a sum not to exceed \$100 as reimbursement for the purchase of the required uniforms, and thereafter he shall be paid an additional sum of \$50 for the same purpose upon the completion of each period of not less than four years in the Naval Reserve: *Provided*, That this latter amount of \$50 shall not become due any officer until he has completed not less than one hundred and fifty drills or periods of other equivalent instruction or duty or appropriate duties and fifty-six days' active or training duty, or seventy-five drills and eighty-four days' active or training duty, or one hundred twelve days' active or training duty: *Provided further*, That any officer who has heretofore received a uniform gratuity shall not be entitled to either of the above-mentioned sums until the expiration of four years from the date of the receipt of the last such gratuity: *Provided further*, That uniforms for aviation cadets shall be provided as heretofore or hereafter authorized by law: *And provided further*, That in time of war or national emergency a further sum of \$150 for the

purchase of required uniforms shall be paid to officers of the Naval Reserve when they first report for active duty.

SEC. 303. In time of peace midshipmen, merchant marine cadets, nurses, and enlisted men of the Naval Reserve may be issued articles of uniform, bedding, and equipment in accordance with regulations to be prescribed by the Secretary of the Navy: *Provided*, That upon first reporting for active duty in time of war or national emergency enlisted men of the Naval Reserve may be issued such additional articles as are required to give them the same outfit as is authorized for enlisted personnel of the Regular Navy upon first enlistment, and midshipmen, merchant marine cadets, and nurses shall be issued such additional articles as the Secretary of the Navy may prescribe.

SEC. 304. If in time of peace any member of the Naval Reserve is physically injured in the line of duty while performing active military or naval service, or dies as the result of such physical injury, he or his beneficiaries shall be entitled to all the benefits prescribed by law for civil employees of the United States who are physically injured in the line of duty or who die as a result thereof, and the United States Employees' Compensation Commission shall have jurisdiction in such cases and shall perform the same duties with reference thereto as in the cases of civil employees of the United States so disabled: *Provided*, That where a person who is eligible for the benefits prescribed by this section is also eligible for pension under the provisions of the Act of June 23, 1937, entitled "An Act to amend the provisions of the pension laws for peacetime service to include Reserve officers and members of the enlisted Reserves" (50 Stat. 305), he shall elect which benefit he shall receive, and for the purposes of this section and of said Act all members of the Naval Reserve shall be considered as performing active military or naval service while performing active duty with or without pay, training duty with or without pay, drills, equivalent instruction or duty, appropriate duty, or other prescribed duty, or while performing authorized travel to or from such duties: *Provided further*, That for the purpose of determining the benefits to which entitled under the provisions of this section Naval Reservists so physically injured while performing the foregoing duties in a nonpay status will be held and considered as receiving the pay and allowances they would have received if in a pay status: *Provided further*, That Naval Reservists who become ill or contract disease in line of duty during the performance of active duty or training duty with or without pay shall be entitled, at Government expense, to such medical, hospital, or other treatment as is necessary for the appropriate treatment of such illness or disease until the disability resulting from such illness or disease cannot be materially improved by hospitalization or treatment, and to the necessary transportation and subsistence incident to such medical and hospital treatment and return to their homes when discharged therefrom: *Provided further*, That no treatment or hospitalization for such illness or disease shall be continued for more than ten weeks following discharge from active or training duty except on the approved recommendation of a board of medical survey, consisting of one or more medical officers of the Navy or on authorization of the Surgeon General of the Navy based on the certificate of a reputable physician that the illness or disease is a continuation of the illness or disease which was sustained or contracted during the period of active or training duty and that further benefit will result from continued treatment: *And provided further*, That in no case shall sickness or disease be regarded as an injury within the meaning of this section relating to the Naval Reserve.

Issuance of uniforms, etc., in time of peace.

Proviso.
Additional issue in time of war.

Compensation for physical injuries while on active duty, in time of peace.

Jurisdiction.

Provisos.
Choice where also eligible for pension.

50 Stat. 305.

Injuries while performing designated duties in a nonpay status.

Medical, etc., treatment of illness or disease.

Limitation.

Sickness or disease not deemed an injury.

Grades of commissioned officers.

Limitation.

Appointments in Merchant Marine and Volunteer Reserves.

