

between the United States and Italy, Bulgaria, Hungary, and Rumania from the date of this Act and the nationals of the latter countries may hereafter apply for and obtain patents in the United States for their inventions and enjoy the rights and privileges thereof as provided in article 2 of said convention: *Provided, however,* That patents shall not be applied for or obtained, or if obtained, shall not be valid, for inventions heretofore made relating to war material as specified in article 6 of annex XV A of the Treaty of Peace with Italy, article 6 of annex IV of the Treaty of Peace with Bulgaria, article 6 of annex IV A of the Treaty of Peace with Hungary, and article 6 of annex IV A of the Treaty of Peace with Rumania.

SEC. 2. The rights of priority and the times for the taking of any action specified in sections 1 and 3 of Public Law 690, Seventy-ninth Congress, approved August 8, 1946, which had not expired on December 8, 1941, or which commenced after such date, shall be and are hereby extended until February 29, 1948, in favor of nationals of Italy, Bulgaria, Hungary, and Rumania, subject to the conditions and limitations specified in sections 1, 3, 4, and 10 of said Public Law 690: *Provided, however,* That nothing in this Act shall affect any act which has been or shall be done by virtue of special measures taken under legislative, executive, administrative, or military authority of the United States during World War II.

SEC. 3. Nationals of Germany and Japan may hereafter apply for and obtain patents in the United States for their inventions in accordance with the patent laws and enjoy the rights and privileges thereof: *Provided, however,* That patents obtained for such inventions shall be subject to any conditions and limitations with respect to duration, revocation, utilization, assignment, and licensing which may be imposed by Congress, or by the President in accordance with the provisions of any peace treaty hereafter entered into with Germany or Japan: *And provided further,* That, except for patents based on applications filed in the United States Patent Office prior to the date of enactment of this Act, patents may not be applied for or obtained, or if obtained, shall not be valid, for any invention made, or upon which an application was filed by any such national, before January 1, 1946, in Germany or Japan or in the territory of any other of the Axis Powers or in any territory occupied by the Axis forces.

Approved August 6, 1947.

[CHAPTER 512]

AN ACT

To provide for the promotion and elimination of officers of the Army, Navy, and Marine Corps, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

That this Act, divided into titles and sections according to the following table of contents, may be cited as the "Officer Personnel Act of 1947":

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60 Stat. 940, 942.
35 U. S. C. §§ 101, 103.

60 Stat. 940, 942, 944.
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August 7, 1947
[H. R. 3830]
[Public Law 381]

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TITLE I—PERMANENT PROVISIONS RELATING TO OFFICERS OF THE LINE OF THE NAVY

PERMANENT STATUS OF TITLE I

SEC. 101. The provisions of this title shall constitute permanent, as distinguished from terminable, provisions of law relating to the distribution of commissioned officers in the various grades of the line of the Regular Navy, to the promotion of such officers to the grades above that of lieutenant (junior grade), and to their involuntary separation from the active list.

DEFINITIONS

"Officers."

SEC. 102. (a) As used in this title, the word "officers" shall be held to mean commissioned officers holding permanent appointments as such on the active list in the line of the Regular Navy. Unless otherwise qualified, it shall be held to include officers designated for engineering duty, aeronautical engineering duty, special duty, and limited duty, and to exclude commissioned warrant officers.

Military titles.

(b) As used in this title, military titles shall be held to describe an officer or officers, as the case may be, holding permanent appointment on the active list in the line of the Regular Navy in the grade concerned.

"Not restricted in the performance of duty."

(c) As used in this title, the words "not restricted in the performance of duty" shall be held to describe officers not designated for engineering duty, aeronautical engineering duty, special duty, or limited duty, or officers of the Marine Corps not designated for supply duty or limited duty.

Computation of commissioned service.

(d) For the purposes of this title in respect to eligibility for continuation on the active list and in respect to separation from the active list, the total commissioned service of an officer who shall have served continuously in the Regular Navy following appointment therein in the grade or rank of ensign upon graduation from the Naval Academy or pursuant to the Act of August 13, 1946 (Public Law 729, Seventy-ninth Congress), shall be computed from June 30 of the fiscal year in which he accepted such appointment. Each other officer shall be deemed to have for these purposes as much total commissioned service as any officer described above in this subsection who shall not have lost numbers or precedence and who is, or shall have been, junior to such other officer for the purpose of eligibility for promotion or selection for promotion since the date of the latter's first appointment to permanent commissioned rank in the Regular Navy above the grade of commissioned warrant officer, following which he shall have served continuously on the active list of the Regular Navy.

60 Stat. 1057.
34 U. S. C. § 1020
et seq.
Ante, pp. 99, 100;
post, p. 880.

"Active-duty pay."
Post, pp. 808, 810.

(e) The words "active-duty pay" as used in sections 112 and 113 of this title shall be construed to mean the base and longevity pay the retired officer concerned would receive if serving on active duty in his grade.

DISTRIBUTION OF OFFICERS

SEC. 103. (a) The total number of officers on the active list at any one time, exclusive of officers carried by law as additional numbers in grade and of fleet admirals, shall be distributed in the proportion of seventy-five one-hundredths of one in the grade of rear admiral, to six in the grade of captain, to twelve in the grade of commander, to eighteen in the grade of lieutenant commander, to twenty-four and seventy-five one-hundredths in the grade of lieutenant, to thirty-eight and fifty one-hundredths in the combined grades of lieutenant (junior

grade) and ensign: *Provided*, That of the number of officers so authorized in each grade below captain, not to exceed the following percentages may be officers designated for limited duty: In the grade of commander three and sixty-four one-hundredths; in the grade of lieutenant commander eight and sixty-two one-hundredths; in the grade of lieutenant seven and seventy-two one-hundredths; and in the combined grades of lieutenant (junior grade) and ensign, six and four one-hundredths: *And provided further*, That, except in time of war or national emergency declared after the effective date of this Act, the number of rear admirals not restricted in the performance of duty shall not exceed one hundred and fifty.

(b) The total number of rear admirals designated for engineering duty, aeronautical engineering duty, and special duty shall not exceed at any one time a number equal to 13 per centum of the authorized number of officers, not restricted in the performance of duty, of the grade of rear admiral at that time: *Provided*, That, except in time of war or national emergency declared after the effective date of this Act, the number of such rear admirals shall not exceed nineteen.

(c) The total number of officers designated for engineering duty, in the combined grades of captain, commander, and lieutenant commander, shall not exceed at any one time a number equal to 9 per centum of the total number of officers, not restricted in the performance of duty, authorized in those grades at that time.

(d) The total number of officers designated for aeronautical engineering duty, in the combined grades of captain, commander, and lieutenant commander, shall not exceed at any one time a number equal to 5 per centum of the total number of officers, not restricted in the performance of duty, authorized in those grades at that time.

(e) The total number of officers designated for special duty, in the combined grades of captain, commander, and lieutenant commander, shall not exceed at any one time a number equal to 5 per centum of the total number of officers, not restricted in the performance of duty, authorized in those grades at that time.

(f) To determine the authorized number of officers in each of the various grades above lieutenant (junior grade), and in the combined grades of lieutenant (junior grade) and ensign, as provided in this section, computations shall be made by the Secretary of the Navy as of the date of approval of this Act and thereafter as of January 1 of each year, and the resulting number in each of such various grades, and in the combined grades of lieutenant (junior grade) and ensign, as so computed, shall be held and considered for all purposes as the authorized number of officers in each of such various grades and in the combined grades of lieutenant (junior grade) and ensign, and shall not be varied between such computations: *Provided*, That should it be found at the time of making any such computation that the authorized number which would result in the grade of captain could not be attained because of the minimum total commissioned service requirement prescribed by subsection 107 (c) of this title, the Secretary of the Navy shall determine such lesser number as may be appropriate and such lesser number shall be regarded as the authorized number, and the authorized number in any lower grade or grades shall be increased accordingly as may be determined by the Secretary of the Navy: *Provided further*, That to determine the authorized number of officers designated for limited duty in each of the various grades above lieutenant (junior grade) and in the combined grades of lieutenant (junior grade) and ensign, the Secretary of the Navy, as of the date of the approval of this Act and thereafter as of January 1 of each year, shall compute the maximum number of such officers who may serve in each of such various grades, and in the combined grades

Limited duty in grades below captain.

Rear admirals not restricted in duty.

Engineering and special duty. Rear admirals.

Combined grades of captain, commander, and lieutenant commander.

Computations to determine authorized number.

Determination of lesser number.

Post, p. 801.

Determination of number for limited duty.

of lieutenant (junior grade) and ensign, as provided in subsection (a) of this section, and shall determine the number of such officers in each of such various grades, and in the combined grades of lieutenant (junior grade) and ensign, not to exceed such maximum number, required to meet the needs of the service during the ensuing year, and the resulting number of each of such various grades, and in the combined grades of lieutenant (junior grade) and ensign, as so determined, shall be held and considered for all purposes as the authorized number of such officers in each of such various grades, and in the combined grades of lieutenant (junior grade) and ensign, and shall not be varied between such determinations: *Provided further*, That no officer shall be reduced in grade or pay or separated from the active list of the Navy as a result of any such computation or determination: *And provided further*, That notwithstanding the provisions of this subsection relating to the authorized number of officers in grade, in order to make adjustment for the number of officers originally appointed each year in any grade pursuant to titles I through IV of this Act or to other provisions of law, the authorized number of officers in each grade concerned may be temporarily exceeded by such number of original appointments in such grade until the next succeeding annual computation authorized by this subsection shall be made.

Reduction in grade, etc.

Adjustment.

Final fraction.

(g) Whenever a final fraction occurs in any computation made pursuant to this title, the nearest whole number shall be taken, and if such fraction be one-half the next higher whole number shall be taken.

PROMOTION BY SELECTION; RETENTION OF REAR ADMIRALS

34 U. S. C. § 345.

SEC. 104. (a) Subject to the provisions of section 1508 of the Revised Statutes, all promotions to grades above that of lieutenant (junior grade), including the promotion of those officers who are, or may be, carried on the Navy list as additional numbers in grade, shall be only upon the recommendation of a board of naval officers as herein prescribed.

(b) Rear admirals, not restricted in the performance of duty, who complete four years of service in that grade and thirty-four years of total commissioned service shall, subject to the provisions of subsection 107 (a) of this title, be continued on the active list only upon the recommendation of a board of naval officers as prescribed by titles I through IV of this Act.

SELECTION BOARDS

Rear admirals and captains.

Commanders.

Lieutenant commanders and lieutenants.

Officers designated for engineering or special duty.

SEC. 105. (a) A board for the recommendation of rear admirals for continuation on the active list shall consist of five rear admirals, or officers of higher rank, senior to any officer under consideration. Boards for the recommendation of officers for promotion to the grades of rear admiral and captain, and for the recommendation of captains for continuation on the active list, shall consist of nine rear admirals; a board for the recommendation of officers for promotion to the grade of commander shall consist of three rear admirals and six captains; and boards for the recommendation of officers for promotion to the grades of lieutenant commander and lieutenant shall consist of nine officers above the grade of commander. Whenever officers designated for engineering duty, aeronautical engineering duty, or special duty are eligible for consideration by a selection board for promotion or for continuation on the active list, the Secretary of the Navy shall appoint, as alternate members of the appropriate selection board, three officers of the same designation and classification as any such eligible officer, and if there be not three available he shall so appoint such lesser number as shall be available, and the junior members who are not restricted in the performance of duty, in like numbers, shall not

act upon the cases of officers designated for engineering duty, aeronautical engineering duty, or special duty. No such alternate member shall act upon the cases of officers other than those of the same designation as himself. No officer designated for engineering duty, aeronautical engineering duty, or special duty shall act upon the cases of officers not restricted in the performance of duty.

Restrictions.

(b) The officers composing these boards shall be officers on the active list of the Navy. No officer may be a member of two successive selection boards for the consideration of officers for promotion to the same grade, or for the consideration of officers for continuation on the active list in the same grade.

Appointment, etc.

(c) These boards shall be appointed by the Secretary of the Navy and convened at least once each year and at such times as the Secretary of the Navy may direct.

OATH FOR MEMBERS OF SELECTION BOARDS

SEC. 106. Each member of a board provided for in section 105 of this title shall swear or affirm, 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 as herein provided.

ELIGIBILITY OF OFFICERS FOR CONSIDERATION BY SELECTION BOARDS

SEC. 107. (a) Rear admirals, not restricted in the performance of duty, who, at any time during the fiscal year in which this title becomes effective or at any time during any subsequent fiscal year, first attain the status of having completed four years of service in grade and thirty-four years of total commissioned service shall become eligible for consideration by a selection board convened in such fiscal year for recommendation for continuation on the active list: *Provided*, That such a rear admiral who at any time shall have lost numbers or precedence shall become eligible for such consideration in the fiscal year in which the most senior rear admiral junior to him who shall not have lost numbers or precedence becomes eligible therefor: *Provided further*, That such eligibility shall continue until the officer concerned shall have been selected for continuation on the active list or until he shall have twice failed of such selection, whichever shall occur earlier: *Provided further*, That a rear admiral who shall have been selected for continuation on the active list pursuant to title III of this Act shall not be considered for selection for continuation pursuant to this subsection.

Rear admirals.

(b) Captains designated for engineering duty, aeronautical engineering duty, or special duty, within the following categories shall be eligible for consideration by a selection board for recommendation for continuation on the active list: (1) Those who have twice failed of selection for promotion to rear admiral, and (2) those who have failed of selection for promotion to rear admiral in the immediately preceding year and who are not recommended for promotion by the selection board concerned: *Provided*, That such captains who will complete thirty-five years' total commissioned service or who will attain the age of sixty-two years in the fiscal year in which such board is convened will not be eligible for consideration for continuation on the active list.

Post, p. 829.

Captains designated for engineering or special duty.

(c) Officers shall be eligible for consideration by a selection board for promotion to the next higher grade when they will have completed, on June 30 of the fiscal year of the convening of the appropriate board, the following periods of service in the grades in which they are serving: Captains, three years; commanders, five years; lieutenant commanders and lieutenants, four years; lieutenants (junior grade), two

Promotion to next higher grade, etc.

Ante, p. 798.

Officers designated
for limited duty.

years: *Provided*, That no officer of the grade of commander shall be eligible for consideration by a selection board for promotion to captain who, on June 30 of the fiscal year of the convening of the board, will have completed less than eighteen years commissioned service as defined in subsection 102 (d) of this title, nor shall any such officer be so eligible until all officers senior to him in his grade are likewise eligible. An officer in any grade who shall become eligible for such consideration shall, regardless of failure or failures of selection for such promotion, remain so eligible while on the active list: *Provided*, That officers whose names are on the promotion list for any grade on the date of the convening of the board shall not be considered for the same grade by the board.

(d) Of the officers, in any grade, designated for limited duty, who would otherwise be eligible for consideration for promotion pursuant to the provisions of subsection (c) of this section, only the junior officer in the promotion zone and officers senior to him in the grade concerned shall be eligible for such consideration.

INFORMATION TO BE FURNISHED SELECTION BOARDS

SEC. 108. (a) The Secretary of the Navy shall furnish the appropriate selection board with (1) the number of officers 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 officers designated for limited duty, which the board may recommend for promotion to the next higher grade; (2) the names of all officers eligible for consideration for promotion to each grade or grades to which the board will recommend officers for promotion; (3) the number of rear admirals not restricted in the performance of duty which the board may recommend for continuation on the active list; (4) the names of all rear admirals eligible for consideration for continuation on the active list; (5) 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, which the board may recommend for continuation on the active list; (6) the names of captains eligible for consideration for continuation on the active list; (7) the records of all officers whose names are furnished to a board; and (8) the names of officers in the respective promotion zones in the grade or grades under consideration for promotion.

Number in respect
to promotion.
Officers not re-
stricted in duty.

(b) The number to be furnished the board in respect to the promotion of officers not restricted in the performance of duty shall be determined by the Secretary of the Navy as of the date of the convening of the board and shall be equal to the number of vacancies existing among such officers in each grade for promotion to which the board will recommend such officers plus the estimated number of such vacancies which will occur during the ensuing twelve-month period and minus the number of such officers then on the promotion list.

Officers designated
for limited duty.

(c) The number to be furnished the board in respect to the promotion of officers designated for limited duty shall be determined by the Secretary of the Navy as of the date of the convening of the board and shall be equal to the number of vacancies existing among such officers in each grade for promotion to which the board will recommend such officers plus the estimated number of such vacancies which will occur during the ensuing twelve-month period and minus the number of such officers then on the promotion list.

(d) The numbers to be furnished the board in respect to the promotion of officers designated for engineering duty, aeronautical engineering duty, or special duty to the grade of rear admiral shall be determined by the Secretary of the Navy as of the date of the convening of the board. Their total shall be equal to the number of vacancies existing among such officers in the grade of rear admiral plus the estimated number of such vacancies which will occur during the ensuing twelve-month period and minus the number of such officers then on the promotion list. Within and to such total the Secretary of the Navy shall allocate such numbers to any or all of the named categories as he shall determine to be necessary to meet the requirements of the Navy.

Officers designated for engineering or special duty.

(e) The number to be furnished the board in respect to the promotion of officers designated for engineering duty from a grade below captain shall be determined by the Secretary of the Navy as of the date of the convening of the board as necessary to meet the needs of the service. Such number shall not exceed the number of such officers in the promotion zone in the grade concerned, nor be less than the product of that number and a fraction which for each such grade shall have as its numerator a number equal to the number of line officers in the same grade, not restricted in the performance of duty, which may be recommended for promotion to the next higher grade in the same fiscal year, and as its denominator a number equal to the number of line officers, not restricted in the performance of duty, in the promotion zone of the grade concerned in such year.

Officers designated for engineering duty.

(f) The number to be furnished the board in respect to the promotion of officers designated for aeronautical engineering duty from a grade below captain shall be determined by the Secretary of the Navy as of the date of the convening of the board as necessary to meet the needs of the service. Such number shall not exceed the number of such officers in the promotion zone in the grade concerned, nor be less than the product of that number and a fraction which for each such grade shall have as its numerator a number equal to the number of line officers in the same grade, not restricted in the performance of duty, which may be recommended for promotion to the next higher grade in the same fiscal year, and as its denominator a number equal to the number of line officers, not restricted in the performance of duty, in the promotion zone of the grade concerned in such year.

Officers designated for aeronautical engineering duty.

(g) The number to be furnished the board in respect to the promotion of officers designated for special duty from a grade below captain shall be determined by the Secretary of the Navy as of the date of the convening of the board as necessary to meet the needs of the service. Such number shall not exceed the number of such officers in the promotion zone in the grade concerned, nor be less than the product of that number and a fraction which for each such grade shall have as its numerator a number equal to the number of line officers in the same grade, not restricted in the performance of duty, which may be recommended for promotion to the next higher grade in the same fiscal year, and as its denominator a number equal to the number of line officers, not restricted in the performance of duty, in the promotion zone of the grade concerned in such year.

Officers designated for special duty.

(h) The number to be furnished the board in respect to rear admirals not restricted in the performance of duty to be continued on the active list shall be determined by the Secretary of the Navy as of the date of the convening of the board and shall be computed by dividing the authorized number of such rear admirals by three and subtracting from the quotient thus obtained the number of such rear admirals,

Continuation on active list.
Rear admirals not restricted in duty.

exclusive of those who have once failed of selection for such continuation, who shall have completed prior to the end of the preceding fiscal year four years of service in that grade and thirty-four years of total commissioned service, which it is estimated will remain on the active list at the end of the current fiscal year: *Provided*, That the number to be so furnished shall not be less than 50 per centum of the number of such rear admirals, exclusive of those who have once failed of selection for such continuation, eligible for consideration by the board for continuation on the active list.

Captains designated for engineering duty, etc.

Post, p. 808.

Promotion zones. Officers not restricted in duty.

(i) The number to be furnished the board in respect to captains designated for engineering duty, aeronautical engineering duty, or special duty to be continued on the active list shall be such a number in each case not to exceed in each instance the number prescribed in subsection 112 (a) of this title, as the Secretary of the Navy shall determine to be necessary to meet the requirements of the Navy.

(j) The promotion zone in any grade for officers not restricted in the performance of duty shall be established by the Secretary of the Navy as of the date of the convening of a selection board to consider officers of that grade for recommendation for promotion to the next higher grade. It shall consist of that number of the most senior such officers of the grade under consideration, who are eligible for selection for promotion to the next higher grade and have not previously failed of such selection, which must be either 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 subsection (m) of this section and to best assure to individuals in succeeding years equality of opportunity for promotion. The number shall be determined by the Secretary of the Navy and shall be based upon a consideration of the estimated number of vacancies which will occur in the next higher grade for each of the ensuing five years, the number of such officers who will be eligible for selection, and the terms of service which they will have completed.

Officers below grade of captain designated for engineering duty, etc.

Officers designated for limited duty.

(k) The promotion zones in any grade, below that of captain, for officers designated for engineering duty, for officers designated for aeronautical engineering duty, and for officers designated for special duty, shall each be composed of all officers of each such designation in the grade who have not previously failed of selection to the next higher grade and who are senior to the junior officer in the promotion zone determined as provided in subsection (j) of this section.

(l) The promotion zone in any grade for officers designated for limited duty shall be established by the Secretary of the Navy as of the date of the convening of a selection board to consider officers of that grade for recommendation for promotion to the next higher grade. It shall consist of that number of the most senior such officers of the grade under consideration, who are eligible for selection for promotion to the next higher grade and have not previously failed of such selection, which must be either 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 subsection (n) of this section and to best assure to individuals in succeeding years equality of opportunity for promotion. The number shall be determined by the Secretary of the Navy and shall be based upon a consideration of the estimated number of vacancies which will occur in the next higher grade for each of the ensuing five years, the number of such officers who will be eligible for selection, and the terms of service which they will have completed.

Normal terms of service.

(m) The normal terms of service of officers, other than officers designated for limited duty, in the various grades below rear admiral shall be:

Grade	Service in grade	Total commissioned service
Captains.....	5 years	30 years
Commanders.....	7 years	25 years
Lieutenant commanders.....	6 years	18 years
Lieutenants.....	6 years	12 years
Lieutenants (junior grade).....	3 years	6 years

(n) The normal terms of service in grade of officers designated for limited duty in the various grades below that of commander shall be the same as those set out in subsection (m) of this section.

(o) Any officer eligible for consideration by a selection board shall have the right to forward through official channels at any time not later than ten days after the convening of said board a written communication inviting attention to any matter of record in the Navy Department concerning himself which he deems important in the consideration of his case: *Provided*, That such communication shall not contain any reflection upon the character, conduct, or motives of or criticism of any officer.

Right of officer to forward communication concerning himself.