Volunteer Marine Corps Reserve.

Distribution of officers.

Provisos. Determination of authorized number.

Recommendation by selection board for initial appointment in grade of rear admiral, etc.

No reductions in rank.

Post, p. 1183.

Midshipmen, appointments from Reserve enlisted men.

Proviso. Yearly limit.

Physical examination of officers.

SEC. 305. Subject to the provisions of section 306 hereof, in time of peace commissioned officers appointed to the Naval Reserve shall be commissioned to serve during the pleasure of the President, in grades or ranks not above that of lieutenant commander, except that a small percentage of officers in the higher grades or ranks may, if qualified, be commissioned in the grades or ranks of rear admiral, captain, and commander. Warrant officers, aviation and merchant marine cadets, and midshipmen shall be appointed to serve during the pleasure of the Secretary of the Navy. Except as otherwise provided in this Act, the total number of officers in such higher grades or ranks in the Organized Reserve shall not exceed one-half of 1 per centum of the actual number of enlisted men regularly assigned to the divisions or other units of the Organized Reserve and entitled to pay as provided in section 313 of this title. The number of officers appointed or promoted to grades or ranks above that of lieutenant commander in the Merchant Marine and Volunteer Reserves, or above that of major in the Volunteer Marine Corps Reserve, shall not exceed mobilization needs for such officers for duties appropriate to these grades or ranks.

SEC. 306. In time of peace there shall be allowed in the Naval Reserve one officer of the grade or rank of rear admiral, and in the Marine Corps Reserve one officer in the grade or rank of brigadier or major general. The remaining officers shall be distributed in the various grades or ranks in such manner as the Secretary of the Navy may prescribe. Whenever a final fraction occurs in computing the authorized number of officers in the various grades or ranks, the nearest whole number shall be regarded as the authorized number: *Provided*, That to determine the authorized number of officers in the grades or ranks above lieutenant commander as provided in this title, computations shall, under such regulations as the Secretary of the Navy may prescribe, be made at least once during each calendar year and the resulting numbers as so computed shall be held and considered for all purposes as the authorized number of officers in such higher grades or ranks, and shall not be varied between the dates of such computations: *Provided further*, That no officer shall be initially appointed in the Naval Reserve in the grade or rank of rear admiral, captain, or commander, nor in the Marine Corps Reserve in the grade or rank of major general, brigadier general, colonel, or lieutenant colonel, nor promoted to such grade or rank, except upon recommendation therefor by a selection board: *And provided further*, That no officer shall be reduced in rank as a result of any computation so made and that nothing contained in this Act shall be construed as reducing the present grade, rank or rating of any officer or man in the Naval Reserve, or as otherwise affecting the commissions now held by them or as restricting the promotion of officers in the Naval Reserve in time of war as provided for in section 312 of this title.

SEC. 307. Hereafter the Secretary of the Navy is authorized to appoint midshipmen to the Naval Academy from enlisted men of the Naval Reserve and Marine Corps Reserve under similar conditions so far as applicable as prescribed by law for appointments from enlisted men of the Navy: *Provided*, That not more than fifty midshipmen shall be appointed in any one year under the authority contained in this section, except that in the event the quota of midshipmen from the enlisted men of the Regular Navy is not filled in any one year the Secretary of the Navy shall have the authority to fill such vacancies with additional men from the Naval Reserve.

SEC. 308. All officers of the Naval Reserve shall be examined physically once every four years or oftener, as may be deemed necessary,

and if upon such examination they are found not physically qualified for active service they shall be honorably discharged or, within the discretion of the Secretary of the Navy, placed on the honorary retired list provided for in section 309 of this title: *Provided*, That in determining an officer's qualifications for active service, due consideration shall be given to the character of the duty to be assigned him in the event of war or national emergency and, in the discretion of the Secretary of the Navy, to his age in grade. The Secretary of the Navy may, in his discretion, discharge or place an officer of the Naval Reserve on the honorary retired list on account of age in grade when such officer has attained the age of forty years if in the grade of ensign or lieutenant (junior grade), forty-six years if in the grade of lieutenant, fifty-two years if in the grade of lieutenant commander, or fifty-eight years if in the grade of commander.