DUTIES OF SELECTION BOARDS

SEC. 109. (a) From among those officers who are eligible for consideration for promotion, each board shall recommend for promotion those officers whom it considers best fitted for promotion, in number not exceeding the number furnished the board by the Secretary of the Navy as provided in section 108 of this title: *Provided*, That, from among eligible officers junior in lineal rank to the junior officer in the appropriate promotion zone in a grade below that of captain, the board may not recommend, as best fitted for promotion, a number exceeding 5 per centum of the total number that the board is authorized to recommend for promotion to the grade concerned or, if such 5 per centum shall not equal the whole number one, a number exceeding one: *Provided further*, That in each grade the junior officer in a promotion zone and all officers of his category senior to him in lineal rank who are eligible for consideration shall, if not selected for promotion, be considered as having failed of selection for promotion, and no such officer junior in lineal rank to said junior officer in said promotion zone shall, if not selected for promotion, be considered as having failed of selection for promotion: *Provided further*, That any captain designated for the performance of engineering duty, aeronautical engineering duty, or special duty, shall, if not on the promotion list for the grade of rear admiral on June 30 of the fiscal year in which he completes thirty years of total commissioned service, be held for all purposes to have once failed of selection for promotion, and if not on such list on June 30 of the succeeding year shall, subject to the provisions of subsection 111 (c) of this title, be held for all purposes to have twice failed of selection for promotion, and no such officer shall be held to have failed of selection for promotion solely by reason of the approved recommendation for promotion of any officer junior to him: *Provided further*, That an officer who has lost numbers or precedence shall not be held to have completed the service prescribed in the preceding proviso until he completes five years of service in the grade of captain: *And provided further*, That the status of having once failed of selection for promotion shall not be considered as prejudicial to an officer with respect to his qualifications, his fitness for the naval service, or his eligibility for selection by the next succeeding selection board.

Recommendations for promotion.

(b) From among those rear admirals not restricted in the performance of duty who are eligible for consideration for continuation on the active list, the board shall recommend for such continuation those officers whom it considers best fitted for continued service on the active list, in number equal to the number furnished the board by the Secretary of the Navy as provided in section 108 of this title.

Continuation on active list. Rear admirals not restricted in duty.

Captains designated
for engineering duty,
etc.

(c) From among those captains designated for engineering duty, aeronautical engineering duty, or special duty, who are eligible for consideration for continuation on the active list, the board shall recommend for such continuation those officers, of each such category, whom it considers best fitted for continued service on the active list, in number not exceeding the number furnished the board by the Secretary of the Navy, with respect to that category, as provided in section 108 of this title.

(d) The recommendation of the board in respect to the promotion of officers who are now or may hereafter be designated for engineering duty, aeronautical engineering duty, special duty, or limited duty, shall be based upon their comparative fitness, within such categories, for the duties prescribed for them by law.

Reports, etc., of
board.

(e) All reports or recommendations of a selection board under any provision of this title shall require the concurrence of at least two-thirds of the acting members: *Provided*, That the report or recommendation of a board composed of five acting members shall require the concurrence of at least a majority of the acting members.

(f) The selection board shall also report the names of any officers among those eligible for consideration and of less than twenty years' service whose reports and records in its opinion indicate their unsatisfactory performance of duty in their present grades and in its opinion indicate that they would not satisfactorily perform the duties of a higher grade.

REPORTS OF SELECTION BOARDS

SEC. 110. (a) The report of the board shall be in writing, signed by all of the acting members thereof, and shall certify that the board has carefully considered the case of every officer whose name was furnished to the board by the Secretary of the Navy, as provided in section 108 of this title, and that, in the opinion of at least two-thirds of the acting members, the officers therein recommended are selected as the best fitted to assume the duties of the next higher grade subject to the limitations prescribed in subsection 109 (a) of this title, except that the recommendation of the board in the cases of officers who are now or may hereafter be designated for engineering duty, aeronautical engineering duty, special duty, or limited duty, shall be based upon their comparative fitness as prescribed in section 109 of this title. The report of a board convened to recommend rear admirals or captains for continuation on the active list shall certify that, in the opinion of at least two-thirds of the acting members, and, if the board has but five acting members, in the opinion of at least a majority of the acting members, the officers therein recommended are selected as the best fitted for continued service on the active list.

Submission to Pres-
ident.

(b) The report of the board shall be submitted to the President for approval or disapproval: *Provided*, That in case any officer or officers recommended by the board for promotion, or, in the case of rear admirals or captains, for continuation on the active list, be not acceptable to the President, the board shall be informed of the name of such officer or officers and shall recommend a number of officers for promotion or for continuation on the active list, as the case may be, equal to the number of those found not acceptable to the President and, if necessary, the board shall be reconvened for this purpose.

PROMOTION OF OFFICERS

Promotion list.

SEC. 111. (a) Officers recommended for promotion in the approved report of a selection board shall be regarded as having been selected for promotion and their names shall be placed upon a promotion list

for the grade for which recommended in the order of their seniority at the time of approval of such report except that the names of officers recommended in an earlier approved report shall be placed upon the promotion list ahead of those recommended for promotion to the same grade in a later approved report. Promotions to fill vacancies in any grade among officers not restricted in the performance of duty or officers designated for the performance of limited duty and to fill vacancies in the grade of rear admiral among officers restricted in the performance of duty shall be made from among officers of the appropriate category whose names appear on the promotion list for the grade concerned and in the order of placement on the said promotion list. Each commander, lieutenant commander, and lieutenant (junior grade) restricted in the performance of duty whose name appears on a promotion list shall be 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 and, for the purposes of this section, such date of eligibility for promotion shall be regarded as the date of vacancy in the higher grade. Each lieutenant restricted in the performance of duty whose name appears on a promotion list shall be eligible for promotion to the grade of lieutenant commander when the officer not restricted in the performance of duty whose name appears next below his on the promotion list becomes eligible for promotion or when a vacancy exists in the combined grades of captain, commander, and lieutenant commander among officers restricted in the performance of duty, whichever may be the later, and for the purposes of this section, such date of eligibility for promotion shall be regarded as the date of vacancy in the higher grade.

(b) The commission of each officer promoted to a higher grade shall bear such date of rank and precedence number which, upon his promotion, will assure him precedence in accordance with the order in which his name appeared on the promotion list; no increased pay or allowances shall accrue to any officer prior to the date of the occurrence of the vacancy which he is promoted to fill.

(c) The President may remove the name of any officer from the promotion list. An officer whose name is so removed from the promotion list, or one whose appointment is rejected by the Senate, shall continue to be eligible for consideration for recommendation for promotion: *Provided*, That the next ensuing selection board may recommend the officer concerned for promotion, and thereupon, with the approval of the President, the name of such officer shall be replaced on the promotion list, without prejudice by reason of its having been temporarily removed therefrom, and when promoted such officer shall take the same lineal rank and date of rank that he would have had had his name not been so removed: *And provided further*, That if such officer is not so recommended by such next ensuing selection board or if the President shall again remove his name from the promotion list or if the Senate shall again reject his appointment, he shall be held for all purposes to have twice failed of selection for promotion.

(d) No officer shall be promoted to a grade above lieutenant unless he has had not less than two years' sea or foreign service in the grade in which serving and on the promotion list for that grade: *Provided*, That the qualification of sea or foreign service shall not apply to officers restricted by law to the performance of engineering duty only, aeronautical engineering duty only, or special duty only: *And provided further*, That the Secretary of the Navy shall determine the types of duty which may be counted for the purpose of this subsection.

Commission of officer promoted to higher grade, etc.

Removal from promotion list.

Replacement.

Sea or foreign service.

RETIREMENT OF OFFICERS BELOW THE GRADE OF REAR ADMIRAL

Captains.

SEC. 112. (a) Captains whose names, on June 30 of the fiscal year in which they complete thirty-one years of total commissioned service, are not on a promotion list, shall, subject to the provisions of subsection 111 (c) of this title, if not otherwise retired pursuant to law, be placed on the retired list on that date: *Provided*, That such an officer who has lost numbers or precedence shall not be placed on the retired list by reason of completion of thirty-one 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: *Provided further*, That captains not restricted in the performance of duty whose names, on June 30 of the fiscal year in which they complete thirty years of total commissioned service, are not on a promotion list, shall, subject to the provisions of subsection 111 (c), if not otherwise retired pursuant to law, and if they shall have twice failed of selection for promotion to rear admiral, be placed on the retired list on that date: *Provided further*, That not to exceed ten captains designated for engineering duty, and not to exceed five captains designated for aeronautical engineering duty, and not to exceed ten captains designated for special duty, recommended for continuation on the active list in the report of a selection board as approved by the President, may be so continued until the report of the next succeeding selection board is approved, but no such captain shall be continued on the active list beyond June 30 of the fiscal year in which he shall have completed thirty-five years of total commissioned service: *And provided further*, That a captain so continued on the active list shall, if not again recommended for continuation on the active list in the approved report of the next succeeding selection board, thereafter be carried in excess of the number authorized to be so continued and shall be placed on the retired list on June 30 of the then current fiscal year.

Continuation on active list.

Commanders.

(b) Commanders, except commanders designated for limited duty, whose names, on June 30 of the fiscal year in which they complete twenty-six years of total commissioned service, are not on a promotion list, shall, subject to the provisions of section 111 (c) of this title, if not otherwise retired pursuant to law and if they shall have twice failed of selection for promotion to captain, be placed on the retired list on that date. Commanders, except commanders designated for limited duty, who shall twice fail of selection for promotion to captain, if such second failure shall occur subsequent to June 30 of the fiscal year in which they complete twenty-six years of total commissioned service, shall, if not otherwise retired pursuant to law, be placed on the retired list on June 30 of the fiscal year in which such second failure shall occur.

Officers designated for limited duty.

(c) Officers designated for limited duty shall, if not otherwise retired pursuant to law, be placed on the retired list on the last day of the month following the month in which they complete thirty years of active naval service exclusive of active duty for training in a Reserve component.

Lieutenant commanders.

(d) Lieutenant commanders, except lieutenant commanders designated for limited duty, whose names, on June 30 of the fiscal year in which they complete twenty years of total commissioned service, are not on a promotion list, shall, subject to the provisions of section 111 (c) of this title, if not otherwise retired pursuant to law and if they shall have twice failed of selection for promotion to commander, be placed on the retired list on that date. Lieutenant commanders, except lieutenant commanders designated for limited duty, who shall twice fail of selection for promotion to commander, if such second failure shall occur subsequent to June 30 of the fiscal year in which they complete twenty years of total commissioned service, shall, if

not otherwise retired pursuant to law, be placed on the retired list on June 30 of the fiscal year in which such second failure shall occur.

(e) Lieutenant commanders designated for limited duty shall, if not otherwise retired pursuant to law, be placed on the retired list on June 30 of the fiscal year in which they shall have twice failed of selection for promotion to commander: *Provided*, That such an officer instead of such separation from the active list shall, if he had the permanent status of warrant officer or commissioned warrant officer when first appointed an officer for the performance of limited duty only, have the option of reverting to the grade and status he would have held had he not been so appointed, and if he had a permanent rating below warrant officer when first so appointed he shall have the option of reverting to the grade and status he would have held had he not been so appointed but had instead been appointed a warrant officer, and in any computation to determine such grade and status all active service as an officer designated for limited duty or as a temporary or Reserve officer shall be included: *And provided further*, That such an officer exercising such option shall, if not otherwise retired pursuant to law, be placed on the retired list in the grade in which then serving, upon the completion of a total of thirty years of active naval service, exclusive of active duty for training in a Reserve component, with retired pay at the rate of 75 per centum of his active-duty pay.

(f) Officers above the grade of lieutenant who are placed on the retired list pursuant to the provisions of this section shall be placed thereon with retired pay at the rate of 2½ per centum of their active-duty pay at the time of retirement multiplied by the number of years of service for which entitled to credit in the computation of their pay on the active list, not to exceed a total of 75 per centum of said active-duty pay: *Provided*, That a fractional year of six months or more shall be considered a full year in computing the number of years of service by which the rate of 2½ per centum is multiplied: *Provided further*, That the retired pay of an officer commissioned in the Regular Navy pursuant to the provisions of the Act approved April 18, 1946 (Public Law 347, Seventy-ninth Congress), or one commissioned in the Regular Navy subsequent to September 8, 1939, while serving on active duty as an officer of the Naval Reserve, who is so placed on the retired list, shall not be less than 50 per centum of his active-duty pay at the time of retirement.

(g) Lieutenants, and lieutenants (junior grade), who shall have twice failed of selection for promotion to lieutenant commander and lieutenant, respectively, and officers whose names are reported in accordance with subsection 109 (f) of this Act, shall be honorably discharged from the Navy on June 30 of the fiscal year in which they fail of such selection the second time, or in which their names are reported in accordance with subsection 109 (f) of this Act, with a lump-sum payment computed on the basis of two months' active-duty pay at the time of discharge for each year of commissioned service computed in accordance with subsection 102 (d), but not to exceed a total of two years' active-duty pay: *Provided*, That for the purpose of this subsection a fractional year of six months or more shall be considered a full year in computing the number of years' commissioned service upon which to base such lump-sum payment: *And provided further*, That an officer designated for limited duty, instead of such separation from the active list, shall have the option described in subsection (e) of this section.

(h) Officers on a promotion list who, at any time prior to promotion, are found incapacitated for service by reason of physical disability contracted in line of duty shall, when retired, be retired in the grade for which they were selected, with retired pay at the rate

Lieutenant commanders designated for limited duty.

Retired pay for officers in grades above lieutenant.

Fractional year.

60 Stat. 92.
24 U. S. C. § 2 et seq.
Ante, p. 738; *post*, pp. 867, 877.

Lieutenants.

Ante, p. 806.

Ante, p. 798.

Fractional year.

Physical disability.

Applicability of designated provisions to officers above grade of ensign.

of 75 per centum of the active-duty pay of the rank to which selected.

(i) The provisions of this title relating to the discharge or retirement of officers who have twice failed of selection for promotion shall be applicable to officers above the grade of ensign who fail on professional reexamination for promotion in the same manner as if such officers had twice failed of selection for promotion.

(j) Nothing in this section shall be held to reduce the retired rank or pay to which an officer would be entitled under other provisions of law.

RETIREMENT OF OFFICERS ABOVE THE GRADE OF CAPTAIN

Rear admirals.
Retired pay.

SEC. 113. (a) Rear admirals who, having been considered by two successive selection boards for recommendation for continuation on the active list, are not so recommended in the approval report of such a board shall, if not otherwise retired pursuant to law, be placed upon the retired list on June 30 of the then current fiscal year with retired pay at the rate of 2½ per centum of their active-duty pay in the grade in which serving at the time of retirement multiplied by the number of years of service for which they would be entitled to credit in the computation of pay on the active list had they been serving in the grade of captain at the time of their retirement, but retired pay so computed shall not exceed a total of 75 per centum of said active-duty pay.

Ante, p. 803.

(b) Should it be found, as of the time of the convening of a board for the consideration of rear admirals who are not restricted in the performance of duty for continuation on the active list, that the number to be furnished the board as determined pursuant to the provisions of subsection 108 (h) would, except for the proviso to said subsection, be less than 50 per centum of the number of such rear admirals, excluding those who have once failed of selection for continuation on the active list, eligible for such consideration, the Secretary of the Navy shall convene a board of not less than five officers, not restricted in the performance of duty and serving in ranks above that of rear admiral, to consider such rear admirals, excluding those who have once failed of selection for continuation on the active list, who completed four years of service in that grade and thirty-four years of total commissioned service prior to July 1 of the then current fiscal year, and recommend for retirement a sufficient number so that the number to be furnished the board as so determined shall equal said 50 per centum.

(c) Should it be found, as of the time of the convening of a board for the consideration of captains who are not restricted in the performance of duty for promotion to the grade of rear admiral, that the number of vacancies existing plus the estimated number of vacancies which will occur during the ensuing twelve-month period in the grade of rear admiral is less than will permit the selection for promotion of a number of captains equal to 10 per centum of the authorized number of rear admirals, not restricted in the performance of duty, the Secretary of the Navy shall convene a board of not less than five officers, not restricted in the performance of duty and serving in ranks above that of rear admiral, to consider and recommend for retirement a sufficient number of such rear admirals to permit the selection for promotion of the said number of such captains.

(d) Should it be found, as of the time of the convening of a board for the consideration of captains designated for engineering duty, aeronautical engineering duty, or special duty for promotion to the grade of rear admiral, that the number of vacancies existing plus the estimated number of vacancies which will occur during the ensuing twelve-month period in the grade of rear admiral is less than will permit the selection for promotion of a number of such captains

equal to 15 per centum of the authorized number of rear admirals designated for engineering duty, aeronautical engineering duty, or special duty, the Secretary of the Navy shall convene a board of not less than five officers, serving in ranks above that of rear admiral, to consider and recommend for retirement a sufficient number of such rear admirals to permit the selection for promotion of the said number of such captains.

(e) The report of a board convened pursuant to the provisions of this section shall be submitted to the President for approval or disapproval; if the President shall disapprove the recommendations of the board in whole or in part, the board shall then recommend additional rear admirals for retirement equal to the number disapproved by the President.

(f) Officers so recommended for retirement as approved by the President shall, if not otherwise retired pursuant to law, be placed upon the retired list on June 30 of the then current fiscal year with retired pay at the rate of 21½ per centum of their active-duty pay in the grade in which serving at the time of retirement multiplied by the number of years of service for which they would be entitled to credit in the computation of pay on the active list had they been serving in the grade of captain at the time of their retirement, but retired pay so computed shall not exceed a total of 75 per centum of said active-duty pay.

(g) Nothing in this section shall be held to reduce the retired rank or pay to which an officer would be entitled under other provision of law.

Submission of report to President.

Retired pay, etc.

MARINE CORPS

SEC. 114. (a) Commissioned officers of the Marine Corps shall be authorized in number in the same proportion to authorized enlisted strength and shall be distributed in grades, promoted, retired, and discharged in like manner and with the same relative conditions in all respects as provided for commissioned officers of the line of the Navy, by existing law, or by laws hereafter enacted, except as may be necessary to adapt the said provisions to the Marine Corps, or as herein otherwise provided.

(b) Of the authorized number of commissioned officers above the grade of colonel who are not restricted in the performance of duty, not more than 50 per centum may be major generals and the remainder brigadier generals: *Provided*, That after July 1, 1948, except in time of war or national emergency declared after the effective date of this Act, the number of such officers shall not exceed thirty-two, of which not exceeding twelve may be major generals.

(c) The number of brigadier generals designated for supply duty, including the officer serving as the head of the Supply Department, shall not exceed at any one time a number equal to 13 per centum of the number of general officers of the Marine Corps not restricted in the performance of duty authorized at that time: *Provided*, That except in time of war or national emergency declared after the effective date of this Act, such number shall not exceed four.

(d) The total number of officers designated for supply duty in the combined grades of colonel, lieutenant colonel, and major shall not exceed at any one time a number equal to 8 per centum of the total number of officers not restricted in the performance of duty authorized in those grades at that time.

(e) The requirement of sea or foreign service in grade shall not apply to promotion of officers of the Marine Corps.

(f) Selection boards shall consist of nine officers of the active list of the Marine Corps, the composition of the boards to be determined

Officers above grade of colonel not restricted in duty.

Supply duty. Brigadier generals.

Combined grades of colonel, lieutenant colonel, and major.

Sea or foreign service.

Selection boards.

Recommendations
for promotion, etc.

Ante, p. 801.

Administrativestaff
duty, etc.

Appointment of al-
ternate members of
board.

Promotion to major
general.

Ante, p. 807.

Post, p. 879.

Promotion zone in
grade of brigadier gen-
eral.

by the Secretary of the Navy: *Provided*, That no officer shall be recommended for promotion or for continuation on the active list unless he shall have received the recommendation of not less than two-thirds of the acting members of the board: *Provided further*, That whenever there are insufficient general officers available to comprise a selection board for the recommendation of officers for promotion to the grades of brigadier general and colonel without placing thereon general officers who served as members of the same corresponding board the preceding year, officers of the active list of the line of the Navy, not restricted in the performance of duty, of the grade of rear admiral may be substituted for general officers of the Marine Corps in order to comply with the provisions of subsection 105 (b) of this title: *Provided further*, That selection boards to recommend brigadier generals for promotion to major general shall be composed of officers of the permanent grade of major general on the active list of the Marine Corps to the extent that such officers are deemed available for this duty by the Secretary of the Navy, and the remainder of the board shall be composed of rear admirals on the active list of the line of the Navy, not restricted in the performance of duty: *And provided further*, That administrative staff duty performed by any officer under appointment or detail, and duty in aviation, or in any technical specialty, 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) Whenever officers designated for supply duty are eligible for consideration by a selection board for promotion or for continuation on the active list, the Secretary of the Navy shall appoint, as alternate members of the appropriate selection board, three officers of that designation, and if there be not three available, he shall so appoint such lesser number as may be available, and the junior members of the board who are not restricted in the performance of duty, in like number, shall not act upon the cases of officers designated for supply duty. No such alternate member shall act upon the cases of officers other than those designated for supply duty. No officer designated for supply duty or for limited duty shall act upon the cases of officers not restricted in the performance of duty.

(h) Promotion to major general shall be from brigadier generals who are not restricted in the performance of duty, and such officers shall be eligible for consideration by a selection board for promotion to major general when they will have completed, on June 30 of the fiscal year of the convening of the board, four years' service in that grade. The date of rank of an officer appointed in the grade of major general shall be the date of rank held by such officer in the grade of brigadier general under permanent or temporary appointment: *Provided*, That subject to the provisions of subsection 111 (c) of this title and of subsection 423 (b) of title IV of this Act, such date of rank shall not be earlier than that of the junior officer in the grade of major general: *And provided further*, That such an officer shall be entitled to the pay and allowances of the higher grade from the date of occurrence of the vacancy which he is promoted to fill.

(i) The promotion zone in the grade of brigadier general for officers not restricted in the performance of duty shall be established by the Secretary of the Navy as of the date of the convening of a selection board to consider officers of that grade for recommendation for promotion to the next higher grade. It shall consist of that number of the most senior such officers of the grade of brigadier general, who are eligible for selection for promotion to the next higher grade and have not previously failed of such selection, which must be either 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 to best assure to individuals in succeeding years equality of opportunity for promotion. The number shall be determined by the Secretary of the Navy and shall be based upon a consideration of the estimated number of vacancies which will occur in the next higher grade for each of the ensuing five years and the number of such officers who will be eligible for selection.

(j) Officers serving in the grade of major general in the Marine Corps and officers serving in the grade of rear admiral in the Navy who are entitled to the pay of the upper half of that grade shall take rank among themselves according to their respective dates of rank in such grades. Officers serving in the grade of brigadier general in the Marine Corps and officers serving in the grade of rear admiral in the Navy who are entitled to the pay of the lower half of that grade shall take rank among themselves according to their respective dates of rank in such grades.

Rank in designated grades.