SEC. 309. An honorary retired list for the Naval Reserve is hereby established and officers and enlisted men of the Naval Reserve shall be placed on this retired list of the Naval Reserve without pay or allowances, upon reaching the age of sixty-four years, or upon their own request, after thirty years' service in the Naval Reserve, except as otherwise provided in this Act: *Provided*, That service in the Army, Navy, Marine Corps, Coast Guard, Naval Auxiliary Service, Naval Reserve Force, Naval Militia, National Naval Volunteers, Naval Reserve, Marine Corps Reserve Force, and Marine Corps Reserve shall be counted as service in the Naval Reserve under the provisions of this section: *Provided further*, That Naval Reservists who have been specially commended for their performance of duty in actual combat with the enemy by the head of the executive department under whose jurisdiction such duty was performed, shall, when placed upon the honorary retired list, be advanced to the next higher grade.

SEC. 310. Officers and men of the honorary retired list created by section 309 of this title, who have performed a total of not less than thirty years' active service in the Army, Navy, Marine Corps, Coast Guard, Naval Auxiliary Service, Naval Reserve Force, Naval Militia in Federal status, National Naval Volunteers, Naval Reserve, Marine Corps Reserve Force, and Marine Corps Reserve, or who have had not less than twenty years' such active service, the last ten years of which shall have been performed during the eleven years immediately preceding their transfer to the Honorary Retired List of the Naval Reserve created by section 309 of this title or to the honorary retired list in existence on the date of approval of this Act, shall, except while on active duty, be entitled to pay at the rate of 50 per centum of their active-duty rate of pay as prescribed in section 7, title I, of this Act: *Provided*, That the pay of members of the honorary retired list prescribed by this section shall be paid from the appropriations made for the maintenance of the Naval Reserve.

SEC. 311. In time of peace, officers of the Naval Reserve shall take precedence according to such regulations as the Secretary of the Navy may prescribe: *Provided*, That when mobilized with the Regular Navy for war or a national emergency, each officer of the Naval Reserve shall take precedence next after that officer of the Regular Navy of the same rank or grade whose length of service in such rank or grade on the date of such mobilization is one-half or the nearest one-half of that of the Reserve officer.

SEC. 312. In time of war or national emergency, officers of the active list of the Naval Reserve or the Marine Corps Reserve employed on active duty shall be advanced in their respective corps in grade and rank in the same manner as is or may be prescribed for officers of the Regular Navy or the Marine Corps, respectively, in such numbers for

Proviso.
Determination of qualifications for active service.

Retirement on account of age in grade.

Honorary retired list, establishment.
Retirement for age or length of service.

Provisos.
Service included in computing retirement eligibility.

Reservists specially commended for duty in actual combat with the enemy.

Officers and men of the honorary retired list having prescribed active service, pay.

Ante, p. 1176.

Proviso.
Appropriations made available.

Peacetime precedence of officers of Naval Reserve.

Proviso.
Precedence when mobilized, etc.

Advancement in time of war.