(k) The provisions of this title relating to the selection of rear admirals for continuation on the active list shall not be applicable to major generals.

Nonapplicability.

(l) Should it be found, as of the time of the convening of a board for the consideration of brigadier generals for promotion to the grade of major general, that the number of vacancies existing plus the estimated number of vacancies which will occur during the ensuing twelve-month period in the grade of major general is less than will permit the selection for promotion of a number of brigadier generals equal to 50 per centum of the number of such officers comprising the promotion zone for that grade, the Secretary of the Navy shall convene a board of not less than five officers serving in ranks above that of major general or rear admiral to consider and recommend for retirement a sufficient number of major generals to permit the selection for promotion of the said number of brigadier generals.

Selection for promotion of brigadier generals.

(m) Should it be found, as of the time of the convening of a board for the consideration of colonels who are not restricted in the performance of duty for promotion to the grade of brigadier general, that the number of vacancies existing plus the estimated number of vacancies which will occur during the ensuing twelve-month period is less than will permit the selection for promotion of a number of such colonels equal to 10 per centum of the authorized number of general officers who are not restricted in the performance of duty, the Secretary of the Navy shall convene a board of not less than five officers serving in ranks above that of major general or rear admiral to consider and recommend for retirement a sufficient number of general officers to permit the selection for promotion of the said number of colonels.

Selection for promotion of colonels.

(n) Brigadier generals, who are not restricted in the performance of duty, whose names are not on the promotion list shall, if not otherwise retired pursuant to law, be placed on the retired list on June 30 of the fiscal year in which they fail of selection for promotion the second time with retired pay at the rate of $2\frac{1}{2}$ per centum of their active-duty pay in the grade in which serving at the time of retirement multiplied by the number of years of service for which they would be entitled to credit in the computation of pay on the active list had they been serving in the grade of colonel at the time of their retirement, but retired pay so computed shall not exceed a total of 75 per centum of said active-duty pay.

Brigadier generals.
Retired pay.

(o) The provisions of this title relating to officers of the Navy designated for limited duty shall be applicable in like manner and with like effect to officers of the Marine Corps designated for limited duty.

Applicability of designated provisions.

(p) The provisions of this title relating to officers of the Navy designated for engineering duty shall be applicable in like manner and with like effect to officers of the Marine Corps designated for supply duty, except as may be necessary to adapt the said provisions to the Marine Corps or as herein otherwise provided.

Brigadier generals designated for supply duty.

(q) Brigadier generals designated for supply duty, if not retired pursuant to other provisions of law, shall, except as otherwise provided in this section, be placed on the retired list on June 30 of the fiscal year in which they complete five years' service in that grade and thirty-five years' total commissioned service with retired pay at the rate of 2½ per centum of their active-duty pay in the grade in which serving at the time of retirement multiplied by the number of years of service for which they would be entitled to credit in the computation of pay on the active list had they been serving in the grade of colonel at the time of their retirement, but retired pay so computed shall not exceed a total of 75 per centum of said active-duty pay.

Continuation on active list.

(r) Brigadier generals of the Marine Corps designated for supply duty who in the then current fiscal year complete or will complete five years' service in their grade and have completed or will complete in such fiscal year thirty-five years of total commissioned service; those who prior to the then current fiscal year have completed five years' service in their grade and in such fiscal year complete or will complete thirty-five years of total commissioned service; and those who were recommended for continuation on the active list in the approved report of the immediately preceding appropriate selection board, shall be eligible for consideration by a selection board for continuation on the active list: *Provided*, That not to exceed two such brigadier generals recommended for continuation on the active list in the report of a selection board as approved by the President may be so continued until the report of the next succeeding selection board is approved: *And provided further*, That a brigadier general so continued on the active list shall, if not again recommended for continuation on the active list in the approved report of the next succeeding selection board, thereafter be carried in excess of the number authorized to be so continued and shall be placed on the retired list on June 30 of the then current fiscal year.

(s) In addition to the information otherwise required by this title, the Secretary of the Navy shall furnish the appropriate selection board with the number of brigadier generals designated for supply duty which the board may recommend for continuation on the active list. The number so furnished shall be such number as the Secretary of the Navy shall determine to be necessary to meet the requirements of the Marine Corps not to exceed two.

Selection for promotion of colonels.

(t) Should it be found, as of the time of the convening of a board for the consideration of colonels designated for supply duty for promotion to the grade of brigadier general, that the number of vacancies existing plus the estimated number of vacancies which will occur during the ensuing twelve-month period in the grade of brigadier general is less than will permit the selection for promotion in such period of a number of such colonels equal to 15 per centum of the authorized number of brigadier generals designated for supply duty, the Secretary of the Navy shall convene a board of not less than five officers serving in ranks above that of brigadier general to consider and recommend for retirement a sufficient number of brigadier generals designated for supply duty to permit the selection for promotion in such period of the said number of such colonels.

Number to be continued on active list.

(u) The number to be furnished the board in respect to colonels designated for supply duty to be continued on the active list shall be

such number, not to exceed two, as the Secretary of the Navy shall determine to be necessary to meet the requirements of the Marine Corps.

(v) Officers recommended for retirement in the report of a board convened pursuant to subsections (l), (m), and (t) of this section, as approved by the President, shall, if not otherwise retired pursuant to law, be placed on the retired list on June 30 of the then current fiscal year with retired pay at the rate of 2½ per centum of their active-duty pay in the grade in which serving at the time of retirement multiplied by the number of years of service for which they would be entitled to credit in the computation of pay on the active list had they been serving in the grade of colonel at the time of their retirement, but retired pay so computed shall not exceed a total of 75 per centum of said active-duty pay.

(w) From among the officers designated for supply duty who are eligible for consideration for continuation on the active list the board shall recommend for such continuation those officers whom it considers best fitted for continued service on the active list in number equal to the number furnished the board by the Secretary of the Navy.

(x) Nothing in this section shall be held to reduce the retired rank or pay to which an officer would be entitled under other provisions of law.

(y) The report of a board convened pursuant to the provisions of subsections (l), (m), and (t) of this section shall be submitted to the President for approval or disapproval; if the President shall disapprove the recommendations of the board in whole or in part, the board shall then recommend additional appropriate general officers for retirement equal to the number disapproved by the President.

Retired pay.

Recommendation for continuation on active list.

Retired rank, etc.

Submission of report to President.

DETERMINATION OF UPPER AND LOWER HALF REAR ADMIRALS

SEC. 115. Rear admirals on the active list of the line in the upper half of that grade, exclusive of officers carried as additional numbers in grade, shall be entitled to the pay and allowances prescribed by law for rear admirals of the upper half: *Provided*, That for the purpose of determining the number of rear admirals in the upper half, there shall be excluded those officers carried as additional numbers in that grade, and each rear admiral carried as an additional number in that grade shall be entitled to such pay and allowances from the date on which the officer next junior to him becomes entitled thereto pursuant to this section.

EFFECTIVE DATE OF TITLE I

SEC. 116. Sections 101, 102, and, as to distribution, sections 103 and 114 of this title shall be effective upon the date of approval of this Act. The remaining provisions of this title shall be effective upon the termination of title III of this Act.

Ante, pp. 798, 811.*Post*, p. 829.

TITLE II—PERMANENT PROVISIONS RELATING TO OFFICERS OF THE STAFF CORPS OF THE NAVY

PERMANENT STATUS OF TITLE II

SEC. 201. The provisions of this title shall constitute permanent, as distinguished from terminable, provisions of law relating to the distribution of commissioned officers in the various grades of the Staff Corps of the Regular Navy, to the promotion of such officers to the grades above that of lieutenant (junior grade), and to their involuntary separation from the active list.

DEFINITIONS

- "Officers."** SEC. 202. (a) As used in this title, the word "officers" shall be held to mean commissioned officers holding permanent appointments as such on the active list in the Staff Corps of the Regular Navy. Unless otherwise qualified it shall be held to include officers of the Medical, Supply, Chaplain, Civil Engineer, Dental, Medical Service, and Nurse Corps of the Navy, including officers designated for limited duty in such corps, and to exclude commissioned warrant officers.
- Military titles.** (b) As used in this title, military titles shall be held to describe an officer or officers, as the case may be, holding permanent appointment on the active list in a Staff Corps of the Regular Navy in the grade concerned.
- "Not restricted in the performance of duty."** (c) As used in this title, the words "not restricted in the performance of duty" shall be held to describe officers not designated for limited duty.
- Computation of commissioned service.** (d) (1) For the purposes of this title in respect to eligibility for continuation on the active list and in respect to separation from the active list, the total commissioned service of an officer originally appointed in the grade or rank of lieutenant (junior grade) or ensign in the Regular Navy, who has served continuously on the active list shall be computed from June 30 of the fiscal year in which he accepted such appointment, except for officers appointed pursuant to the Act of April 18, 1946 (Public Law 347, Seventy-ninth Congress). Each other officer shall be deemed to have for these purposes as much total commissioned service as any officer described above in this subsection who shall not have lost numbers or precedence and who is, or shall have been, junior to such other officer in his corps for the purpose of eligibility for promotion or selection for promotion since the date of the latter's first appointment to permanent commissioned rank in the Regular Navy above the grade of commissioned warrant officer, following which he shall have served continuously on the active list of the Regular Navy.
- (2) Notwithstanding the foregoing provisions of this subsection, the number of years' service to be credited to each lieutenant (junior grade) of the Nurse Corps shall, for the purpose of this title in regard to separation from the active list, be based on her total active service under an appointment as a commissioned officer in the Nurse Corps of the Navy or the reserve component thereof and all active service in the Nurse Corps and the Nurse Corps Reserve abolished by the Act of April 16, 1947 (Public Law 36, Eightieth Congress), shall, for this purpose, be regarded as commissioned service in the Navy.
- (3) Notwithstanding the provisions of paragraph (1) of this subsection, an officer commissioned in the Medical Service Corps pursuant to the Act of April 18, 1946 (Public Law 347, Seventy-ninth Congress) shall, for the purpose of this title in respect to separation from the active list, be deemed to have total commissioned service equivalent to that of his line officer running mate.
- "Active duty pay."** (e) The words "active-duty pay" as used in sections 212 and 213 of this title shall be construed to mean the base and longevity pay the retired officer concerned would receive if serving on active duty in his grade.

60 Stat. 92.
34 U. S. C. § 2 et seq.
Ante, p. 738; post,
pp. 867, 877.

Service to be credited to lieutenant (jg) of Nurse Corps.

Ante, p. 41; post, p. 882.

Officer in Medical Service Corps.

60 Stat. 92.
34 U. S. C. § 2 et seq.
Ante, p. 738; post,
pp. 867, 877.

Post, pp. 825, 827.

DISTRIBUTION OF OFFICERS

- Rear admirals.** SEC. 203. (a) Officers of the Staff Corps of the Navy shall be distributed in the various grades in each Staff Corps in accordance with the provisions of this title: *Provided*, That the number of rear admirals in the Medical Corps, Supply Corps, Chaplain Corps, Civil Engineer Corps, and Dental Corps, respectively, exclusive of any such rear admiral serving as a chief of bureau, shall not exceed in each corps

five-tenths of 1 per centum of the officers in that corps on the active list of the Navy at any one time: *Provided further*, That such a rear admiral serving as a chief of bureau shall upon termination of his tenure as chief of bureau be carried in excess until the next vacancy occurs in the grade of rear admiral in the corps concerned: *Provided further*, That notwithstanding the foregoing provisions, except in time of war or national emergency declared after the effective date of this Act, the number of rear admirals in the Medical Corps, Supply Corps, Chaplain Corps, Civil Engineer Corps, and Dental Corps shall not exceed fifteen, thirteen, two, four, and four, respectively: *And provided further*, That the number of captains in the Medical Service Corps and the number of commanders and lieutenant commanders in the Nurse Corps shall not exceed 2 per centum, seven-tenths of 1 per centum, and $1\frac{6}{10}$ per centum, respectively, of the officers in the corps concerned on the active list of the Navy at any one time.

Captains in Medical Service Corps, etc.

(b) To determine the authorized number of officers in the grade of rear admiral in the Medical Corps, Supply Corps, Chaplain Corps, Civil Engineer Corps, and Dental Corps, respectively, and the authorized number of captains in the Medical Service Corps and the authorized number of commanders and lieutenant commanders in the Nurse Corps, as provided in this section, computations shall be made by the Secretary of the Navy as of the date of approval of this Act and as of January 1 of each year thereafter; the resulting number in the grade of rear admiral in each corps in which such grade is authorized, as so computed, shall be held and considered for all purposes as the authorized number of officers in the grade of rear admiral in each such corps and shall not be varied between computations; the resulting number in the grade of captain in the Medical Service Corps and in each of the grades of commander and lieutenant commander in the Nurse Corps, as so computed, shall be held and considered as the authorized number of officers in the grade of the corps concerned until a subsequent computation shall be made: *Provided*, That no officer shall be reduced in grade or pay or separated from the active list of the Navy as a result of any such computation.

Determination of authorized numbers.

(c) Whenever a final fraction occurs in any computation made pursuant to this title, the nearest whole number shall be taken, and if such fraction be one-half the next higher whole number shall be taken.

Final fraction.

PROMOTION BY SELECTION

SEC. 204. All promotions to grades above that of lieutenant (junior grade), including the promotion of those officers who are, or may be, carried on the Navy list as additional numbers in grade, shall be only upon the recommendation of a board of naval officers as herein prescribed.

SELECTION BOARDS

SEC. 205. (a) A board for the recommendation of officers for promotion to the grade of rear admiral, and for the recommendation of captains for continuation on the active list, shall consist of not less than three nor more than nine rear admirals of the corps concerned. Boards for the recommendation of officers for promotion to the grades of captain and commander except with respect to officers of the Medical Service Corps and of the Nurse Corps shall consist of not less than six nor more than nine officers of the corps concerned of the grade of captain or above. Boards for the recommendation of officers for promotion to the grades of lieutenant commander and lieutenant, except with respect to officers of the Medical Service Corps and of the Nurse Corps, shall consist of not less than six nor more than nine officers of the corps concerned above the grade of commander.

Rear admirals and captains.

Captains and commanders.

Lieutenant commanders and lieutenants.

- (b) The officers composing these boards shall be officers on the active or retired list of the Navy. In case there be not a sufficient number of officers of the corps concerned legally or physically capacitated to serve on a selection board of such corps, officers of the line on the active list of equivalent rank may be detailed to duty on such board to constitute the required minimum membership.
- Detail of officers of the line. Officers of Medical Service and Nurse Corps.
- (c) Boards for the recommendation of officers of the Medical Service Corps and of the Nurse Corps for promotion to grades above lieutenant (junior grade) shall be composed of not less than six nor more than nine officers above the grade of commander on the active or retired list of the Medical Corps: *Provided*, That in case there be not a sufficient number of officers of the Medical Corps legally or physically capacitated to serve on such a selection board, officers of the line of the active list of the grade of captain may be detailed to duty on such board to constitute the required minimum membership.
- Detail of officers of the line.
- (d) No officer may be a member of two successive selection boards for the consideration of officers for promotion to the same grade.
- Restriction.
- (e) The boards prescribed in this section shall be appointed by the Secretary of the Navy and convened at least once each year at a time as soon as practicable after the report of a corresponding board for the selection of line officers has been approved by the President, and at such times as the Secretary of the Navy may direct: *Provided*, That a selection board to recommend officers of the Medical Service Corps for promotion to the grade of captain or officers of the Nurse Corps for promotion to the grade of commander or lieutenant commander shall be convened only if there exists a vacancy in the grade concerned or if the Secretary of the Navy estimates or determines that a vacancy will occur in the ensuing twelve-month period.
- Appointment of boards, etc.

OATH FOR MEMBERS OF SELECTION BOARDS

SEC. 206. Each member of a board provided for in section 205 of this title shall swear, or affirm, 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 as herein provided.

ELIGIBILITY OF OFFICERS FOR CONSIDERATION BY SELECTION BOARDS

- Captains.
- SEC. 207. (a) Captains within the following categories shall be eligible for consideration by a selection board for recommendation for continuation on the active list: (1) Those who have twice failed of selection for promotion to rear admiral, and (2) those who have failed of selection for promotion to rear admiral in the immediately preceding year and who are not recommended for promotion by the selection board concerned: *Provided*, That such captains who will complete thirty-five years' total commissioned service or who will attain the age of sixty-two years in the fiscal year in which such board is convened will not be eligible for consideration for continuation on the active list.
- Officer in any grade except certain captains and commanders.
- (b) An officer in any grade, except captains in the Medical Service Corps and commanders in the Nurse Corps, shall become eligible for consideration by a selection board for promotion to the next higher grade when his running mate becomes eligible for such selection, except that officers of the Medical, Dental, Medical Service, and Chaplain Corps in the grades of lieutenant (junior grade) and lieutenant, and officers of the Nurse Corps in the grade of lieutenant (junior grade) shall not be eligible for such selection unless they are in the promotion zone in such grade or are senior to the officers in the promotion zone of the grade in which they are serving. An officer in

any grade who shall become eligible for such consideration shall, regardless of failure or failures of selection for such promotion, remain so eligible while on the active list: *Provided*, That officers whose names are on the promotion list for any grade on the date of the convening of the board shall not be considered for the same grade by the board.

(c) Of the officers, in any grade in any corps, designated for limited duty, who would otherwise be eligible for consideration for promotion pursuant to the provisions of subsection (b) of this section, only the officer in that corps whose running mate is the junior officer in the promotion zone for line officers designated for limited duty and officers in that corps senior to him in the grade concerned shall be eligible for such consideration.

INFORMATION TO BE FURNISHED SELECTION BOARDS

SEC. 208. (a) The Secretary of the Navy shall furnish the appropriate selection board with (1) the number of officers not restricted in the performance of duty and the number of officers designated for limited duty which the board may recommend for promotion to the next higher grade; (2) the names of all officers eligible for consideration for promotion; (3) the number of captains which the board may recommend for continuation on the active list; (4) the names of captains eligible for consideration for continuation on the active list; (5) the records of all officers whose names are furnished to a board; and (6) the names of officers in the respective promotion zones in the grade or grades under consideration for promotion.

(b) The number to be furnished the board in respect to the promotion of officers not restricted in the performance of duty to the grades of captain and commander, except with respect to the promotion of officers of the Medical Service Corps to the grade of captain and of officers of the Nurse Corps to the grade of commander, shall be determined by the Secretary of the Navy as of the date of the convening of the board and shall be a fraction of the number of officers in the promotion zone in the grade and in the corps concerned. The numerator of this fraction shall be a number equal to the number of 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. The denominator of this fraction shall be a number equal to the number of officers, not restricted in the performance of duty, in the promotion zone considered by said board for the selection of line officers.

(c) The number to be furnished the board in respect to the promotion of officers designated for limited duty shall be determined by the Secretary of the Navy as of the date of the convening of the board and shall be a fraction of the number of such officers in the promotion zone in the grade and in the corps concerned. The numerator of this fraction shall be a number equal to the number of officers designated for limited 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. The denominator of this fraction shall be a number equal to the number of officers designated for limited duty in the promotion zone considered by said board for the selection of line officers.

(d) The number to be furnished the board in respect to the promotion of officers of the Supply Corps and Civil Engineer Corps not restricted in the performance of duty to the grades of lieutenant commander and lieutenant shall be determined by the Secretary of the Navy as of the date of the convening of the board and shall be a fraction of the number of such officers in the promotion zone in the grade and in the corps concerned. The numerator of this fraction shall be a

Number in respect to promotion.
Officers not restricted in duty.

Officers designated for limited duty.

Officers of Supply and Civil Engineer Corps.

number equal to the number of 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. The denominator of this fraction shall be a number equal to the number of officers, not restricted in the performance of duty, in the promotion zone considered by said board for the selection of line officers.

Lieutenant commanders and lieutenants.

(e) The number to be furnished the board in respect to the promotion of officers, except officers of the Supply Corps, Civil Engineer Corps, and Nurse Corps to the grade of lieutenant commander and lieutenant shall be determined by the Secretary of the Navy as of the date of the convening of the board and shall be equal to the number of such officers in the promotion zones in the grades of lieutenant and lieutenant (junior grade), respectively.

Captains.

(f) The number to be furnished the board in respect to the promotion of captains to the grade of rear admiral shall be determined by the Secretary of the Navy as of the date of the convening of the board and shall be equal to the number of vacancies existing in the grade of rear admiral plus the estimated number of such vacancies which will occur during the ensuing twelve-month period and minus the number of captains then on the promotion list.

Post, p. 825.

(g) The number to be furnished the board in respect to captains to be continued on the active list shall be determined by the Secretary of the Navy as of the date of the convening of the board and shall be such a number in each case, not to exceed in each instance the number prescribed in subsection 212 (a) of this title, as the Secretary of the Navy shall determine to be necessary to meet the requirements of the Navy.

Promotion zones.

(h) An officer in any grade, not restricted in the performance of duty, who has not failed of selection for promotion to the next higher grade, shall be deemed to be in the promotion zone when his running mate in the same grade has been determined to be in the promotion zone of officers not restricted in the performance of duty in that grade.

(i) An officer in any grade, designated for limited duty, who has not failed of selection for promotion to the next higher grade, shall be deemed to be in the promotion zone when his running mate in the same grade has been determined to be in the promotion zone of officers designated for limited duty.

Officers of Medical Service Corps.

(j) The number to be furnished the board in respect to the promotion of officers of the Medical Service Corps to the grade of captain shall be determined by the Secretary of the Navy as of the date of the convening of the board and shall be equal to the difference between the allowed number of officers in that grade and the actual number of officers therein plus the number of officers estimated to be separated from that grade during the ensuing twelve-month period and minus the number of commanders then on the promotion list.

Officers of Nurse Corps.

(k) The number to be furnished the board in respect to the promotion of officers of the Nurse Corps to the grades of commander and lieutenant commander shall be determined by the Secretary of the Navy as of the date of the convening of the board and shall for each grade be equal to the difference between the allowed number of officers in the grade and the actual number of officers therein plus the number of officers estimated to be separated from the grade during the ensuing twelve-month period and minus the number of officers of the next lower grade then on the promotion list.

(l) The number to be furnished the board in respect to the promotion of officers of the Nurse Corps to the grade of lieutenant shall be determined by the Secretary of the Navy as of the date of the convening of the board and shall be equal to the number of lieutenants (junior

grade) in that corps in and senior to the promotion zone minus the number of lieutenants (junior grade) then on the promotion list.

(m) Any officer eligible for consideration for selection shall have the right to forward through official channels at any time not later than ten days after the convening of said board a written communication inviting attention to any matter of record in the Navy Department concerning himself which he deems important in the consideration of his case: *Provided*, That such communication shall not contain any reflection upon the character, conduct, or motives of or criticism of any officer.

Right of officer to forward communication concerning himself.

DUTIES OF SELECTION BOARDS

SEC. 209. (a) From among those officers who are eligible for consideration for promotion, each board shall recommend for promotion those officers, if of the grade of lieutenant commander or above, or if designated for limited duty in grades above ensign, whom it considers best fitted for promotion, and, if of the grade of lieutenant or lieutenant (junior grade), in the Supply and Civil Engineer Corps or if of the grade of lieutenant in the Nurse Corps those whom it considers best fitted for promotion, if of the grade of lieutenant or lieutenant (junior grade) in the Medical Corps, Dental Corps, Chaplain Corps, Civil Engineer Corps, or Medical Service Corps, or of the grade of lieutenant (junior grade) in the Nurse Corps, those whom it considers fitted for promotion, in number not exceeding the number furnished the board by the Secretary of the Navy as provided in section 208 of this title: *Provided*, That from among eligible officers junior in lineal rank to the junior officer in the appropriate promotion zone in a grade below that of captain, the board may not recommend as best fitted for promotion, a number exceeding 5 per centum of the total number that the board is authorized to recommend for promotion to the grade concerned or, if such 5 per centum shall not equal the whole number one, a number exceeding one: *Provided further*, That in each grade, except with respect to lieutenant commander and lieutenant of the Nurse Corps the junior officer in a promotion zone and all officers of his category senior to him in lineal rank who are eligible for consideration shall, if not selected for promotion, be considered as having failed of selection for promotion, and no such officer junior in lineal rank to said junior officer in said promotion zone shall, if not selected for promotion, be considered as having failed of selection for promotion: *And provided further*, That the status of having once failed of selection for promotion shall not be considered as prejudicial to an officer with respect to his qualifications, his fitness for the naval service, or his eligibility for selection by the next succeeding selection board.

Recommendations for promotion.

(b) From among those captains who are eligible for consideration for continuation on the active list, the board shall recommend for such continuation those officers whom it considers best fitted for continued service on the active list, in number not exceeding the number furnished the board by the Secretary of the Navy, as provided in section 208 of this title.

Recommendation for continuation of captains on active list.

(c) The recommendation of the board in respect to the promotion of officers designated for limited duty shall be based upon their comparative fitness, within such category for the duties prescribed for them by law.

Officers designated for limited duty.

(d) All reports or recommendations of a selection board under any provision of this title shall require the concurrence of at least two-thirds of the members: *Provided*, That the report or recommendation of a board composed of five members or less shall require the concurrence of at least a majority of the members.

Reports, etc., of board.

(e) The selection board shall also report the names of any officers among those eligible for consideration and of less than twenty years' service whose reports and records in its opinion indicate their unsatisfactory performance of duty in their present grades and in its opinion indicate that they would not satisfactorily perform the duties of a higher grade.

REPORTS OF SELECTION BOARDS

SEC. 210. (a) The report of the board shall be in writing, signed by all the members thereof, and shall certify that the board has carefully considered the case of every officer whose name was furnished the board by the Secretary of the Navy, as provided in section 208 of this title, and that, in the opinion of at least two-thirds of the members, the officers therein recommended, if of the grade of lieutenant commander or above, if of the grade of lieutenant or lieutenant (junior grade) in the Supply Corps or Civil Engineer Corps, or if of the grade of lieutenant in the Nurse Corps, are, subject to the limitations prescribed in subsection 209 (a) of this title, selected as the best fitted to assume the duties of the next higher grade, and, if of the grade of lieutenant or lieutenant (junior grade) in the Medical Corps, Chaplain Corps, Dental Corps, or Medical Service Corps, or if of the grade of lieutenant (junior grade) in the Nurse Corps, are selected as fitted to assume the duties of the next higher grade. The report of a board convened to recommend captains for continuation on the active list shall certify that, in the opinion of at least two-thirds of the members, if the board has more than five members, and, if the board has five members or less, in the opinion of at least a majority of the members, the officers therein recommended are selected as the best fitted for continued service on the active list.

Ante, p. 819.

Submission to President.

(b) The report of the board shall be submitted to the President for approval or disapproval: *Provided*, That in case any officer or officers recommended by the board for promotion, or, in the case of captains, for continuation on the active list, be not acceptable to the President, the board shall be informed of the name of such officer or officers and shall recommend a number of officers for promotion or for continuation on the active list, as the case may be, equal to the number of those found not acceptable to the President, and, if necessary, the board shall be reconvened for this purpose.

PROMOTION OF OFFICERS; PRECEDENCE; RUNNING MATES

SEC. 211. (a) (1) Officers recommended for promotion to a grade below rear admiral in the report of a selection board, as approved by the President, shall be regarded as having been selected for promotion and their names shall be placed upon a promotion list for the grade concerned. Each such officer except a commander of the Medical Service Corps or a lieutenant commander or lieutenant of the Nurse Corps, shall become eligible for promotion to the grade for which selected when the line officer who, pursuant to subsection (h) of this section, is to be his running mate in the higher grade becomes eligible for promotion to that grade. When promoted, the staff officer shall be assigned the same date of rank which has been or, in due course, will be, given to such running mate in such higher grade and, except officers of the Medical Service Corps promoted to the grade of captain and officers of the Nurse Corps promoted to the grades of commander and lieutenant commander, shall be entitled to the pay and allowances of the higher grade from the date upon which such running mate became eligible for promotion thereto.

Promotion list.

Medical Service and Nurse Corps.

(2) Promotions to fill vacancies in the grade of captain in the Medical Service Corps and to the grades of commander and lieutenant

commander in the Nurse Corps shall be made from among officers whose names appear on the promotion list for the grade concerned. When so promoted each such officer shall have the same date of rank which has been, or in due course will be, given the line officer who is to be his or her running mate in the grade to which promoted, but no increased pay or allowances shall accrue to any such officer by virtue of his promotion prior to the date of occurrence of the vacancy which he is promoted to fill or prior to the date of his selection for promotion, whichever shall be later.

(b) The names of officers recommended by a board for promotion to the grade of rear admiral, and approved by the President, shall be placed upon a promotion list and promotions to fill vacancies shall be made from officers whose names appear on the promotion list: *Provided*, That when so promoted each such officer shall have the same date of rank which has been given to the running mate assigned him in the grade to which he is promoted: *Provided further*, That if such running mate shall not have been promoted, the staff officer shall be given as his date of rank the date of the occurrence of the vacancy which he is promoted to fill until such running mate shall have been promoted to the grade of rear admiral, at which time the staff officer shall be given a new commission with the same date of rank given to such running mate: *And provided further*, That each staff officer promoted to the grade of rear admiral shall be entitled to the pay and allowances of that grade only from the date of occurrence of the vacancy which he is promoted to fill.

(c) The President may remove the name of any officer from the promotion list. An officer whose name is so removed from the promotion list or one whose appointment is rejected by the Senate, shall continue to be eligible for consideration for recommendation for promotion: *Provided*, That the next ensuing selection board may recommend the officer concerned for promotion, and thereupon, with the approval of the President, the name of such officer shall be replaced on the promotion list, without prejudice by reason of its having been temporarily removed therefrom, and when promoted such officer shall take the same lineal rank and date of rank that he would have had had his name not been so removed: *And provided further*, That if such officer is not so recommended by such next ensuing selection board or if the President shall again remove his name from the promotion list or if the Senate shall again reject his appointment, he shall be held for all purposes to have twice failed of selection for promotion.

(d) Line and staff officers of the Navy, when of the same grade, shall take precedence with all other line and staff officers of the same grade from the dates of rank stated in their commissions in said grade: *Provided*, That officers serving in the same grade and having the same date of rank in that grade shall take precedence in the following order: (a) Line officers, (b) medical officers, (c) supply officers, (d) chaplains, (e) civil engineers, (f) dental officers, (g) officers of the Medical Service Corps, and (h) officers of the Nurse Corps.

(e) (1) Lieutenants (junior grade) in a staff corps, appointed subsequent to the approval of this Act pursuant to any authority other than the Act of April 18, 1946 (Public Law 347, Seventy-ninth Congress), with date of rank in that grade in the same calendar year shall, in order of their lineal rank and following December 31 of that year, be assigned running mates among line lieutenants (junior grade) with dates of rank in the same calendar year, if of other than the Medical Corps, and in the preceding calendar year if of the Medical Corps, in the manner herein prescribed. Each such staff officer shall be assigned

Rear admirals.

Removal from promotion list.

Replacement.

Precedence of line and staff officers.

Assignment of running mates.

60 Stat. 92.
34 U. S. C. § 2 et seq.
Ante, p. 738; *post*,
pp. 867, 877.

as his running mate the line officer whose numerical position in the order of lineal rank among the line lieutenants (junior grade) above described is equal, or nearest equal, to the product of the numerical position of the staff officer in his order of lineal rank in his corps and a fraction whose numerator is the number of such line officers and whose denominator is the number of such staff officers. When there is but one such staff officer, the running mate shall be the line officer whose lineal rank is nearest the middle of the line officers concerned: *Provided*, That in any staff corps where officers may be originally appointed to the grade of lieutenant (junior grade) or ensign, all staff officers of that corps with dates of rank as lieutenants (junior grade) in the same calendar year shall, for the purpose of assignment of running mates, be regarded as having lineal rank in such order as may be recommended in the approved report of a board of officers convened for that purpose; such boards shall be convened as soon as practicable after December 31 of each year, shall be composed of officers of the corps concerned, and their recommendations when approved by the Secretary of the Navy shall be conclusive.

(2) An officer appointed to a staff corps in a grade above lieutenant (junior grade) except one appointed pursuant to the Act of April 18, 1946 (Public Law 347, Seventy-ninth Congress), shall be assigned as his running mate the junior line officer of the same grade with the same date of rank, or if there be none, the junior line officer of the same grade with next earlier date of rank.

(f) Notwithstanding the provisions of subsection (e) of this section, a line officer hereafter transferred to a staff corps in the grade of lieutenant (junior grade) or above shall, upon transfer, have assigned as his running mate the line officer immediately senior to him at the time of transfer.

(g) Should the running mate of a staff officer be separated from the active list or for any cause lose numbers, a new running mate shall be assigned the staff officer who shall be the line officer who was next senior to the former running mate, or the line officer who was next junior if the former running mate was the senior officer in the grade concerned.

(h) A staff officer selected for promotion shall, when promoted, have assigned as his running mate in the grade to which promoted, a line officer of the same grade whose name was placed upon the promotion list for that grade upon approval of the line selection board immediately preceding the Staff Corps selection board which selected the staff officer. Such line officer shall be the officer who was the running mate of the staff officer in the grade from which promoted if such running mate shall have been selected and promoted; otherwise, the new running mate shall be the line officer whose name was on the said promotion list and who shall have been selected and promoted next senior to the former running mate or, if there be no such line officer, the line officer who shall have been selected and promoted next junior to the former running mate. In the application of this subsection, if a board on selection for any staff corps and grade therein be not convened between the date of convening of two or more line selection boards for the same grade, the earliest of such boards shall be held as being the line selection board immediately preceding the staff board when convened.

(i) Should the running mate of a staff officer be promoted to a higher grade and such staff officer be not so promoted, the latter shall have assigned as his running mate in the grade in which he remains the line officer of that grade who was next senior to the former running mate, or if there be none the line officer of that grade next junior to the former running mate.

60 Stat. 92.
34 U. S. C. § 2 et seq.
Ante, p. 738; *post*,
pp. 867, 877.

Assignment of new
running mate.

Line selection
boards.

Promotion of run-
ning mate.

(j) If a staff officer of the grade of lieutenant (junior grade) or above shall lose numbers in grade for any cause he shall have assigned as his new running mate the line officer who is the running mate of the junior of those officers in his corps who becomes or will become senior to him as the result of such loss of numbers.

Loss of numbers.

(k) If the running mate of a staff officer shall be advanced in numbers or shall be advanced in grade in accordance with section 1508 of the Revised Statutes, the staff officer shall have assigned as his new running mate the line officer not advanced who was next senior to his former running mate in the grade in which the staff officer remains or, if there remain in that grade no line officer who was senior to such former running mate in the grade concerned, the staff officer shall have assigned as his new running mate the senior line officer in the grade in which the staff officer remains.

Advancement of running mate in numbers, etc.
34 U. S. C. § 345.

(l) If a staff officer of the grade of lieutenant (junior grade) or above shall be advanced in numbers in his grade, he shall have assigned as his new running mate the line officer who is the running mate of the officer of the same grade in his corps immediately senior to such staff officer in the position to which advanced; if there be no such senior staff officer, the staff officer who is so advanced shall have assigned as his new running mate the line officer who is the running mate in the grade concerned of the staff officer of the same corps immediately junior to such staff officer in the position to which advanced.

Advancement in numbers of designated staff officers.

(m) The line officer running mate assigned a staff officer pursuant to this section shall, if the staff officer be one designated for limited duty, be an officer also designated for such duty; in all other cases, the running mate shall be a line officer not restricted in the performance of duty.

Line officer running mate assigned a staff officer.

(n) Officers of the staff corps serving in the grade of rear admiral shall receive the pay and allowances prescribed by law for rear admirals of the upper half from the date on which their respective running mates enter the upper half of the list of rear admirals, but not prior to the date of the vacancy the staff officer was promoted to fill.

Pay and allowances.

RETIREMENT OF OFFICERS BELOW THE GRADE OF REAR ADMIRAL

SEC. 212. (a) Captains of the Medical Service Corps shall be placed on the retired list on June 30 of the fiscal year in which they complete thirty-one years of total commissioned service, and captains of each other corps whose names, on June 30 of the fiscal year in which they complete thirty-one years of total commissioned service, are not on a promotion list, shall, subject to the provisions of subsection 211 (c) of this title, if not otherwise retired pursuant to law, be placed on the retired list on that date: *Provided*, That an officer who has lost numbers or precedence shall not be placed on the retired list by reason of completion of thirty-one 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: *Provided further*, That captains whose names, on June 30 of the fiscal year in which they complete thirty years of total commissioned service, are not on a promotion list, shall, subject to the provisions of subsection 211 (c), if not otherwise retired pursuant to law, and if they shall have twice failed of selection for promotion to rear admiral, be placed on the retired list on that date: *Provided further*, That not to exceed the following numbers of captains, recommended for continuation on the active list in the report of a selection board as approved by the President, may be so continued until the report of the next succeeding selection board is approved but no such captain shall be continued on the active list beyond June 30 of the fiscal year in which he shall have completed thirty-five years of total

Captains.

Ante, p. 823.

Continuation on active list.

commissioned service: Twenty-two in the Medical Corps, twenty-two in the Supply Corps, twenty-five in the Chaplain Corps, seven in the Civil Engineer Corps, twelve in the Dental Corps: *And provided further*, That a captain so continued on the active list shall, if not again recommended for continuation on the active list in the approval report of the next succeeding selection board, thereafter be carried in excess of the number authorized to be so continued and shall be placed on the retired list on June 30 of the then current fiscal year.

Commanders.

Ante, p. 823.

(b) Commanders, except commanders designated for limited duty, whose names, on June 30 of the fiscal year in which they complete twenty-six years of total commissioned service, are not on a promotion list, shall, subject to the provisions of subsection 211 (c) of this title, if not otherwise retired pursuant to law and if they shall have twice failed of selection for promotion to captain, be placed on the retired list on that date. Commanders, except commanders designated for limited duty, who shall twice fail of selection for promotion to captain, if such second failure shall occur subsequent to June 30 of the fiscal year in which they complete twenty-six years of total commissioned service, shall, if not otherwise retired pursuant to law, be placed on the retired list on June 30 of the fiscal year in which such second failure shall occur: *Provided*, That commanders in the Medical Service Corps shall not be involuntarily retired by reason of failure of selection for promotion until June 30 of the fiscal year in which they shall have completed thirty years of total commissioned service.

Involuntary retirement.

Officers designated for limited duty.

(c) Officers designated for limited duty shall, if not otherwise retired pursuant to law, be placed on the retired list on the last day of the month following the month in which they complete thirty years of active naval service, exclusive of active duty for training in a Reserve component.

Lieutenant commanders.

(d) Lieutenant commanders, except lieutenant commanders designated for limited duty and lieutenant commanders of the Nurse Corps, whose names, on June 30 of the fiscal year in which they complete twenty years of total commissioned service, are not on a promotion list, shall, subject to the provisions of subsection 211 (c) of this title, if not otherwise retired pursuant to law and if they shall have twice failed of selection for promotion to commander, be placed on the retired list on that date. Lieutenant commanders, except lieutenant commanders designated for limited duty and lieutenant commanders of the Nurse Corps, who shall twice fail of selection for promotion to commander, if such second failure shall occur subsequent to June 30 of the fiscal year in which they complete twenty years of total commissioned service, shall, if not otherwise retired pursuant to law, be placed on the retired list on June 30 of the fiscal year in which such second failure shall occur.

Lieutenant commanders designated for limited duty.

(e) Lieutenant commanders designated for limited duty shall, if not otherwise retired pursuant to law, be placed on the retired list on June 30 for the fiscal year in which they shall have twice failed of selection for promotion to commander: *Provided*, That such an officer instead of such separation from the active list shall, if he had the permanent status of a warrant officer or a commissioned warrant officer when first appointed an officer for the performance of limited duty only, have the option of reverting to the grade and status he would have held had he not been so appointed, and if he had a permanent rating below warrant officer when first so appointed he shall have the option of reverting to the grade and status he would have held had he not been so appointed but had instead been appointed a warrant officer, and in any computation to determine such grade and status all service as an officer designated for limited duty, or as a temporary or Reserve officer shall be included: *And provided further*,

That such an officer exercising such option shall, if not otherwise retired pursuant to law, be placed on the retired list in the grade in which then serving, upon the completion of a total of thirty years of active naval service, exclusive of active duty for training in a Reserve component, with retired pay at the rate of 75 per centum of his active-duty pay.

(f) Officers above the grade of lieutenant who are placed on the retired list pursuant to the provisions of this section shall be placed thereon with retired pay at the rate of $2\frac{1}{2}$ per centum of their active-duty pay at the time of retirement multiplied by the number of years of service for which entitled to credit in the computation of their pay on the active list, not to exceed a total of 75 per centum of said active-duty pay: *Provided*, That a fractional year of six months or more shall be considered a full year in computing the number of years' service by which the rate of $2\frac{1}{2}$ per centum is multiplied: *Provided further*, That the retired pay of an officer commissioned in the Regular Navy pursuant to the provisions of the Act approved April 18, 1946 (Public Law 347, Seventy-ninth Congress), or one commissioned in the Regular Navy subsequent to September 8, 1939, while serving on active duty as an officer of the Naval Reserve, who is so placed on the retired list, shall not be less than 50 per centum of his active-duty pay at the time of retirement.

(g) Lieutenants and lieutenants (junior grade), except lieutenants of the Nurse Corps, who shall have twice failed of selection for promotion to lieutenant commander and lieutenant, respectively, and officers whose names are reported in accordance with subsection 209 (e) of this Act, shall be honorably discharged from the Navy on June 30 of the fiscal year in which they fail of such selection the second time, or in which their names are reported in accordance with subsection 209 (e) of this Act, with a lump-sum payment computed on the basis of two months' active-duty pay at the time of discharge for each year of commissioned service computed in accordance with subsection 202 (d), but not to exceed a total of two years' active-duty pay: *Provided*, That for the purpose of this subsection a fractional year of six months or more shall be considered a full year in computing the number of years' commissioned service upon which to base such lump-sum payment: *And provided further*, That an officer designated for limited duty, instead of such separation from the active list, shall have the option described in subsection (e) of this section.

(h) Officers on a promotion list who, at any time prior to promotion, are found incapacitated for service by reason of physical disability contracted in line of duty shall, when retired, be retired in the rank for which they were selected, with retired pay at the rate of 75 per centum of the active-duty pay of the grade to which selected.

(i) The provisions of this title relating to the discharge or retirement of officers who have twice failed of selection for promotion shall be applicable to officers above the grade of ensign who failed on professional reexamination for promotion in the same manner as if such officer had twice failed of selection for promotion.

(j) Nothing in this section shall be held to reduce the retired rank or pay to which an officer would be entitled under other provisions of law.

Retired pay for officers in grades above lieutenant.

Fractional year.

60 Stat. 92.
34 U. S. C. § 2 et seq.
Ante, p. 788; *post*, pp. 867, 877.

Lieutenants and lieutenants (jg).

Ante, p. 822.

Ante, p. 816.

Fractional year.

Physical disability.

Applicability of designated provisions to officers above grade of ensign.

Retired rank, etc.

RETIREMENT OF OFFICERS ABOVE THE GRADE OF CAPTAIN

SEC. 213. (a) The Secretary of the Navy shall make a special review of vacancies in the grade of rear admiral in the Chaplain Corps in the third fiscal year following the fiscal year in which this Act becomes effective, and in the third fiscal year of each three-year period thereafter, and, should it be found, in any such third year, as

Review of vacancies.
Rear admiral in Chaplain Corps.

of the time of the convening of a board for the consideration of captains of the Chaplain Corps for promotion to the grade of rear admiral that no such captain was selected during the two preceding fiscal years because of lack of existing and estimated vacancies, and that no vacancy exists and none is estimated to occur during the ensuing twelve-month period, the Secretary of the Navy shall convene a board composed of three officers of the line of the grade of rear admiral or above, to consider rear admirals of the Chaplain Corps and to recommend one such officer for retirement.

Rear admiral in
Dental Corps.

(b) The Secretary of the Navy shall make a special review of vacancies in the grade of rear admiral in the Dental Corps in the second fiscal year following the fiscal year in which this Act becomes effective, and in the second fiscal year of each two-year period thereafter, and, should it be found, in any such second year, as of the time of the convening of a board for the consideration of captains of the Dental Corps for promotion to the grade of rear admiral, that no such captain was selected during the preceding fiscal year because of lack of existing and estimated vacancies and that no vacancy exists and none is estimated to occur during the ensuing twelve-month period, the Secretary of the Navy shall convene a board composed of one officer of the Dental Corps and two officers of the line, of the grade of rear admiral or above, to consider rear admirals of the Dental Corps and to recommend one such officer for retirement.

Selection for promotion of captains in
Medical and Supply
Corps.

(c) Should it be found, as of the time of the convening of a board for the consideration of captains in the Medical Corps or in the Supply Corps for promotion to the grade of rear admiral, that the number of vacancies existing plus the estimated number of vacancies which will occur during the ensuing twelve-month period in the grade of rear admiral is less than will permit the selection for promotion of a number of captains in the corps concerned equal to 15 per centum of the authorized number of rear admirals, the Secretary of the Navy shall convene a board of not less than five officers, serving in the rank of rear admiral or above, to consider and recommend for retirement a sufficient number of such rear admirals to permit the selection for promotion of the said number of captains.

Rear admiral in
Civil Engineer Corps.