Precedence when advanced.	each grade or rank, as may be prescribed from time to time by the Secretary of the Navy, and when so advanced they shall take precedence among themselves and with other officers of the Navy and Marine Corps, in accordance with date of such advancement or promotion: <i>Provided</i> , That no officer of the Naval Reserve or the Marine Corps Reserve shall be advanced to a higher rank until he has qualified therefor by such mental, moral, professional, and physical examinations as the Secretary of the Navy may prescribe: <i>Provided further</i> , That all officers of the Naval Reserve and the Marine Corps Reserve who may be advanced to a higher grade or rank under the provisions of this title shall be allowed the pay and allowances of the higher grade or rank from the dates of rank stated in their commissions: <i>And provided further</i> , That the provisions of this section shall not apply to officers who have been or may hereafter be retired from the Naval or Marine Corps Reserve Force or the Naval or Marine Corps Reserve.
<i>Provisos.</i> Examinations prior to promotion.	
Pay and allowances.	
Exceptions.	
Naval Reserve officers and enlisted men, compensation.	SEC. 313. Officers and enlisted men of the Naval Reserve shall receive compensation at the rate of one-thirtieth of the monthly base pay of their grades, ranks, or ratings, not to exceed \$10, for attending, under competent orders, each regular drill duly prescribed under the authority of the Secretary of the Navy for the organization to which attached, or for the performance of an equal amount of such other equivalent instruction or duty, or appropriate duties, as may be prescribed by the Secretary of the Navy: <i>Provided</i> , That no such officer or enlisted man shall receive pay for more than sixty drills or periods of other equivalent instruction or duty or appropriate duties in any one fiscal year: <i>Provided further</i> , That for those performing aerial flights in the capacity of pilots duly prescribed as a part of their training, the pay and the pay limits prescribed by this section shall be increased by 50 per centum for any quarter during which not less than four hours of such flying has been performed: <i>And provided further</i> , That no officer shall receive an increase of pay by reason of the performance of aerial flights, greater than the increase for such reason that may, under the provisions of this section, be paid to reserve officers of the grade of captain in the Naval Reserve or colonel in the Marine Corps Reserve.
<i>Provisos.</i> Limitation.	
Aerial flight training, pay increase.	
Limitation.	
Commanding officers having administrative duties, extra compensation.	SEC. 314. In addition to the pay to which they may otherwise become entitled, such officers of the Naval Reserve as may be designated by the Secretary of the Navy, regularly assigned to and commanding organizations prescribed by the Secretary of the Navy, shall receive compensation at the rate of \$240 per year for the faithful performance of the administrative duties connected therewith. Pay under the provisions of this section or the preceding section shall not accrue to any officer or enlisted man during a period when he shall be lawfully entitled to pay for active duty or training duty.
Restriction.	
Annual training duty.	SEC. 315. In time of peace, except as herein otherwise provided, members of the Naval Reserve in receipt of pay for the performance of drills, equivalent instruction or duty, or appropriate duties may be required to perform such training duty, not to exceed fifteen days annually, as may be prescribed by the Secretary of the Navy: <i>Provided</i> , That they may be given additional training or other duty, either with or without pay, as may be authorized, with their consent, by direction of the Secretary of the Navy: <i>Provided further</i> , That when authorized training or other duty without pay is performed by members of the Naval Reserve they may in the discretion of the Secretary of the Navy, be furnished with transportation to and from such duty, with subsistence and transfers en route, and, during the performance of such duty, be furnished subsistence in kind or commutation thereof at a rate to be fixed from time to time by the Secretary of the Navy.
<i>Provisos.</i> Additional training or other duty. Transportation and subsistence allowance when performing duty without pay.	

SEC. 316. That for the purpose of advising the Secretary of the Navy on the formulation of Naval Reserve policies there shall be convened annually at the Navy Department a Naval Reserve Policy Board, at least half the members of which shall be Naval Reserve officers called to this duty from an inactive-duty status.

Naval Reserve Policy Board, purpose, meetings, etc.

ORGANIZED RESERVE

SEC. 317. The Organized Reserve shall consist of officers and men required to perform annual training and other duties and available for immediate mobilization.

Organized Reserve.

Composition, duties, etc.

MERCHANT MARINE RESERVE

SEC. 318. The Merchant Marine Reserve shall be composed of those members of the Naval Reserve who follow, or who have within three years followed the sea as a profession, or who are employed in connection with the seafaring profession, or men who are desirable for training for service on board public vessels of the United States, or such other seagoing vessels documented under the laws of the United States as may be approved by the Secretary of the Navy.

Merchant Marine Reserve.

Composition, qualification of members, etc.

SEC. 319. The Secretary of the Navy shall prescribe a suitable flag or pennant which may be flown as an emblem of the Merchant Marine Reserve on seagoing merchant vessels documented under the laws of the United States under such regulations as he may prescribe: *Provided*, That such vessel be first designated by the Secretary of the Navy as suitable for service as a naval auxiliary in time of war: *Provided further*, That the master or commanding officer and not less than 50 per centum of the other licensed officers are members of the Navy or the Naval Reserve: *And provided further*, That such flag or pennant shall not be flown in lieu of the national ensign.

Flag or pennant authorized for vessels.

Provisos.
Vessel suitable as auxiliary.

Navy or Naval Reserve personnel required.

Flying of flag or pennant.

VOLUNTEER RESERVE

SEC. 320. The Volunteer Reserve shall be composed of those members of the Naval Reserve not assigned to the Organized or Merchant Marine Reserve who are qualified or partially qualified for prescribed mobilization duties.