(d) The Secretary of the Navy shall make a special review of vacancies in the grade of rear admiral in the Civil Engineer Corps in the second fiscal year following the fiscal year in which this Act becomes effective and in the second fiscal year of each two-year period thereafter, and, should it be found, in any such second year, as of the time of the convening of a board for the consideration of captains of the Civil Engineer Corps for promotion to the grade of rear admiral, that no such captain was selected during the preceding fiscal year because of lack of existing and estimated vacancies, and that no vacancy exists and none is estimated to occur during the ensuing twelve-month period, the Secretary of the Navy shall convene a board composed of one officer of the Civil Engineer Corps and two officers of the line, of the rank of rear admiral or above, to consider rear admirals of the Civil Engineer Corps and to recommend one such officer for retirement.

Submission of report to President.

(e) The report of a board convened pursuant to the provisions of this section shall be submitted to the President for approval or disapproval; if the President shall disapprove the recommendations of the board in whole or in part, the board shall then recommend additional rear admirals for retirement equal in number to those disapproved by the President.

Retired pay.

(f) Officers so recommended for retirement as approved by the President shall, if not otherwise retired pursuant to law, be placed upon the retired list on June 30 of the then current fiscal year with retired

pay at the rate of 2½ per centum of their active-duty pay in the grade in which serving at the time of retirement multiplied by the number of years of service for which they would be entitled to credit in the computation of pay on the active list had they been serving in the grade of captain at the time of their retirement, but retired pay so computed shall not exceed a total of 75 per centum of said active-duty pay.

(g) The boards provided for in this section except as otherwise specified in this section shall be composed of officers on the active list of the Navy of the corps concerned. In case there be not a sufficient number of officers of the corps concerned legally or physically capacitated to serve on a selection board of such corps, officers of the line on the active list of equivalent rank may be detailed to duty on such board to constitute the required membership.

(h) Nothing in this section shall be held to reduce the retired rank or pay to which an officer would be entitled under other provision of law.

EFFECTIVE DATE OF TITLE II

SEC. 214. Sections 201, 202, and 203 of this title shall be effective upon the date of approval of this Act. The remaining provisions of this title shall be effective upon the termination of title III of this Act.

TITLE III—TERMINABLE PROVISIONS RELATING TO ALL OFFICERS OF THE NAVY ON ACTIVE DUTY

TEMPORARY STATUS OF TITLE III

SEC. 301. The authority granted by this title and all provisions hereof shall be terminated when the President shall determine that the number of officers holding permanent appointments on the active list of the line of the Regular Navy is equal to 95 per centum of the number of such officers authorized by law or on January 1, 1957, whichever shall occur the earlier.

DEFINITIONS

SEC. 302. (a) As used in this title, the words "temporarily appointed" shall be interpreted to mean also "temporarily promoted"; the words "temporary appointment in a grade to which appointed for a period of limited duration" shall be interpreted to mean a temporary appointment which by its terms is of limited duration; the word "officers" shall, unless otherwise qualified, be interpreted to mean all officers of the grade of ensign and above on active duty in the Navy, exclusive of officers on the retired list, exclusive of officers of the Naval Reserve assigned to active duty for training, and exclusive of officers of the Naval Reserve ordered to active duty in connection with organizing, administering, recruiting, instructing, training, or drilling the Naval Reserve, or ordered to temporary active duty for the purpose of prosecuting special work; the words "not restricted in the performance of duty" shall be interpreted to mean officers not designated for engineering duty, aeronautical engineering duty, special duty, or limited duty, or officers of the Marine Corps not designated for supply duty or limited duty; the words "line officers" shall, unless otherwise qualified, be interpreted to include officers of the line designated for engineering duty, aeronautical engineering duty, special duty, and limited duty; and the words "staff officers" shall, unless otherwise qualified, be interpreted to mean all officers of all staff corps, including officers in each such corps designated for limited duty.

(b) As used in this title, military titles shall be held to describe an officer or officers, as the case may be serving in the grade concerned.

Composition of boards.

Retired rank, etc.

Ante, pp. 815, 816.

"Temporarily appointed."

"Officers."

"Not restricted in the performance of duty."

"Line officers."

"Staff officers."

Military titles.

Temporary appointments.

Post, pp. 875, 876.

Permanent, probationary, and acting appointments.

Uniform gratuity.

Numbers of temporary appointments.

Applicability to Naval Reserve.

An officer holding a permanent appointment in one grade and a temporary appointment in a higher grade shall, for this purpose, be held to be serving in the higher grade: *Provided*, That an officer serving under a temporary appointment, including a temporary appointment under section 413 or section 415 of this Act, in a grade to which appointed for a period of limited duration shall, for purposes of eligibility for selection, promotion, and involuntary retirement, be deemed to be serving in the grade he would hold were he not serving under such appointment.

(c) The following personnel may be temporarily appointed to grades in the Regular Navy or Marine Corps, except in the Nurse Corps of the Regular Navy, including the grades of warrant officer and commissioned warrant officer, not above lieutenant in the Navy and captain in the Marine Corps:

(1) Commissioned warrant officers of the Regular Navy and Marine Corps.

(2) Warrant officers of the Regular Navy and Marine Corps.

(3) First-class petty officers and above in the Regular Navy and staff sergeants and above in the Regular Marine Corps.

(d) Officers on the active list of the Regular Navy or Marine Corps in commissioned grades, including those appointed under the authority of subsection (c) of this section, may be temporarily appointed to higher grades in the Regular Navy or Marine Corps.

(e) The permanent, probationary, or acting appointments of those persons temporarily appointed in accordance with the provisions of this title shall not be vacated by reason of such temporary appointments, such persons shall not be prejudiced thereby in regard to promotion, advancement, or appointment in accordance with laws relating to the Regular Navy or Marine Corps, and their rights, benefits, privileges, and gratuities shall not be lost or abridged in any respect whatever by their acceptance of commissions or warrants hereunder: *Provided*, That, except as otherwise provided herein, no person who shall accept a temporary appointment under the provisions of this title shall, while serving thereunder, be entitled to pay or allowances except as provided by law for the position temporarily occupied: *And provided further*, That no person temporarily appointed under the authority of this section shall suffer any reduction in pay and allowances to which he was entitled by virtue of his permanent status at the time of such temporary appointment nor shall he suffer any reduction in pay and allowances to which he was entitled under a prior temporary appointment in a lower grade.

(f) Enlisted men shall, upon being initially appointed as provided by this section, be paid the sum of \$250 as a uniform gratuity.

(g) The temporary appointments under the authority of subsection (c) of this section shall be in such numbers as the President may determine that the needs of the service require but not to exceed, in each case, the difference between the actual number of officers in the line and in each staff corps holding permanent appointments on the active list of the Regular Navy and the authorized number of such officers.

(h) The provisions of this section shall apply to personnel of the Naval Reserve (except the Fleet Reserve, and personnel of the Naval Reserve ordered to active duty in connection with organizing, administering, recruiting, instructing, training, or drilling the Naval Reserve, or ordered to temporary active duty for the purpose of prosecuting special work), when on active duty, in like manner and to the same extent and with the same relative conditions in all respects as are provided for personnel of the Regular Navy and Marine Corps, but this shall not be construed to authorize the temporary appointment of the personnel thereof to grades in the Regular Navy or Marine Corps.

(i) Not later than the first day of the fourth month following the date of approval of this Act, all temporary appointments of naval and Marine Corps personnel made pursuant to the Act of July 24, 1941 (55 Stat. 603), as amended, except those which are affirmed or continued in effect pursuant to this Act, shall be terminated.

(j) The words "active-duty pay" as used in sections 312 and 313 of this title shall be construed to mean the base and longevity pay the retired officer concerned would receive if serving on active duty in his grade.

DISTRIBUTION OF OFFICERS

SEC. 303. (a) The total number of line officers serving on active duty at any one time, exclusive of officers carried by law as additional numbers in grade and of fleet admirals, shall be distributed in the proportion of seventy-five one-hundredths of one in the grade of rear admiral and above to six in the grade of captain, to twelve in the grade of commander, to eighteen in the grade of lieutenant commander, to twenty-four and seventy-five one-hundredths in the grade of lieutenant, to thirty-eight and fifty one-hundredths in the combined grades of lieutenant (junior grade) and ensign: *Provided*, That of the number of officers so authorized in each grade below captain, not to exceed the following percentages may be officers designated for limited duty: In the grade of commander, $3\frac{6}{100}$ per centum; in the grade of lieutenant commander, $8\frac{6}{100}$ per centum; in the grade of lieutenant, $7\frac{7}{100}$ per centum; and in the combined grades of lieutenant (junior grade) and ensign, $6\frac{1}{100}$ per centum.

(b) The total number of rear admirals designated for engineering duty, aeronautical engineering duty, and special duty shall not exceed at any one time a number equal to 13 per centum of the authorized number of line officers, not restricted in the performance of duty, of the grade of rear admiral or above exclusive of fleet admirals at that time.

(c) The total number of officers designated for engineering duty, in the combined grades of captain, commander, and lieutenant commander, shall not exceed at any one time a number equal to 9 per centum of the total number of line officers, not restricted in the performance of duty, authorized in those grades at that time.

(d) The total number of officers designated for aeronautical engineering duty only, in the combined grades of captain, commander, and lieutenant commander, shall not exceed at any one time a number equal to 5 per centum of the total number of line officers, not restricted in the performance of duty, authorized in those grades at that time.

(e) The total number of officers designated for special duty, in the combined grades of captain, commander, and lieutenant commander, shall not exceed at any one time a number equal to 5 per centum of the total number of line officers, not restricted in the performance of duty, authorized in those grades at that time.

(f) Officers of the Staff Corps of the Navy shall be distributed in the various grades in each staff corps in accordance with the provisions of this title: *Provided*, That the number of rear admirals in the Medical Corps, Supply Corps, Chaplain Corps, Civil Engineer Corps, and Dental Corps, respectively, exclusive of any such rear admiral serving as a chief of bureau, shall not exceed in each corps five-tenths of 1 per centum of the officers in that corps serving on active duty at any one time: *Provided further*, That such a rear admiral serving as a chief of bureau shall upon termination of his tenure as chief of bureau be carried in excess until the next vacancy occurs in the grade of rear admiral in the corps concerned: *And provided further*, That the number of captains in the Medical

Termination.

34 U. S. C. §§ 350-350j.
Ante, pp. 312, 313.
"Active-duty pay."
Post, pp. 858, 861.

Line officers.

Number designated for engineering and special duty.
Rear admirals.

Combined grades of captain, commander, and lieutenant commander.

Staff Corps.

Service Corps and the number of commanders and lieutenant commanders in the Nurse Corps shall not exceed 2 per centum, seventenths of 1 per centum, and $1\frac{1}{10}$ per centum, respectively, of the officers in the corps concerned serving on active duty at any one time.

Determination of number of line officers in designated grades.

(g) To determine the authorized number of line officers in each of the various grades above lieutenant (junior grade), and in the combined grades of lieutenant (junior grade) and ensign, as provided in this section, computations shall be made by the Secretary of the Navy as of the date of approval of this Act and thereafter as of January 1 of each year, and the resulting number in each of such various grades, and in the combined grades of lieutenant (junior grade) and ensign, as so computed, shall, subject to the provisions of subsection (k) of this section, be held and considered for all purposes as the authorized number of officers in each of such various grades and in the combined grades of lieutenant (junior grade) and ensign, and shall not be varied between such computations: *Provided*, That to determine the authorized number of line officers designated for limited duty in each of the various grades above lieutenant (junior grade), and in the combined grades of lieutenant (junior grade) and ensign, the Secretary of the Navy, as of the date of approval of this Act and thereafter as of January 1 of each year, shall compute the maximum number of such officers which may serve in each of such various grades, and in the combined grades of lieutenant (junior grade) and ensign, as provided in subsection (a) of this section, and shall determine the number of such officers in each of such various grades, and in the combined grades of lieutenant (junior grade) and ensign, not to exceed such maximum number, required to meet the needs of the service during the ensuing year, and the resulting number in each of such various grades, and in the combined grades of lieutenant (junior grade) and ensign, as so determined, shall be held and considered for all purposes as the authorized number of such officers in each of such various grades, and in the combined grades of lieutenant (junior grade) and ensign, and shall not be varied between such determinations: *Provided further*, That notwithstanding the provisions of this subsection relating to the authorized number of officers in grade, in order to make adjustments for the number of officers originally appointed each year in any grade pursuant to this Act or to other provisions of law, the authorized number of officers in each grade concerned may be temporarily exceeded by such number of original appointments in such grade until the next succeeding annual computation authorized by this subsection shall be made.

Line officers designated for limited duty.

Adjustments.

Annual computations.

(h) To determine the authorized number of officers in the grade of rear admiral in the Medical Corps, Supply Corps, Chaplain Corps, Civil Engineer Corps, and Dental Corps, respectively, and the authorized number of captains in the Medical Service Corps and the authorized number of commanders and lieutenant commanders in the Nurse Corps, as provided in this section, computations shall be made by the the Secretary of the Navy as of the date of approval of this Act and as of January 1 of each year thereafter; the resulting number in the grade of rear admiral in each corps in which such grade is authorized, as so computed, shall, subject to the provisions of subsection (k) of this section, be held and considered for all purposes as the authorized number of officers in the grade of rear admiral in each such corps and shall not be varied between computations; the resulting number in the grade of captain in the Medical Service Corps and in each of the grades of commander and lieutenant commander in the Nurse Corps, as so computed, shall, subject to the provisions of subsection (k) of this section, be held and considered as the authorized number of officers in the grade of the corps concerned until a subsequent computation shall be made.

(i) Officers holding permanent appointments in the Regular Navy and Marine Corps temporarily appointed to higher grades under the authority of this title shall, for the purposes of titles I and II of this Act, be counted in their permanent grades, and, for the purposes of this section, be counted in their temporary grades.

Temporary appointments.

Ante, pp. 798, 815.

(j) Whenever a final fraction occurs in any computation made pursuant to this title, the nearest whole number shall be taken, and if such fraction be one-half the next higher whole number shall be taken.

Final fraction.

(k) Upon determination of the authorized number of officers in each of the various grades and in the combined grades of lieutenant (junior grade) and ensign, with respect to officers serving on active duty as provided in this section, and with respect to officers holding permanent appointments on the active list of the Regular Navy, as provided in section 103 of title I and section 203 of title II of this Act, computations shall be made by the Secretary of the Navy to determine the authorized number of officers which may serve under temporary appointment in the line in each of the various grades and in the combined grades of lieutenant (junior grade) and ensign and in each grade in a staff corps where computations are prescribed to determine the authorized number. Should the Secretary of the Navy determine, at the time of making the computations prescribed by subsections (g) and (h) of this section, that in any grade above lieutenant (junior grade) a lesser number of officers than the computed number of officers for that grade is required to meet the needs of the service, the lesser number shall be held and considered to be the authorized number for that grade and the reduction may be applied as an increase in the authorized number of such officers in any lower grade or grades.

Ante, pp. 798, 816.

REDISTRIBUTION ; LINEAL LISTS ; RETENTION OF REAR ADMIRALS

SEC. 304. (a) As soon as practicable, but not later than thirty days after the date of approval of this Act, the Secretary of the Navy shall establish a single lineal list of all officers of the grade of ensign and above of the line of the Navy or Naval Reserve on active duty on the date of establishment of such list, and such lineal list shall constitute the order of seniority of such officers as of the date of its establishment: *Provided*, That there shall be excluded from such lineal list the following: (1) Retired officers of the Navy or Naval Reserve who are on active duty; (2) retired enlisted men on active duty serving under a temporary appointment above commissioned warrant officer pursuant to the Act of July 24, 1941 (55 Stat. 603), as amended; (3) members of the Fleet Reserve on active duty serving under a temporary appointment above commissioned warrant officer pursuant to the Act of July 24, 1941 (55 Stat. 603), as amended; (4) temporary officers serving in grades above commissioned warrant officers pursuant to the Act of July 24, 1941 (55 Stat. 603), as amended, whose only appointment to any such grades was one for a period of limited duration; (5) regular or temporary officers of the Navy or officers of the Naval Reserve, who, prior to the establishment of the lineal list, are under orders directing their release from active duty; and (6) officers of the Naval Reserve ordered to active duty in connection with organizing, administering, recruiting, instructing, training, or drilling the Naval Reserve, or ordered to temporary active duty for the purpose of prosecuting special work. Officers shall be placed on this list in accordance with the grade or rank and precedence held by them on the date of approval of this Act whether by virtue of temporary or permanent appointment except officers serving with the rank of rear admiral without appointment to that grade or rank shall be placed upon such list in accordance with the grade and precedence which they would hold were they not serving with the rank of rear

Lineal lists

Exclusions.

34 U. S. C. §§ 350-350j.
Ante, pp. 312, 313.

Termination of temporary appointment.

admiral: *Provided*, That in the event of the termination, subsequent to the approval of this Act and prior to the establishment of the lineal list, of the temporary appointment of an officer serving in the grade or rank of admiral or vice admiral, or in a grade to which appointed for a period of limited duration, such officer shall be placed on such list with the grade or rank and precedence he would have held had he not been so temporarily appointed: *And provided further*, That any officer who, on the date of establishment of such list, is serving under a temporary appointment in the grade or rank of admiral or vice admiral or in a grade to which appointed for a period of limited duration, shall, upon termination of such temporary appointment, be placed on the lineal list in accordance with the grade and precedence he would have held had he not been so temporarily appointed.

Determination of number to be permanently appointed.

(b) As soon as practicable, but not later than thirty days after the date of approval of this Act, the Secretary of the Navy shall determine, as of the date of approval of this Act, the number of officers authorized to be permanently appointed in the various grades of the line as provided in section 103 of title I of this Act.

Ante, p. 798.

Determination of number to be temporarily appointed.

(c) As soon as practicable, but not later than thirty days after the date of approval of this Act, the Secretary of the Navy shall determine, as of the date of approval of this Act, the number of officers authorized to be temporarily appointed in the various grades of the line as provided in section 303 of this title.

Ante, p. 831.

Authority to fill vacancies by permanent appointments.

(d) Upon completion of the establishment of the lineal list as prescribed by subsection (a) of this section, and upon the determination of the number of officers authorized to be permanently appointed in the various grades of the line, as prescribed by subsection (b) of this section, the President is authorized to fill vacancies in the various grades of the line of the Regular Navy by permanently appointing thereto and regularly commissioning therein officers holding permanent appointments in the line of the Regular Navy in the grade of ensign or above who are on the lineal list established under subsection (a) of this section, and such officers shall be so appointed in the order of their seniority on such lineal list: *Provided*, That any line officer holding a permanent appointment in the Regular Navy below the grade of rear admiral and above the grade of chief warrant officer on the date of establishment of the lineal list, and who at that time is serving in the grade or rank of admiral or vice admiral or in a grade to which appointed for a period of limited duration, may be permanently appointed and regularly commissioned in the grade and with precedence therein according to the lineal position to which he would be entitled were he not so serving or had not been so temporarily appointed: *Provided further*, That an officer designated for engineering duty, aeronautical engineering duty, or special duty holding a permanent appointment in the Regular Navy may be permanently appointed to and regularly commissioned in the same grade to which the line officer next junior to him on the lineal list, who is not restricted in the performance of duty, and who is not serving under a temporary appointment in a grade to which appointed for a period of limited duration, is so appointed pursuant to this subsection: *Provided further*, That officers designated for engineering duty, aeronautical engineering duty, or special duty who solely by reason of the limitation of subsection 103 (b) are not permanently appointed to and regularly commissioned in the grade of rear admiral may be permanently appointed to and regularly commissioned in the grade of captain: *Provided further*, That an officer designated for engineering duty, aeronautical engineering duty, or special duty holding a permanent appointment in the Regular Navy on the date of establishment of the lineal list, and who at that time is serving under a temporary appointment in a grade to which appointed

Officers designated for engineering or special duty.

Ante, p. 799.

for a period of limited duration, may be permanently appointed to and regularly commissioned in the grade and with precedence therein according to the lineal position to which he would be entitled had he not been so temporarily appointed: *Provided further*, That officers who, on the date of the establishment of the lineal list, were permanently commissioned in the line of the Regular Navy as ensigns, and who at that time were serving under temporary appointments as lieutenants (junior grade), may be permanently appointed to and regularly commissioned in the line of the Regular Navy in the grade of lieutenant (junior grade) and with the precedence to which entitled by virtue of their position on the lineal list: *Provided further*, That each line officer of the Naval Reserve on the lineal list who holds a permanent commission in the grade of ensign or above may be permanently appointed to and regularly commissioned in the same grade in the Naval Reserve to which the line officer of the Regular Navy next junior to him is permanently appointed in the Regular Navy, and for the purpose of this proviso the position of any such Reserve officer on the lineal list shall be determined without regard to such temporary appointment in a grade to which appointed for a period of limited duration which he may hold: *Provided further*, That no officer shall be appointed, pursuant to this subsection, to a higher grade than the grade held by him on the lineal list: *Provided further*, That appointments made pursuant to this subsection shall not be subject to qualification by examination: *Provided further*, That all appointments to grades below that of rear admiral effected pursuant to this subsection shall be regarded as having been made with the advice and consent of the Senate: *And provided further*, That no provision of this title shall be construed to require the reappointment to a permanent grade of any officer who already holds a permanent appointment in such grade.

(e) Upon completion of the establishment of the lineal list as prescribed by subsection (a) of this section, and upon the determination of the number of officers authorized to be temporarily appointed in the various grades of the line, as prescribed by subsection (c) of this section, the President is authorized to fill vacancies in the various grades of the line of the Navy by temporarily appointing thereto officers who are on the lineal list established under subsection (a) of this section, and such officers shall be so appointed in the order of their seniority on such list: *Provided*, That an officer designated for engineering duty, aeronautical engineering duty, or special duty may be temporarily appointed to the same grade to which the line officer next junior to him on the lineal list, who is not restricted in the performance of duty, and who is not serving under a temporary appointment in a grade to which appointed for a period of limited duration, may be so appointed pursuant to this subsection: *Provided further*, That the existing temporary appointment or designation of a line officer placed on the lineal list and who, on the date of establishment of such list, is serving in the grade or rank of admiral or vice admiral or in a grade to which appointed for a period of limited duration, is hereby continued in effect until such appointment or designation shall terminate by its terms or until terminated by the President, whichever shall be earlier; upon such termination such officer may be temporarily appointed to the grade and with the precedence therein to which he would be entitled were he not so serving or had he not been so temporarily appointed: *Provided further*, That retired personnel of the Navy or Naval Reserve who are serving on active duty on the date of the establishment of the lineal list under a temporary appointment in the grade of ensign or above, may be retained on active duty, and the existing temporary appointments of such personnel are hereby continued in effect until such appointments shall

Ensigns.

Authority to fill vacancies by temporary appointments.

Officers designated for engineering or special duty.

Continuation of temporary appointment, etc.

Retired personnel on active duty.

Members of Fleet Reserve.

Personnel in grades above commissioned warrant officer.