Volunteer Reserve.

Composition, etc.

TITLE IV—NAVAL MILITIA

SEC. 401. Of the organized militia, as provided by law, such part as may be duly prescribed in any State, Territory, or the District of Columbia shall constitute a Naval Militia. Any officer or enlisted man of such Naval Militia may, in the discretion of the Secretary of the Navy, be appointed or enlisted in the Naval Reserve and assigned to the Organized Reserve in the grade, rank, or rating not above the rank of lieutenant for which he may be qualified in accordance with such regulations as may be prescribed by the Secretary of the Navy: *Provided*, That each officer and enlisted man of the Naval Militia appointed or enlisted in the Naval Reserve and assigned to the Organized Reserve shall be required within one year after the date of his appointment or enlistment in the Naval Reserve to qualify, in accordance with the regulations governing the Organized Reserve, for the grade, rank, or rating which he holds therein: *Provided further*, That officers and men of the Naval Reserve who are members of the Naval Militia of any State, Territory, or the District of Columbia shall stand relieved from all service or duty in said Naval Militia when on active duty in time of war or national emergency, or when ordered to such duty: *And provided further*, That such vessels, material, armament, equipment, and other facilities of the Navy as are or may be made available for the Naval Reserve shall also be available

Title IV—Naval Militia.

Composition.

Appointments in Naval Reserve, etc.

Provisos.
Qualification for rank, etc.

Members of Naval Reserve relieved from militia duty in time of war, etc.

Use of facilities of the Navy.

Requirements.

in accordance with regulations prescribed by the Secretary of the Navy for issue or loan to the several States, Territories, or the District of Columbia, for the use of the Naval Militia, but no such facilities of the Navy shall be furnished for use by any portion or unit of the Naval Militia unless at least 95 per centum of its personnel belongs to the Naval Reserve and is attached to or associated with an organization of the Organized Reserve and unless its organization, administration, and training conform to the standards prescribed by the Secretary of the Navy for such units.

Approved, June 25, 1938.

[CHAPTER 691]

AN ACT

June 25, 1938

[H. R. 10642]

[Public, No. 733]

To amend an Act entitled "District of Columbia Alley Dwelling Act", approved June 12, 1934, and for other purposes.

District of Columbia Alley Dwelling Act, amendment.
48 Stat. 930.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first section of the District of Columbia Alley Dwelling Act, approved June 12, 1934, is hereby amended to read as follows:

"TITLE I

Legislative determination.

"SECTION 1. (a) It is hereby declared to be a matter of legislative determination that the conditions existing in the District of Columbia with respect to the use of buildings in alleys as dwellings for human habitation are injurious to the public health, safety, morals, and welfare; and it is hereby declared to be the policy of the United States to protect and promote the welfare of the inhabitants of the seat of the Government by eliminating all such injurious conditions by employing all means necessary and appropriate for the purpose; and control by regulatory processes having proved inadequate and insufficient to remedy the evils, it is in the judgment of Congress necessary to acquire property in the District of Columbia by gift, purchase, or the use of eminent domain in order to effectuate the declared policy by the discontinuance of the use for human habitation in the District of Columbia of buildings in alleys, and thereby to eliminate the communities in the inhabited alleys in said District, and to provide decent, safe, adequate, and sanitary habitations for persons or families substantially equal in number to those who are to be deprived of habitation by reason of the demolition of buildings under the terms of this title, and to prevent an acute shortage of decent, safe, adequate, and sanitary dwellings for persons of low income, and to carry out the policy declared in the Act approved May 18¹, 1918, as amended, of caring for the alley population in the District of Columbia, and to that end it is necessary to enact the provisions hereinafter set forth.

40 Stat. 550.

Power of President to purchase, condemn, etc., land and buildings.

"(b) In order to remedy the conditions and evils hereinbefore recited and to carry out the policy hereinbefore declared, the President is hereby authorized and empowered to acquire by purchase, gift, condemnation, or otherwise—

"(1) any land, building, or structures, or any interest therein, situated in or adjacent to any inhabited alley in the District of Columbia;

"(2) any land, buildings, or structures, or any interest therein, within any square containing an inhabited alley, the acquisition of which is reasonably necessary for utilization, by replatting,

¹ So in original.