Temporary appointment to higher grade.

Maximum number of line officers.

Ante, p. 831.
Maintenance of precedence.

terminate by their own terms or until such appointments are terminated by the President or until the officers concerned shall be placed on inactive duty, whichever shall be earliest, and all such temporary appointments other than those for a period of limited duration may be affirmed by the President and upon such affirmation shall thereafter be considered as having been effected pursuant to this section; upon the termination of the temporary appointment and retention on active duty of any such officer who is so serving, but whose temporary appointment is one to a grade to which he is appointed for a period of limited duration, he may be temporarily appointed to the grade in which he would have been serving on the date of approval of this Act had he not been serving at that time under such temporary appointment in a grade to which appointed for a period of limited duration: *Provided further*, That members of the Fleet Reserve who are serving on active duty on the date of the establishment of the lineal list under a temporary appointment in the grade of ensign or above may be retained on active duty and the existing temporary appointments of such personnel are hereby continued in effect until such appointments shall terminate by their own terms or until such appointments are specifically terminated by the President or until the officers concerned shall be placed on inactive duty, whichever shall be earliest, and all such temporary appointments other than those for a period of limited duration may be affirmed by the President and upon such affirmation shall thereafter be considered as having been effected pursuant to this section; upon the termination of the temporary appointment and retention on active duty of any such officer who is so serving, but whose temporary appointment is one to a grade to which he is appointed for a period of limited duration, he may be temporarily appointed to the grade in which he would have been serving on the date of approval of this Act had he not been serving at that time under such temporary appointment in a grade to which appointed for a period of limited duration: *Provided further*, That personnel of the Navy or Naval Reserve who are serving on active duty on the date of the establishment of the lineal list in grades above commissioned warrant officer, and who have never served in any such grade except under a temporary appointment in a grade to which appointed for a period of limited duration, may be retained on active duty and serve under such appointment until the termination thereof: *Provided further*, That no officer shall be temporarily appointed, pursuant to this subsection, to a higher grade than the grade held by him on the date of approval of this Act, exclusive of a temporary appointment in the grade of admiral or vice admiral or in a grade to which appointed for a period of limited duration: *Provided further*, That officers who are eligible to be temporarily appointed to any grade pursuant to this subsection may be so appointed notwithstanding receipt of a permanent appointment pursuant to subsection (d) of this section if such temporary appointment is necessary to the maintenance of their relative rank and precedence established by the lineal list: *And provided further*, That the number of line officers who may serve on active duty in any grade shall not exceed the authorized number of officers in such grade determined as prescribed in section 303 of this Act.

(f) Permanent appointments effected pursuant to subsection (d) of this section shall be effected with such dates of rank and registered numbers as shall maintain for each officer the precedence evidenced by his position on the lineal list established pursuant to subsection (a) of this section: *Provided*, That for the purpose of this subsection such position on the lineal list shall be determined without regard to temporary appointments in the grades of admiral or vice admiral or in a grade to which appointed for a period of limited duration.

(g) Temporary appointments effected pursuant to subsection (e) of this section shall be effected with such dates of rank and registered numbers as shall maintain for each officer the precedence held by him at the time of the establishment of the lineal list established pursuant to subsection (a) of this section: *Provided*, That for the purpose of this subsection such precedence shall be determined without regard to temporary appointments in the grades of admiral or vice admiral or in a grade to which appointed for a period of limited duration.

(h) (1) As soon as practicable after the establishment of the lineal list for line officers as prescribed by subsection (a) of this section the Secretary of the Navy shall convene a board, composed of officers of the line and of each staff corps of the Navy, and such board, which is authorized to conduct its studies in appropriate panels but to make determinations only by the full board after a majority vote, shall recommend the assignment of running mates from among line officers on such lineal list to all officers of the grade of lieutenant (junior grade) and above of the various staff corps of the Navy or Naval Reserve on active duty on the date of establishment of such lineal list: *Provided*, That running mates shall not be assigned to the following officers of the staff corps: (1) Officers of the same categories as the line officers described in clauses (1) through (6) of the first proviso of subsection (a) of this section, and (2) officers serving in the grade of ensign.

Assignment of running mates.

(2) In recommending the assignment of running mates the board will be governed by the following principles except with respect to officers of the Nurse Corps:

Principles.

a. Each staff officer shall, except as provided in paragraph d of this subsection, have assigned as his running mate a line officer who, on the date of approval of this Act, is serving in the same grade as such staff officer.

b. If there be more than one line officer who, on the date of approval of this Act, is serving in the same grade and with the same date of rank as a particular staff officer, one of such line officers shall be assigned as the running mate of such staff officer.

c. If there be no line officer who, on the date of approval of this Act, is serving in the same grade and with the same date of rank as a particular staff officer, such staff officer shall have assigned as his running mate the line officer serving in the same grade who has the next earlier date of rank in such grade, and if there be no such line officer, he shall have assigned as his running mate the senior line officer in the same grade.

d. An officer of a staff corps who, on the date of approval of this Act or subsequently, is serving under a temporary appointment in a grade above rear admiral or in a grade to which appointed for a period of limited duration shall be assigned a running mate based upon the rank and precedence he would have held had he not been so serving.

(3) The assignment of running mates as recommended by the Board convened pursuant to this subsection and approved by the Secretary of the Navy shall be accomplished not later than sixty days after the date of approval of this Act.

(i) As soon as practicable, but not later than thirty days after the assignment of running mates is completed, as prescribed in subsection (h) of this section, the Secretary of the Navy shall establish a single lineal list, for each staff corps of the Navy, of all staff officers who were assigned running mates pursuant to such subsection, and such officers shall be placed on such list in the order of seniority of their running mates as of the date of establishment of the line officers lineal list pursuant to subsection (a) of this section: *Provided*, That in the event that more than one officer in the same staff corps is assigned the same

Lineal list for each staff corps.

running mate such officers of such staff corps shall have lineal positions with respect to each other in accordance with the order of their seniority as of the date of approval of this Act: *Provided further*, That, notwithstanding any of the provisions of this subsection, officers of any staff corps who, on the date of establishment of the lineal list under this subsection, are serving under a temporary appointment in a grade above rear admiral or in a grade to which appointed for a period of limited duration, shall retain the lineal position to which they are entitled by virtue of such appointment until the termination thereof: *And provided further*, That officers of the grade of ensign in any staff corps shall have lineal position with respect to each other in accordance with the order of their seniority as of the date of the approval of this Act.

Permanent appointment in staff corps.

(j) Immediately after the establishment of the lineal list for each staff corps as prescribed by subsection (i) of this section each officer holding a permanent appointment in a staff corps of the Regular Navy who is on such lineal list may be permanently appointed to and regularly commissioned in such staff corps of the Regular Navy in the same permanent grade to which his running mate is permanently appointed pursuant to subsection (d) of this section: *Provided*, That each officer holding a permanent appointment in a staff corps of the Regular Navy who is on such lineal list and whose running mate does not hold a permanent appointment in the line of the Regular Navy may be permanently appointed to and regularly commissioned in such staff corps of the Regular Navy in the same permanent grade to which the permanently commissioned line officer of the Regular Navy next junior to his running mate is permanently appointed: *Provided further*, That each officer in any staff corps of the Naval Reserve on the lineal list established under subsection (i) of this section may be permanently appointed to and regularly commissioned in the same grade in the Naval Reserve to which his running mate is permanently appointed in the Regular Navy, and in the event that such running mate does not hold a permanent appointment in the line of the Regular Navy, such officer may be so permanently appointed to the same grade in the Naval Reserve to which the permanently commissioned line officers of the Regular Navy next junior to his running mate is permanently appointed: *Provided further*, That nothing contained in this subsection shall be construed to authorize the limitation upon (1) the number of rear admirals which may be appointed in any corps, (2) the number of captains which may be appointed in the Medical Service Corps, and (3) the number of commanders and lieutenant commanders which may be appointed in the Nurse Corps, to be exceeded: *Provided further*, That appointments made pursuant to this subsection shall not be subject to qualification by examination: *Provided further*, That all appointments to grades below that of rear admiral effected pursuant to this subsection shall be regarded as having been made with the advice and consent of the Senate: *And provided further*, That no provision of this title shall be construed to require the reappointment to a permanent grade of any officer who already holds a permanent appointment in such grade.

Naval Reserve.

Temporary appointment of officers of staff corps.

(k) Immediately after the establishment of the lineal list for each staff corps as prescribed by subsection (i) of this section each officer of a staff corps on such lineal list, exclusive of those serving on the date of establishment of such list under temporary appointment in a grade above rear admiral or in a grade to which appointed for a period of limited duration, may be temporarily appointed to the same grade to which his running mate is temporarily appointed pursuant to subsection (e) of this section: *Provided*, That the existing temporary appointment of an officer of any staff corps placed on the lineal list

Continuation of temporary appointment.

established under subsection (i) of this section and who, on the date of establishment of such list is serving under a temporary appointment in a grade above rear admiral or in a grade to which appointed for a period of limited duration, is hereby continued in effect until such appointment shall terminate by its own terms or until such appointment is specifically terminated by the President whichever shall be earlier; upon such termination, such officer may be temporarily appointed to the same grade in which his running mate may be serving under a temporary appointment at such time: *Provided further*, That retired personnel of the Navy or Naval Reserve who are serving on active duty on the date of the establishment of the lineal list under a temporary appointment in the grade of ensign or above may be retained on active duty, and the existing temporary appointments of such personnel are hereby continued in effect until such appointments shall terminate by their own terms or until such appointments are specifically terminated by the President or until the officers concerned shall be placed on inactive duty, whichever may be earliest, and all such temporary appointments other than those for a period of limited duration may be affirmed by the President and upon such affirmation shall thereafter be considered as having been effected pursuant to this section; upon the termination of the temporary appointment and retention on active duty of any such officer who is so serving, but whose temporary appointment is one to a grade to which he is appointed for a period of limited duration, he may be temporarily appointed to the grade in which he would have been serving on the date of approval of this Act had he not been serving at that time under such temporary appointment in a grade to which appointed for a period of limited duration: *Provided further*, That each officer of a staff corps on such lineal list, who does not hold a permanent commission in the Regular Navy above the grade of commissioned warrant officer, and whose running mate holds a permanent appointment in the line of the Regular Navy, may be temporarily appointed to the highest grade, whether under a permanent or temporary appointment, in which his running mate is serving: *Provided further*, That members of any staff corps of the Fleet Reserve who are serving on active duty on the date of the establishment of the lineal list for such staff corps under a temporary appointment in the grade of ensign or above may be retained on active duty and the existing temporary appointments of such personnel are hereby continued in effect until such appointments shall terminate by their own terms or until such appointments are specifically terminated by the President or until the officers concerned shall be placed on inactive duty, whichever may be earliest, and all such temporary appointments other than those for a period of limited duration may be affirmed by the President and upon such affirmation shall thereafter be considered as having been effected pursuant to this section; upon the termination of the temporary appointment and retention on active duty of any such officer who is so serving, but whose temporary appointment is one to a grade to which he is appointed for a period of limited duration, he may be temporarily appointed to the grade in which he would have been serving on the date of approval of this Act had he not been serving at that time under such temporary appointment in a grade to which appointed for a period of limited duration: *Provided further*, That personnel of any staff corps of the Navy or Naval Reserve who are serving on active duty on the date of the establishment of the lineal list for such staff corps in grades above commissioned warrant officer, and who have never served in any such grade except under a temporary appointment in a grade to which appointed for a period of limited duration, may be retained on active duty and serve under such appointment until the termination thereof: *Provided*

Termination.

Retired personnel
on active duty.

Fleet Reserve.

Personnel in grades
above commissioned
warrant officer.

Temporary appointment to higher grade.

Limitation upon numbers.

Affirmation of existing temporary appointment.

55 Stat. 603.
34 U. S. C. §§ 350-350j.
Ante, pp. 312, 313.

Completion of redistribution, etc.

Additional temporary appointments.
34 U. S. C. §§ 350-350j.
Ante, pp. 312, 313.

Noneligibility.

Officers appointed subsequent to establishment of lineal list, etc.

Ante, p. 833.

Temporary promotions to grades above lieutenant (jg).

further, That no officer shall be temporarily appointed, pursuant to this subsection, to a higher grade than the grade held by him on the date of approval of this Act, exclusive of a temporary appointment in a grade above rear admiral or in a grade to which appointed for a period of limited duration: *Provided further*, That officers of any staff corps who are eligible to be temporarily appointed to any grade pursuant to this subsection may be so appointed notwithstanding receipt of a permanent appointment pursuant to subsection (j) of this section: *And provided further*, That nothing contained in this subsection shall be construed to authorize the limitation upon (1) the number of rear admirals, which may be temporarily appointed in any corps, (2) the number of captains which may be temporarily appointed in the Medical Service Corps, and (3) the number of commanders and lieutenant commanders which may be temporarily appointed in the Nurse Corps, to be exceeded.

(l) When, in effecting the temporary appointments contemplated by the preceding subsections of this section, it would otherwise be necessary to temporarily appoint an officer in a grade in which he is then serving by virtue of temporary appointment therein pursuant to authority contained in the Act approved July 24, 1941, as amended, the President is authorized to affirm the existing temporary appointment with such necessary readjustment of the date of rank and registered number of officers concerned as shall maintain for him the precedence evidenced by his position on the appropriate lineal list established pursuant to the provisions of this section. Upon such affirmation such appointment shall thereafter be considered as having been effected pursuant to authority contained in this section.

(m) Upon accomplishment of the provisions of subsections (a) through (k) of this section the redistribution of officers contemplated by said subsections shall be deemed completed and said subsections shall be deemed terminated.

(n) No additional temporary appointments in the naval service shall be effected pursuant to the authority of the Act of July 24, 1941 (55 Stat. 603), as amended, after the effective date of this Act, but nothing herein contained shall be held to impair the authority to make temporary appointments under that Act during any future war or national emergency.

(o) Officers of the line or of any staff corps who are on active duty on the date of the establishment of lineal lists pursuant to this section, but who are not placed on any such list, shall not be eligible for selection for promotion pursuant to this title: *Provided*, That officers of the line of the Regular Navy appointed thereto subsequent to the date of establishment of the lineal list of line officers as prescribed in subsection 304 (a) of this title shall be placed on such lineal list and officers of the line of the Naval Reserve assigned to active duty subsequent to such date shall be placed on such lineal list according to their length of active duty in the grade in which so assigned to active duty: *Provided further*, That officers of the staff corps of the Regular Navy appointed thereto subsequent to the date of establishment of the lineal list of line officers as prescribed in subsection 304 (a) of this title shall be placed on the lineal list of the appropriate staff corps and officers of the staff corps of the Naval Reserve assigned to active duty subsequent to such date shall be placed on such appropriate lineal list according to their length of active duty in the grade to which so assigned to active duty.

(p) All temporary promotions to grades above that of lieutenant (junior grade) in the line or Staff Corps of the Navy, including the promotion of those officers who are or may be carried on the Navy list as additional numbers in grade, shall be only upon the recommendation of a board of naval officers as herein prescribed.

(q) All permanent promotions shall be effected, from among officers temporarily promoted, in the manner prescribed in section 311 of this title.

(r) Rear admirals of the line not restricted in the performance of duty, upon attaining the status of having completed at any time during any fiscal year at least four years of service in grade and at least thirty-four years of total commissioned service as defined in section 102 of title I of this Act, shall, subject to the provisions of subsection 307 (a) of this title, be continued on the active list only upon the recommendation of a board of naval officers convened in such fiscal year as prescribed in section 305.

Permanent promotions.
Post, p. 852.

Continuation on active list of designated rear admirals.

Ante, p. 798.

Post, p. 842.

SELECTION BOARDS

SEC. 305. (a) The following provisions shall relate to line officers:

(1) A board for the recommendation of rear admirals for continuation on the active list shall consist of five rear admirals, or officers of higher grade, senior to any officer under consideration. Boards for the recommendation of officers for temporary promotion to the grades of rear admiral and captain, and for the recommendation of captains for continuation on the active list, shall consist of nine rear admirals, or officers of higher grade; a board for the recommendation of officers for temporary promotion to the grade of commander shall consist of three rear admirals and six captains; and boards for the recommendation of officers for temporary promotion to the grades of lieutenant commander and lieutenant shall consist of nine officers above the grade of commander. Whenever officers designated for engineering duty, aeronautical engineering duty, or special duty are eligible for consideration by a selection board for temporary promotion or for continuation on the active list, the Secretary of the Navy shall appoint, as alternate members of the appropriate selection board, three officers of the same designation and classification as any such eligible officer, and if there be not three available he shall so appoint such lesser number as shall be available, and the junior members who are not restricted in the performance of duty, in like number, shall not act upon the cases of officers, designated for engineering duty, aeronautical engineering duty, or special duty. No such alternate member shall act upon the cases of officers other than those of the same designation as himself. No officer designated for engineering duty, aeronautical engineering duty, or special duty shall act upon the cases of officers not restricted in the performance of duty.

(2) The officers composing these boards shall be officers on the active list of the Navy. No officer may be a member of two successive selection boards for the consideration of officers for promotion to the same grade, or for the consideration of officers for continuation on the active list in the same grade.

(3) These boards shall be appointed by the Secretary of the Navy and convened at least once each year and at such times as the Secretary of the Navy may direct.

(b) The following provisions shall relate to staff officers:

(1) A board for the recommendation of officers for temporary promotion to the grade of rear admiral, and for the recommendation of captains for continuation on the active list, shall consist of not less than three nor more than nine rear admirals of the corps concerned. Boards for the recommendation of officers for temporary promotion to the grades of captain and commander, except with respect to officers of the Medical Service Corps and of the Nurse Corps, shall consist of not less than six nor more than nine officers of the corps concerned of the grade of captain or above. Boards for the recommendation of officers for temporary promotion to the grades of lieutenant commander and lieutenant, except with respect to officers of the Medical Service Corps and

Rear admirals and captains.

Commanders.

Lieutenant commanders and lieutenants.

Officers designated for engineering or special duty.

Restrictions.

Appointment, etc.

Rear admirals and captains.

Captains and commanders.

Lieutenant commanders and lieutenants.

of the Nurse Corps, shall consist of not less than six nor more than nine officers of the corps concerned above the grade of commander.

Detail of officers of
the line.

(2) The officers composing these boards shall be officers on the active or retired list of the Navy. In case there be not a sufficient number of officers of the corps concerned legally or physically capacitated to serve on a selection board of such corps, officers of the line on the active list of equivalent rank may be detailed to duty on such board to constitute the required minimum membership.

Officers of Medical
Service and Nurse
Corps.

(3) Boards for the recommendation of officers of the Medical Service Corps and of the Nurse Corps for temporary promotion to grades above lieutenant (junior grade) shall be composed of not less than six nor more than nine officers above the grade of commander on the active or retired list of the Medical Corps: *Provided*, That in case there be not a sufficient number of officers of the Medical Corps legally or physically capacitated to serve on such a selection board, officers of the line of the active list of the grade of captain may be detailed to duty on such board to constitute the required minimum membership.

Detail of officers of
the line.

Restriction.

(4) No officer may be a member of two successive selection boards for the consideration of officers for promotion to the same grade, or for the consideration of officers for continuation on the active list in the same grade.

Appointment of
boards, etc.

(5) The boards prescribed in subsection (b) of this section shall be appointed by the Secretary of the Navy and convened at least once each year at a time as soon as practicable after the report of a corresponding board for the selection of line officers has been approved by the President, and at such times as the Secretary of the Navy may direct: *Provided*, That a selection board to recommend officers of the Medical Service Corps for temporary promotion to the grade of captain or officers of the Nurse Corps for temporary promotion to the grade of commander or lieutenant commander shall be convened only if there exists a vacancy in the grade concerned or if the Secretary of the Navy estimates or determines that a vacancy will occur in the ensuing twelve-month period.

OATH FOR MEMBERS OF SELECTION BOARDS

SEC. 306. Each member of a board provided for in section 305 of this title shall swear, or affirm, 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 as herein provided.

ELIGIBILITY OF OFFICERS FOR CONSIDERATION BY SELECTION BOARDS

Rear admirals.

SEC. 307. (a) The following provision shall relate to line officers:

(1) Rear admirals, not restricted in the performance of duty, who, subsequent to June 30 of the fiscal year preceding that in which the first selection board is convened pursuant to this title to recommend officers of that grade for continuation on the active list, attain the status of having completed four years of service in grade and thirty-four years of total commissioned service, shall become eligible for consideration for such recommendation by such board convened in the fiscal year in which they first attain such status: *Provided*, That a rear admiral who shall have lost numbers or precedence at any time shall become eligible for such consideration in the fiscal year in which the most senior rear admiral junior to him who has not lost numbers or precedence becomes eligible therefor: *Provided further*, That such eligibility shall continue until the officer concerned shall have been selected for continuation on the active list or until he shall have twice failed of such selection, whichever shall occur earlier.

(2) Captains designated for engineering duty, aeronautical engineering duty, or special duty, within the following categories shall be eligible for consideration by a selection board for recommendation for continuation on the active list: (1) Those who have twice failed of selection for temporary promotion to rear admiral, and (2) those who have failed of selection for temporary promotion to rear admiral in the immediately preceding year and who are not recommended for temporary promotion by the selection board concerned: *Provided*, That such captains who will complete thirty-five years' total commissioned service or who will attain the age of sixty-two years in the fiscal year in which such board is convened will not be eligible for consideration for continuation on the active list.

Captains designated for engineering or special duty.

(3) Officers shall be eligible for consideration by a selection board for temporary promotion to the next higher grade when they will have completed, on June 30 of the fiscal year of the convening of the appropriate board, the following periods of service in the grades in which they are serving: Captains, three years; commanders, five years; lieutenant commanders and lieutenants, four years; lieutenants (junior grade), two years. Service in grade shall include all service in that or a higher grade whether under temporary or permanent appointment therein. An officer in any grade who shall become eligible for such consideration shall, regardless of failure or failures of selection for such promotion, remain so eligible while on the active list: *Provided*, That officers whose names are on the temporary-promotion list for any grade on the date of the convening of the board shall not be considered for the same grade by the board.

Temporary promotion to next higher grade, etc.

(4) Of the officers, in any grade, designated for limited duty, who would otherwise be eligible for consideration for temporary promotion pursuant to the provisions of paragraph (3) of this subsection, only the junior officer in the promotion zone for officers designated for limited duty and officers senior to him in the grade concerned shall be eligible for such consideration.

Officers designated for limited duty.

(5) Service under an appointment for a period of limited duration only while serving on a specified duty assignment shall, for the purposes of this section, be considered only as service in the grade which the officer concerned would have held under temporary appointment but for such service in a higher grade.

(b) The following provisions shall relate to staff officers:

(1) Captains within the following categories shall be eligible for consideration by a selection board for recommendation for continuation on the active list: (1) Those who have twice failed of selection for temporary promotion to rear admiral, and (2) those who have failed of selection for temporary promotion to rear admiral in the immediately preceding year and who are not recommended for temporary promotion by the selection board concerned: *Provided*, That such captains who will complete thirty-five years' total commissioned service or who will attain the age of sixty-two years in the fiscal year in which such board is convened will not be eligible for consideration for continuation on the active list.

Captains.

(2) An officer in any grade, except captains in the Medical Service Corps and commanders in the Nurse Corps, shall become eligible for consideration by a selection board for temporary promotion to the next higher grade when his running mate becomes eligible for such selection, except that officers of the Medical, Dental, Medical Service, and Chaplain Corps in the grades of lieutenant (junior grade) and lieutenant, and officers of the Nurse Corps in the grade of lieutenant (junior grade), shall not be eligible for such selection unless they are in the promotion zone in such grade or are senior to the officers in the promotion zone of the grade in which they are serving. An officer in any grade who shall become eligible for such consideration shall,

Temporary promotion to next higher grade.

regardless of failure or failures of selection for such promotion, remain so eligible while on the active list: *Provided*, That officers whose names are on the temporary promotion list for any grade on the date of the convening of the board shall not be considered for the same grade by the board.

Officers designated for limited duty.

(3) Of the officers, in any grade in any corps, designated for limited duty, who would otherwise be eligible for consideration for temporary promotion pursuant to the provisions of paragraph (2) of this subsection, only the officer in that corps whose running mate is the junior officer in the promotion zone for line officers designated for limited duty and officers in that corps senior to him in the grade concerned shall be eligible for such consideration.

INFORMATION TO BE FURNISHED SELECTION BOARDS

SEC. 308. (a) The following provisions shall relate to line officers:

(1) The Secretary of the Navy shall furnish the appropriate selection board with (1) the number of officers 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 officers designated for limited duty, which the board may recommend for temporary promotion to the next higher grade; (2) the names of all officers eligible for consideration for temporary promotion to each grade or grades to which the board will recommend officers for temporary promotion; (3) the number of rear admirals not restricted in the performance of duty which the board may recommend for continuation on the active list; (4) the names of all rear admirals eligible for consideration for continuation on the active list; (5) 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, which the board may recommend for continuation on the active list; (6) the names of all captains eligible for consideration for continuation on the active list; (7) the records of all officers whose names are furnished to a board; and (8) the names of officers in the respective promotion zones in the grade or grades under consideration for temporary promotion.

Number in respect to temporary promotion.
Officers not restricted in duty.

(2) The number to be furnished the board in respect to the temporary promotion of officers not restricted in the performance of duty shall be determined by the Secretary of the Navy as of the date of the convening of the board and shall be equal to the number of vacancies existing among such officers in each grade for temporary promotion to which the board will recommend such officers plus the estimated number of such vacancies which will occur during the ensuing twelve-month period and minus the number of such officers then on the promotion list.

Officers designated for limited duty.

(3) The number to be furnished the board in respect to the temporary promotion of officers designated for limited duty shall be determined by the Secretary of the Navy as of the date of the convening of the board and shall be equal to the number of vacancies existing among such officers in each grade for temporary promotion to which the board will recommend such officers plus the estimated number of such vacancies which will occur during the ensuing twelve-month period and minus the number of such officers then on the promotion list.

Officers designated for engineering or special duty.

(4) The numbers to be furnished the board in respect to the temporary promotion of officers designated for engineering duty, aeronautical engineering duty, or special duty to the grade of rear admiral shall be determined by the Secretary of the Navy as of the date of the

convening of the board. Their total shall be equal to the number of vacancies existing among such officers in the grade of rear admiral plus the estimated number of such vacancies which will occur during the ensuing twelve-month period and minus the number of such officers then on the promotion list. Within and to such total the Secretary of the Navy shall allocate such numbers to any or all of the named categories as he shall determine to be necessary to meet the requirements of the Navy.

(5) The number to be furnished the board in respect to the temporary promotion of officers designated for engineering duty from a grade below captain shall be determined by the Secretary of the Navy as of the date of the convening of the board as necessary to meet the needs of the service. Such number shall not exceed the number of such officers in the promotion zone in the grade concerned nor be less than the product of that number and a fraction which for each such grade shall have as its numerator a number equal to the number of line officers in the same grade, not restricted in the performance of duty, which may be recommended for temporary promotion to the next higher grade in the same fiscal year, and as its denominator a number equal to the number of line officers, not restricted in the performance of duty, in the promotion zone of the grade concerned in such year.

Officers designated for engineering duty.

(6) The number to be furnished the board in respect to the temporary promotion of officers designated for aeronautical engineering duty from a grade below captain shall be determined by the Secretary of the Navy as of the date of the convening of the board as necessary to meet the needs of the service. Such number shall not exceed the number of such officers in the promotion zone in the grade concerned nor be less than the product of that number and a fraction which for each such grade shall have as its numerator a number equal to the number of line officers in the same grade, not restricted in the performance of duty, which may be recommended for temporary promotion to the next higher grade in the same fiscal year, and as its denominator a number equal to the number of line officers, not restricted in the performance of duty, in the promotion zone of the grade concerned in such year.

Officers designated for aeronautical engineering duty.

(7) The number to be furnished the board in respect to the temporary promotion of officers designated for special duty from a grade below captain shall be determined by the Secretary of the Navy as of the date of the convening of the board as necessary to meet the needs of the service. Such number shall not exceed the number of such officers in the promotion zone in the grade concerned nor be less than the product of that number and a fraction which for each such grade shall have as its numerator a number equal to the number of line officers in the same grade, not restricted in the performance of duty, which may be recommended for temporary promotion to the next higher grade in the same fiscal year, and as its denominator a number equal to the number of line officers, not restricted in the performance of duty, in the promotion zone of the grade concerned in such year.

Officers designated for special duty.

(8) The number to be furnished the board in respect to rear admirals not restricted in the performance of duty to be continued on the active list shall be determined by the Secretary of the Navy as of the date of the convening of the board and shall be computed by dividing the authorized number of such rear admirals by three and subtracting from the quotient thus obtained the number of such rear admirals, exclusive of those who have once failed of selection for such continuation, who shall have completed prior to the end of the preceding fiscal year four years of service in that grade and thirty-four years of total commissioned service, as defined in section 102 of title I of

Rear admirals not restricted in duty.

Ante, p. 798.

this Act, which it is estimated will remain on the active list at the end of the current fiscal year: *Provided*, That the number to be so furnished shall not be less than 50 per centum of the number of rear admirals, exclusive of those who have once failed of selection for such continuation, eligible for consideration by the board for continuation on the active list.

Captains designated for engineering or special duty.

Post, p. 858.

Promotion zones. Officers not restricted in duty.

(9) The number to be furnished the board in respect to captains designated for engineering duty, aeronautical engineering duty, or special duty to be continued on the active list shall be such a number in each case not to exceed in each instance the number prescribed in section 312 of this title, as the Secretary of the Navy shall determine to be necessary to meet the requirements of the Navy.

(10) The promotion zone in any grade for officers not restricted in the performance of duty, shall be established by the Secretary of the Navy as of the date of the convening of a selection board to consider officers of that grade for recommendation for temporary promotion to the next higher grade. It shall consist of that number of the most senior such officers of the grade under consideration, who are eligible for selection for temporary promotion to the next higher grade and have not previously failed of such selection, which must be either selected for temporary 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 paragraph (13) of this subsection and to best assure to individuals in succeeding years equality of opportunity for temporary promotion. The number shall be determined by the Secretary of the Navy and shall be based upon a consideration of the estimated number of vacancies which will occur in the next higher grade for each of the ensuing five years, the number of such officers who will be eligible for selection, and the terms of service which they will have completed.

Officers below grade of captain designated for engineering duty, etc.

(11) The promotion zones in any grade, below that of captain, for officers designated for engineering duty, for officers designated for aeronautical engineering duty, and for officers designated for special duty, shall each be composed of all officers of each such designation in the grade who have not previously failed of selection to the next higher grade and who are senior to the junior officer in the promotion zone determined as provided in paragraph (10) of this subsection.

Officers designated for limited duty.

(12) The promotion zone in any grade for officers designated for limited duty, shall be established by the Secretary of the Navy as of the date of the convening of a selection board to consider officers of that grade for recommendation for temporary promotion to the next higher grade. It shall consist of that number of the most senior such officers of the grade under consideration, who are eligible for selection for temporary promotion to the next higher grade and have not previously failed of such selection, which must be either selected for temporary 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 paragraph (14) of this subsection and to best assure to individuals in succeeding years equality of opportunity for temporary promotion. The number shall be determined by the Secretary of the Navy and shall be based upon a consideration of the estimated number of vacancies which will occur in the next higher grade for each of the ensuing five years, the number of such officers who will be eligible for selection, and the terms of service which they will have completed.

Normal terms of service.

(13) The normal terms of service of officers, others than officers designated for limited duty, in the various grades below rear admiral shall be:

Grade	Service in grade	Total commissioned service
Captains -----	5 years	30 years
Commanders -----	7 years	25 years
Lieutenant commanders -----	6 years	18 years
Lieutenants -----	6 years	12 years
Lieutenants (junior grade) -----	3 years	6 years

(14) The normal terms of service in grade of officers designated for limited duty in the various grades below that of commander shall be the same as those set out in paragraph (13) of this subsection.

(b) The following provisions shall relate to staff officers:

(1) The Secretary of the Navy shall furnish the appropriate selection board with (1) the number of officers not restricted in the performance of duty and the number of officers designated for limited duty which the board may recommend for temporary promotion to the next higher grade; (2) the names of all officers eligible for consideration for temporary promotion; (3) the number of captains which the board may recommend for continuation on the active list; (4) the names of captains eligible for consideration for continuation on the active list; (5) the records of all officers whose names are furnished to a board; and (6) the names of officers in the respective promotion zones in the grade or grades under consideration for temporary promotion.

(2) The number to be furnished the board in respect to the temporary promotion of officers not restricted in the performance of duty to the grades of captain and commander, except with respect to the temporary promotion of officers of the Medical Service Corps to the grade of captain and of officers of the Nurse Corps to the grade of commander, shall be determined by the Secretary of the Navy as of the date of the convening of the board and shall be a fraction of the number of officers in the promotion zone in the grade and in the corps concerned. The numerator of this fraction shall be a number equal to the number of 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. The denominator of this fraction shall be a number equal to the number of officers, not restricted in the performance of duty, in the promotion zone considered by said board for the selection of line officers.

(3) The number to be furnished the board in respect to the temporary promotion of officers designated for limited duty shall be determined by the Secretary of the Navy as of the date of the convening of the board and shall be a fraction of the number of such officers in the promotion zone in the grade and in the corps concerned. The numerator of this fraction shall be a number equal to the number of officers designated for limited 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, the denominator of this fraction shall be a number equal to the number of officers designated for limited duty in the promotion zone considered by said board for the selection of line officers.

(4) The numbers to be furnished the board in respect to the temporary promotion of officers of the Supply Corps and Civil Engineer Corps not restricted in the performance of duty to the grades of lieutenant commander and lieutenant shall be determined by the Secretary of the Navy as of the date of the convening of the board and shall be a fraction of the number of such officers in the promotion zone in the grade and in the corps concerned. The numerator of this fraction shall be a number equal to the number of officers not restricted in the performance of duty placed upon the promotion list pursuant to the

Temporary promotions.

Continuation of captains on active list.

Records of officers.

Captains and commanders.

Officers designated for limited duty.

Officers of Supply and Civil Engineer Corps.

report of the comparable board for the selection of line officers convened in the same fiscal year. The denominator of this fraction shall be a number equal to the number of officers, not restricted in the performance of duty, in the promotion zone considered by said board for the selection of line officers.

Lieutenant commanders and lieutenants.

(5) The numbers to be furnished the board in respect to the temporary promotion of officers, except officers of the Supply Corps, Civil Engineer Corps, and Nurse Corps to the grades of lieutenant commander and lieutenant shall be determined by the Secretary of the Navy as of the date of the convening of the board and shall be equal to the number of such officers in the promotion zones in the grades of lieutenant and lieutenant (junior grade), respectively.

Officers of Medical Service Corps.

(6) The number to be furnished the board in respect to the temporary promotion of officers of the Medical Service Corps to the grade of captain shall be determined by the Secretary of the Navy as of the date of the convening of the board and shall be equal to the difference between the allowed number of officers in that grade and the actual number of officers therein plus the number of officers estimated to be separated from that grade during the ensuing twelve-month period and minus the number of commanders then on the promotion list.

Officers of Nurse Corps.

(7) The number to be furnished the board in respect to the temporary promotion of officers of the Nurse Corps to the grades of commander and lieutenant commander shall be determined by the Secretary of the Navy as of the date of the convening of the board and shall, for each grade, be equal to the difference between the allowed number of officers in the grade and the actual number therein plus the number of officers estimated to be separated from the grade during the ensuing twelve-month period and minus the number of officers in the next lower grade then on the promotion list.

(8) The number to be furnished the board in respect to the temporary promotion of officers of the Nurse Corps to the grade of lieutenant shall be determined by the Secretary of the Navy as of the date of the convening of the board and shall be equal to the number of lieutenants (junior grade) in that corps in and senior to the promotion zone, minus the number of lieutenants (junior grade) then on the promotion list.

Captains.

(9) The number to be furnished the board in respect to the temporary promotion of captains to the grade of rear admiral shall be determined by the Secretary of the Navy as of the date of the convening of the board and shall be equal to the number of vacancies existing in the grade of rear admiral plus the estimated number of such vacancies which will occur during the ensuing twelve-month period and minus the number of captains then on the promotion list.

Post, p. 858.

(10) The number to be furnished the board in respect to captains to be continued on the active list shall be determined by the Secretary of the Navy as of the date of the convening of the board and shall be such a number in each case not to exceed in each instance the number prescribed in subsection 312 (b) of this title, as the Secretary of the Navy shall determine to be necessary to meet the requirements of the Navy.

Officers deemed in promotion zone.

(11) An officer in any grade, not restricted in the performance of duty, who has not failed of selection for temporary promotion to the next higher grade, shall be deemed to be in the promotion zone when his running mate in the same grade has been determined to be in the promotion zone of officers not restricted in the performance of duty in that grade.

(12) An officer in any grade, designated for limited duty, who has not failed of selection for temporary promotion to the next higher grade, shall be deemed to be in the promotion zone when his running mate in the same grade has been determined to be in the promotion zone of officers designated for limited duty.

(c) The following provisions shall relate to all officers:

(1) Any officer eligible for consideration by a selection board shall have the right to forward through official channels at any time not later than ten days after the convening of said board a written communication inviting attention to any matter of record in the Navy Department concerning himself which he deems important in the consideration of his case: *Provided*, That such communication shall not contain any reflection upon the character, conduct, or motives of or criticism of any officer.

Right of officer to forward communication concerning himself.

DUTIES OF SELECTION BOARDS

SEC. 309. (a) The following provisions shall relate to line officers:

(1) From among those officers who are eligible for consideration for temporary promotion, each board shall recommend for temporary promotion those officers holding permanent appointments in the grades of ensign and above in the Regular Navy whom it considers best fitted for temporary promotion, and those officers not holding permanent appointments in the grades of ensign and above in the Regular Navy whom it considers qualified for continued active duty: *Provided*, That from among eligible officers holding permanent appointments in the grades of ensign and above in the Regular Navy who are junior in lineal rank to the junior officer in the appropriate promotion zone in a grade below that of captain, the board may not recommend as best fitted for temporary promotion, a number exceeding 5 per centum of the total number of officers that the board is authorized to recommend for temporary promotion to the grade concerned or, if such 5 per centum shall not equal the whole number one, a number exceeding one: *Provided further*, That the total number of officers holding permanent appointments in the Regular Navy plus the number of officers not holding permanent appointments in the Regular Navy which may be recommended for temporary promotion in each grade shall not exceed the number furnished the board concerned by the Secretary of the Navy as provided in section 308 of this title: *Provided further*, That in each grade the junior officer in a promotion zone and all officers of his category senior to him in lineal rank who are eligible for consideration shall, if not selected for temporary promotion, be considered as having failed of selection for temporary promotion, and no such officer junior in lineal rank to said junior officer in said promotion zone shall, if not selected for temporary promotion, be considered as having failed of selection for temporary promotion: *Provided further*, That any captain designated for engineering duty, aeronautical engineering duty, or special duty, shall if not on the promotion list for the grade of rear admiral on June 30 of the fiscal year in which he completes thirty years of total commissioned service, as defined in section 102 of title I of this Act, be held for all purposes to have once failed of selection for temporary promotion, and if not on such list on June 30 of the succeeding year shall, subject to the provisions of subsection 311 (c) of this title, be held for all purposes to have twice failed of selection for temporary promotion, and no such officer shall be held to have failed of selection for temporary promotion solely by reason of the approved recommendation for temporary promotion of any officer junior to him: *Provided further*, That an officer who has lost numbers or precedence shall not be held to have completed the service prescribed in the preceding proviso until he completes five years of service in the grade of captain: *And provided further*, That the status of having once failed of selection for temporary promotion shall not be considered as prejudicial to an officer with respect to his qualifications, his fitness for the naval service, or his eligibility for selection by the next succeeding selection board.

Recommendations for temporary promotion.

Failure of selection.

Captains designated for engineering or special duty.

Ante, p. 798.

Post, p. 853.

Loss of numbers, etc.

Nonprejudicial status.

Continuation on active list.
Rear admirals.

(2) From among those rear admirals not restricted in the performance of duty who are eligible for consideration for continuation on the active list, the board shall recommend for such continuation those officers whom it considers best fitted for continued service on the active list, in number equal to the number furnished the board by the Secretary of the Navy as provided in section 308 of this title.

Ante, p. 844.
Captains designated for engineering or special duty.

(3) From among those captains designated for engineering duty, aeronautical engineering duty, or special duty who are eligible for consideration for continuation on the active list, the board shall recommend for such continuation those officers, of each such category, whom it considers best fitted for continued service on the active list, in number not exceeding the number furnished the board by the Secretary of the Navy, with respect to that category, as provided in section 308 of this title.

Ante, p. 844.
Basis of recommendation.

(4) The recommendation of the board in respect to the temporary promotion of officers who are now or may hereafter be designated for engineering duty, aeronautical engineering duty, special duty, or limited duty, shall be based upon their comparative fitness, within such categories, for the duties prescribed for them by law.

Temporary promotions.

(b) The following provisions shall relate to staff officers:

(1) From among those officers holding permanent appointments in the Regular Navy who are eligible for consideration for temporary promotion, each board shall recommend for temporary promotion those officers, if of the grade of lieutenant commander or above, or if designated for limited duty in grades above ensign, whom it considers best fitted for temporary promotion, and, if of the grade of lieutenant or lieutenant (junior grade) in the Supply and Civil Engineer Corps or if of the grade of lieutenant in the Nurse Corps, those whom it considers best fitted for temporary promotion, or, if of the grade of lieutenant or lieutenant (junior grade) in the Medical Corps, Chaplain Corps, Civil Engineer Corps, Dental Corps, or Medical Service Corps, or of the grade of lieutenant (junior grade) in the Nurse Corps, those whom it considers fitted for temporary promotion: *Provided*, That from among eligible officers holding permanent appointments in the grades of ensign and above in the Regular Navy who are junior in lineal rank to the junior officers in the appropriate promotion zone in a grade below that of captain, the board may not recommend as best fitted for temporary promotion, a number exceeding 5 per centum of the total number of officers that the board is authorized to recommend for temporary promotion to the grade concerned or, if such 5 per centum shall not equal the whole number one, a number exceeding one: *Provided further*, That from among those eligible officers not holding permanent appointments in the Regular Navy the board shall recommend for temporary promotion those whom it considers qualified for continued active duty: *Provided further*, That the total number of officers holding permanent appointments in the Regular Navy plus the number of officers not holding permanent appointments in the Regular Navy which may be recommended for temporary promotion in each grade shall not exceed the number furnished the board concerned by the Secretary of the Navy as provided in section 308 of this title: *Provided further*, That in each grade, except with respect to lieutenant commanders and lieutenants of the Nurse Corps, the junior officer in a promotion zone and all officers of his category senior to him in lineal rank who are eligible for consideration shall, if not selected for temporary promotion, be considered as having failed of selection for temporary promotion, and no such officer junior in lineal rank to said junior officer in said promotion zone shall, if not selected for temporary promotion, be considered as having failed of selection for temporary promotion:

Restriction.

Officers not holding permanent appointments.

Ante, p. 844.
Failure of selection.

And provided further, That the status of having once failed of selection for temporary promotion shall not be considered as prejudicial to any officer with respect to his qualifications, his fitness for the naval service, or his eligibility for selection by the next succeeding selection board.

(2) From among those captains who are eligible for consideration for continuation on the active list, the board shall recommend for such continuation those officers whom it considers best fitted for continued service on the active list, in numbers not exceeding the numbers furnished the board by the Secretary of the Navy as provided in section 308 of this title.

(3) The recommendation of the board in respect to the promotion of officers designated for limited duty shall be based upon their comparative fitness, within such category, for the duties prescribed for them by law.

(c) The following provisions shall relate to all officers:

(1) All reports or recommendations of a selection board under any provision of this title shall require the concurrence of at least two-thirds of the acting members: *Provided*, That the report or recommendations of a board composed of five acting members or less shall require the concurrence of at least a majority of the acting members.

(2) The selection board shall also report the names of any officers among those eligible for consideration and of less than twenty years' service whose reports and records in its opinion indicate their unsatisfactory performance of duty in their present grades and in its opinion indicate that they would not satisfactorily perform the duties of a higher grade.

REPORTS OF SELECTION BOARDS

SEC. 310. (a) The report of the board shall be in writing, signed by all of the acting members thereof, and shall certify that the board has carefully considered the case of every officer whose name was furnished to the board by the Secretary of the Navy, as provided in section 308 of this title, and that, in the opinion of at least two-thirds of the acting members, the officers holding permanent appointments above the grade of commissioned warrant officers in the Regular Navy, if line officers, or if of the grade of lieutenant or lieutenant (junior grade) in the Supply Corps or Civil Engineer Corps, or if of the grade of lieutenant in the Nurse Corps, are, subject to the limitations prescribed in section 309 of this title, selected as the best fitted to assume the duties of the next higher grade, and, if of the grade of lieutenant or lieutenant (junior grade) in the Medical Corps, Chaplain Corps, Dental Corps, or Medical Service Corps, or if of the grade of lieutenant (junior grade) in the Nurse Corps, are selected as fitted to assume the duties of the next higher grade, and if officers of any grade in the line or staff corps who do not hold permanent appointments above the grade of commissioned warrant officer in the Regular Navy, are selected as qualified for continued active duty: *Provided*, That the recommendation of the board in the cases of officers who are now or may hereafter be designated for engineering duty, aeronautical engineering duty, special duty, or limited duty, shall be based upon their comparative fitness, within such categories, as prescribed in section 309 of this title.

(b) The report of a board convened to recommend rear admirals or captains for continuation on the active list shall certify that, in the opinion of at least two-thirds of the acting members, if the board has more than five acting members, and, if the board has five acting members or less, in the opinion of at least a majority of the acting members, the officers therein recommended are selected as the best fitted for continued service on the active list.

Nonprejudicial status.

Continuation of captains on active list.

Ante, p. 844.

Basis of recommendation.

Reports, etc., of board

Ante, p. 844.

Ante, p. 840.

Continuation of rear admirals and captains on active list.

Submission to President.

(c) The report of the board shall be submitted to the President for approval or disapproval: *Provided*, That in case any officer or officers recommended by the board for temporary promotion, or, in the case of rear admirals or captains, for continuation on the active list, be not acceptable to the President, the board shall be informed of the name of such officer or officers and shall recommend a number of officers for temporary promotion or for continuation on the active list, as the case may be, equal to the number of those found not acceptable to the President, and, if necessary, the board shall be reconvened for this purpose.

TEMPORARY PROMOTIONS AND PERMANENT APPOINTMENTS

Promotion list.

SEC. 311. (a) The following provisions shall relate to line officers:

(1) Officers recommended for temporary promotion in the report of a selection board, as approved by the President, shall be regarded as having been selected for temporary promotion and their names shall be placed upon a promotion list for the grade for which selected in the order of their seniority at the time of approval of such report except that the names of officers selected in a later report shall be placed upon the promotion list after those selected for temporary promotion to the same grade in an earlier report. Temporary promotions to fill vacancies in any grade shall be made from among officers of the next lower grade whose names appear on the promotion list. Officers not restricted in the performance of duty whose names appear on the promotion list shall, in the order in which their names appear thereon, become eligible for temporary promotion to the next higher grade as vacancies therein occur among officers of the same category. Officers designated for limited duty whose names appear on the promotion list shall, in the order in which their names appear thereon, become eligible for temporary promotion to the next higher grade as vacancies therein occur among officers of the same designation. Captains designated for engineering duty, aeronautical engineering duty, or special duty whose names appear on the temporary promotion list shall, in the order in which their names appear thereon, become eligible for temporary promotion to the grade of rear admiral as vacancies therein occur among officers of such categories. An officer designated for engineering duty, aeronautical engineering duty, or special duty of a grade below captain whose name appears on a promotion list, shall, subject to the provisions of subsections 303 (c), (d), and (e) of this title, be eligible for temporary 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 temporary promotion.

Ante, p. 831.

Temporary promotion.

(2) Upon temporary promotion to a higher grade an officer shall be assigned such date of rank and registered number as will assure him precedence in accordance with the order in which his name appeared on the promotion list for that grade and shall be entitled to the pay and allowances of the higher grade from the date of the occurrence of the vacancy which he is temporarily promoted to fill: *Provided*, That an officer below the grade of captain designated for engineering duty, aeronautical engineering duty, or special duty except one temporarily promoted to fill a vacancy after delay in promotion occasioned by operation of subsection 303 (c), (d), or (e) of this title, shall, upon temporary promotion, be entitled to the pay and allowances of the grade to which temporarily promoted from the date upon which he became eligible for temporary promotion.

Ante, p. 831.

Sea or foreign service.

(3) On or after July 1, 1949, no officer holding a permanent commission in the Regular Navy above the grade of commissioned warrant officer shall be temporarily promoted to a grade above lieutenant unless

he has had not less than two years' sea or foreign service in the grade in which serving and on the promotion list for that grade: *Provided*, That the qualification of sea or foreign service shall not apply to officers restricted by law to the performance of engineering duty only, aeronautical engineering duty only, or special duty only: *And provided further*, That the Secretary of the Navy shall determine the types of duty which may be counted for the purposes of this paragraph.

(b) The following provisions shall relate to staff officers:

(1) Officers recommended for temporary promotion to a grade below rear admiral in the report of a selection board, as approved by the President, shall be regarded as having been selected for temporary promotion and their names shall be placed upon a promotion list for the grade concerned. Each such officer, except a commander of the Medical Service Corps or a lieutenant commander or lieutenant of the Nurse Corps, shall become eligible for temporary promotion to the grade for which selected when the line officer who, pursuant to subsection (d) of this section, is to be his running mate in the higher grade becomes eligible for temporary promotion to that grade. When temporarily promoted, the staff officer shall be assigned the same date of rank which has been or, in due course, will be given to such running mate in such higher grade and, except officers of the Medical Service Corps temporarily promoted to the grade of captain and officers of the Nurse Corps temporarily promoted to the grades of commander and lieutenant commander, shall be entitled to the pay and allowances of the higher grade from the date upon which such running mate became eligible for temporary promotion thereto.

(2) Temporary promotion to fill vacancies in the grade of captain in the Medical Service Corps and to the grades of commander and lieutenant commander in the Nurse Corps shall be made from among officers whose names appear on the promotion list for the grade concerned. When so promoted each such officer shall have the same date of rank which has been, or in due course will be, given the line officer who is to be his running mate in the grade to which promoted, but no increased pay or allowances shall accrue to such officer by virtue of his temporary promotion prior to the date of occurrence of the vacancy which he is promoted to fill or prior to the date of his selection for promotion, whichever shall be later.

(3) The names of officers recommended by a board for temporary promotion to the grade of rear admiral, and approved by the President, shall be placed upon a promotion list and temporary promotions to fill vacancies shall be made from officers whose names appear on the promotion list: *Provided*, That when so promoted each such officer shall have the same date of rank given to the running mate assigned him in the grade of rear admiral upon the running mate's temporary promotion to that grade: *Provided further*, That if such running mate shall not have been promoted, the staff officer shall be given as his date of rank the date of the occurrence of the vacancy which he is promoted to fill until such running mate shall have been promoted to the grade of rear admiral, at which time the staff officer shall be given a new commission with the same date of rank given to such running mate upon the latter's temporary promotion to rear admiral: *And provided further*, That each staff officer promoted to the grade of rear admiral shall be entitled to the pay and allowances of that grade only from the date of the occurrence of the vacancy which he is promoted to fill.

(c) The following provisions shall relate to line and staff officers as indicated:

(1) The President may remove the name of any officer of the line or of a staff corps from the promotion list. An officer whose name is so removed from the promotion list or one whose appointment is

Temporary promotions.
Grades below rear admiral.

Rear admirals.

Date of rank.

Pay and allowances.

Removal from promotion list.

Replacement.

rejected by the Senate, shall continue to be eligible for consideration for recommendation for temporary promotion: *Provided*, That the next ensuing selection board may recommend the officer concerned for temporary promotion, and thereupon, with the approval of the President, the name of such officer shall be replaced on the promotion list, without prejudice by reason of its having been temporarily removed therefrom, and when temporarily promoted such officer shall take the same lineal rank and date of rank that he would have had had his name not been so removed: *And provided further*, That if such officer is not so recommended by such next ensuing selection board or if the President shall again remove his name from the promotion list or if the Senate shall again reject his appointment, he shall be held for all purposes to have twice failed of selection for temporary promotion.

Authority to fill vacancies.

Ante, p. 798.*Ante*, p. 798.

Rear admiral.

Ante, p. 816.

Authority to appoint officers in grades below rear admiral.

(2) The President is authorized to fill vacancies in any grade in the line of the Regular Navy, as determined by the computations made pursuant to the provisions of section 103 of title I of this Act, by permanently appointing thereto and regularly commissioning therein officers holding permanent appointments in the line of the Regular Navy in grades above commissioned warrant officer who are serving in that grade under temporary appointments or who are on the promotion list for temporary appointment therein, but no such officer may be permanently appointed to the grade of captain prior to the fiscal year in which he and all such officers senior to him on the lineal list will have completed eighteen years total commissioned service as defined in subsection 102 (d) of title I of this Act: *Provided*, That such officers shall be so appointed in order of their seniority on the lineal list: *Provided further*, That for the purposes of this paragraph the order of seniority on the lineal list of officers on the promotion list shall be regarded as the order in which their names were placed on the promotion list: *And provided further*, That all such appointments shall be made by and with the advice and consent of the Senate.

(3) The President is authorized to fill vacancies in the grade of rear admiral in any staff corps, as determined by the computations made pursuant to the provisions of section 203 of title II of this Act, by permanently appointing thereto and regularly commissioning therein officers of the corps concerned holding permanent appointments in the Regular Navy who are serving in that grade under temporary appointment or who are on the promotion list for temporary appointment therein: *Provided*, That such officers shall be so appointed in the order of their seniority on the lineal list: *Provided further*, That for the purposes of this paragraph the order of seniority on the lineal list of officers on the promotion list shall be regarded as the order in which their names were placed on the promotion list: *Provided further*, That each officer appointed to the grade of rear admiral pursuant to this paragraph shall be given in his appointment the same date of rank stated in the permanent commission of his running mate in the grade of rear admiral: *Provided further*, That if such running mate shall not have been permanently appointed to the grade of rear admiral, the staff officer shall be given as his date of rank the date of rank stated in his temporary commission in that grade until such running mate is permanently appointed to the grade of rear admiral at which time the staff officer shall be given a new commission with the same date of rank given to such running mate upon the latter's permanent appointment as rear admiral: *And provided further*, That all such appointments shall be made by and with the advice and consent of the Senate.

(4) The President is authorized to permanently appoint in any grade below rear admiral in any staff corps of the Regular Navy and

regularly commission therein officers of the staff corps concerned holding permanent appointments as such in the Regular Navy in grades above commissioned warrant officer, who are serving in that grade under temporary appointments or who are on the promotion list for temporary appointment therein when the line running mates of such officers are permanently appointed in such grade pursuant to the provisions of paragraph (2) of this subsection, and in the event that any such officer has a running mate who does not hold a permanent appointment in the line of the Regular Navy in grades above commissioned warrant officer, he may be so permanently appointed to and regularly commissioned in such grade when the senior of those line officers holding permanent appointments in the Regular Navy in such grade junior to his running mate is permanently appointed to such grade: *Provided*, That such officers when so appointed shall be deemed for all purposes to have been so appointed simultaneously with their line running mates and their commissions shall bear date of rank accordingly: *Provided further*, That in cases where the eligibility of an officer of a staff corps for permanent appointment in any grade in the Regular Navy is dependent upon the eligibility for permanent appointment to such grade of a line officer other than his running mate, such officer of the staff corps, when permanently appointed, shall receive a commission with the same date of rank in such grade as that of such line officer: *Provided further*, That should the line running mate of an officer on the promotion list not be on the promotion list such officer shall be appointed to the grade for which selected and be assigned a line running mate and date of rank therein, in the manner prescribed in this section for a temporary promotion: *Provided further*, That nothing contained in this subsection shall operate to increase the allowed number of captains in the Medical Service Corps or the allowed number of commanders or lieutenant commanders in the Nurse Corps, as determined pursuant to section 203 of this title: *And provided further*, That all such appointments shall be made by and with the advice and consent of the Senate.

(5) The President is authorized to permanently appoint to a grade in the line of the Naval Reserve and regularly commission therein, officers of the Naval Reserve, holding permanent appointments above the grade of commissioned warrant officer therein, on active duty who are serving in that grade under temporary appointments or who are on the promotion list for temporary appointment therein when the officer next senior to each such officer, in the line is permanently appointed in such grade pursuant to the provisions of paragraph (2) of this subsection: *Provided*, That such officers when so appointed shall be deemed for all purposes to have been so appointed simultaneously with such next senior officer, and their commissions shall bear date of rank accordingly.

(6) Each officer in any staff corps of the Naval Reserve holding a permanent appointment above the grade of commissioned warrant officer therein, who has a permanently appointed line officer of the Regular Navy as his running mate in a grade to which he is temporarily appointed pursuant to this title, may be permanently appointed to and regularly commissioned in such grade in the Naval Reserve when his running mate is so permanently appointed to such grade in the Regular Navy; and each officer in any staff corps of the Naval Reserve holding a permanent appointment above the grade of commissioned warrant officer therein who has a running mate in a grade to which he is temporarily appointed pursuant to this title other than a permanently appointed line officer of the Regular Navy, may be permanently appointed to and regularly commissioned in such grade in the Naval Reserve when the senior of those permanently

Restriction.

Ante, p. 816.

Naval Reserve.

commissioned line officers of the Regular Navy junior to his running mate is so permanently appointed to such grade in the Regular Navy.

Running mates and precedence.

(d) The following provisions shall relate to running mates and precedence:

Ante, p. 833.

(1) Upon determination of running mates as provided in section 304 of this title, staff officers shall have the running mates so assigned them. Thereafter line running mates shall be assigned to staff officers and staff officers shall take precedence in accordance with the provisions of this subsection.

(2) Line and staff officers of the Navy, when of the same grade, shall take precedence with all other line and staff officers of the same grade from the dates of rank stated in their commissions in said grade: *Provided*, That officers serving in the same grade and having the same date of rank in that grade shall take precedence in the following order: (a) Line officers, (b) medical officers, (c) supply officers, (d) chaplain, (e) civil engineers, (f) dental officers, (g) officers of the Medical Service Corps, and (h) officers of the Nurse Corps.

60 Stat. 92.
34 U. S. C. § 2 *et seq.*
Ante, p. 738; *post*,
pp. 867, 877.

(3) Lieutenants (junior grade) in a staff corps, appointed subsequent to the enactment of this Act pursuant to any authority other than the Act of April 18, 1946 (Public Law 347, Seventy-ninth Congress), with dates of rank in that grade in the same calendar year shall, in order of their lineal rank and following December 31 of that year, be assigned running mates among line lieutenants (junior grade) with dates of rank in the same calendar year, if of other than the Medical Corps, and in the preceding calendar year if of the Medical Corps, in the manner herein prescribed. Each such staff officer shall be assigned as his running mate the line officer whose numerical position in the order of lineal rank among the line lieutenants (junior grade) above described is equal, or nearest equal, to the product of the numerical position of the staff officer in his order of lineal rank in his corps and a fraction whose numerator is the number of such line officers and whose denominator is the number of such staff officers. When there is but one such staff officer, the running mate shall be the line officer whose lineal rank is nearest the middle of the line officers concerned: *Provided*, That in any staff corps where officers may be originally appointed to the grade of lieutenant (junior grade) or ensign, all staff officers of that corps with dates of rank as lieutenants (junior grade) in the same calendar year shall, for the purpose of assignment of running mates, be regarded as having lineal rank in such order as may be recommended in the approved report of a board of officers convened for that purpose; such boards shall be convened as soon as practicable after December 31 of each year, shall be composed of officers of the corps concerned, and their recommendations when approved by the Secretary of the Navy shall be conclusive.

60 Stat. 92.
34 U. S. C. § 2 *et seq.*
Ante, p. 738; *post*,
pp. 867, 877.
Ante, p. 833.

(4) An officer appointed to a staff corps in a grade above that of lieutenant (junior grade), or in the grade of lieutenant (junior grade), pursuant to the Act of April 18, 1946 (Public Law 347, Seventy-ninth Congress), subsequent to the date of the establishment of the lineal list of line officers as prescribed by subsection 304 (a) of this title, shall be assigned as his running mate by the Secretary of the Navy, a line officer with the same date of rank in the highest grade, permanent or temporary, to which the staff officer is appointed or, if there be none, the junior line officer with the next earlier date of rank in such grade.

Officer of staff corps of Naval Reserve.

Ante, p. 833.

(5) An officer of a staff corps of the Naval Reserve assigned to active duty subsequent to the date of the establishment of the lineal list of line officers as prescribed by subsection 304 (a) of this title, shall, for the purposes of this subsection only, be regarded as having date of rank in his grade according to his active service in that grade and

in the rank corresponding to such grade and shall, if he be of a grade above lieutenant (junior grade), be assigned as his running mate the junior line officer of the same grade with the same date of rank or, if there be none, the junior such line officer with next earlier date of rank; if he be of the grade of lieutenant (junior grade), he shall be assigned a running mate in the manner prescribed in paragraph (3) of this subsection of this title for officers appointed to the staff corps of the Regular Navy.

(6) Notwithstanding the provisions of paragraphs (3) and (4) of this subsection, a line officer hereafter transferred to a staff corps in the grade of lieutenant (junior grade) or above shall, upon transfer, have assigned as his running mate the line officer immediately senior to him at the time of transfer.

(7) Should the running mate of a staff officer be separated from the active list or for any cause lose numbers, a new running mate shall be assigned the staff officer who shall be the line officer who was next senior to the former running mate, or the line officer who was next junior if the former running mate was the senior officer in the grade concerned.

(8) A staff officer selected for temporary promotion shall, when promoted, have assigned as his running mate in the grade to which promoted, a line officer of the same grade whose name was placed upon the promotion list for that grade upon approval of the line selection board immediately preceding the staff corps selection board which selected the staff officer. Such line officer shall be the officer who was the running mate of the staff officer in the grade from which promoted if such running mate shall have been selected and promoted; otherwise the new running mate shall be the line officer whose name was on the said promotion list and who shall have been selected and promoted next senior to the former running mate or, if there be no such line officer, the line officer who shall have been selected and promoted next junior to the former running mate. In the application of this subsection, if a board on selection for any staff corps and grade therein be not convened between the date of convening of two or more line selection boards for the same grade, the earliest of such boards shall be held as being the line selection board immediately preceding the staff board when convened.

(9) Should the running mate of a staff officer be promoted to a higher grade and such staff officer be not so promoted, the latter shall have assigned as his running mate in the grade in which he remains the line officer of that grade who was next senior to the former running mate, or if there be none the line officer of that grade next junior to the former running mate.

(10) If a staff officer of the grade of lieutenant (junior grade) or above shall lose numbers in grade for any cause he shall have assigned as his new running mate the line officer who is the running mate of the junior of those officers in his corps who becomes or will become senior to him as the result of such loss of numbers.

(11) If the running mate of a staff officer shall be advanced in numbers or shall be advanced in grade in accordance with section 1508 of the Revised Statutes, the staff officer shall have assigned as his new running mate the line officer not advanced who was next senior to his former running mate in the grade in which the staff officer remains or, if there remain in that grade no line officer who was senior to such former running mate in the grade concerned, the staff officer shall have assigned as his new running mate the senior line officer in the grade in which the staff officer remains.

(12) If a staff officer of the grade of lieutenant (junior grade) or above shall be advanced in numbers in his grade, he shall have assigned

Line officer transferred to staff corps.

Separation of running mate from active list, etc.

Staff officer selected for temporary promotion.

Promotion of running mate.

Loss of numbers by staff officer.

Advancement in numbers, etc., of running mate.
34 U. S. C. § 345.

Advancement in numbers of staff officer.

as his new running mate the line officer who is the running mate of the officer of the same grade in his corps immediately senior to such staff officer in the position to which advanced; if there be no such senior staff officer, the staff officer who is so advanced shall have assigned as his new running mate the line officer who is the running mate in the grade concerned of the staff officer of the same corps immediately junior to such staff officer in the position to which advanced.

Line officer running mate.

(13) The line officer running mate assigned a staff officer pursuant to this section shall, if the staff officer be one designated for limited duty, be an officer also designated for limited duty; in all other cases the running mate shall be a line officer not restricted in the performance of duty.

Pay and allowances.

(14) Officers of the staff corps serving in the grade of rear admiral shall receive the pay and allowances prescribed by law for rear admirals of the upper half from the date on which their respective running mates enter the upper half of the list of rear admirals, but not prior to the date of the vacancy the staff officer was promoted to fill.

RETIREMENT OF OFFICERS BELOW THE GRADE OF REAR ADMIRAL

Applicability.

SEC. 312. (a) The provisions of this section shall be applicable only to officers holding permanent appointments on the active list of the Regular Navy.

Captains.

(b) Captains of the Medical Service Corps shall be placed on the retired list on June 30 of the fiscal year in which they complete thirty-one years of total commissioned service, and captains of the line and of each other corps whose names, on June 30 of the fiscal year in which they complete thirty-one years of total commissioned service, as defined for line officers in section 102 of title I and for staff officers in section 202 of title II of this Act, are not on a promotion list, shall, subject to the provisions of paragraph (1) of subsection 311 (c) of this title, if not otherwise retired pursuant to law, be placed on the retired list on that date: *Provided*, That an officer who has lost numbers or precedence shall not be placed on the retired list by reason of completion of thirty-one years of total commissioned service as so defined until June 30 of the fiscal year in which he completes five years of service in the grade of captain: *Provided further*, That captains not restricted in the performance of duty whose names, on June 30 of the fiscal year in which they complete thirty years of total commissioned service, are not on a promotion list, shall, subject to the provisions of paragraph (1) of subsection 311 (c), if not otherwise retired pursuant to law, and if they shall have twice failed of selection for temporary promotion to rear admiral, be placed on the retired list on that date: *Provided further*, That not to exceed the following numbers of captains, recommended for continuation on the active list in the report of a selection board as approved by the President, may be so continued until the report of the next succeeding selection board is approved but no such captain shall be continued on the active list beyond June 30 of the fiscal year in which he shall have completed thirty-five years of total commissioned service as so defined: Ten designated for engineering duty, five designated for aeronautical engineering duty, ten designated for special duty, twenty-two in the Medical Corps, twenty-two in the Supply Corps, twenty-five in the Chaplain Corps, seven in the Civil Engineer Corps, and twelve in the Dental Corps: *And provided further*, That a captain so continued on the active list shall, if not again recommended for continuation on the active list in the approved report of the next succeeding selection board, thereafter be carried in excess of the number authorized to be so continued and shall be placed on the retired list on June 30 of the then current fiscal year.

Ante, p. 798.

Ante, p. 816.

Ante, p. 853.

Ante, p. 853.

Continuation on active list.

(c) Commanders, except commanders designated for limited duty, whose names, on June 30 of the fiscal year in which they complete twenty-six years of total commissioned service, are not on a promotion list, shall, subject to the provisions of paragraph (1) of subsection 311 (c) of this title, if not otherwise retired pursuant to law and if they shall have twice failed of selection for temporary promotion to captain, be placed on the retired list on that date. Commanders, except commanders designated for limited duty, who shall twice fail of selection for temporary promotion to captain, if such second failure shall occur subsequent to June 30 of the fiscal year in which they complete twenty-six years of total commissioned service, shall, if not otherwise retired pursuant to law, be placed on the retired list on June 30 of the fiscal year in which such second failure shall occur: *Provided*, That commanders in the Medical Service Corps shall not be involuntarily retired by reason of failure of selection for temporary promotion until June 30 of the fiscal year in which they shall have completed thirty years of total commissioned service: *Provided further*, That the definitions of total commissioned service set forth in sections 102 and 202 of this Act shall be applicable to this subsection.

(d) Officers designated for limited duty shall, if not otherwise retired pursuant to law, be placed on the retired list on the last day of the month following the month in which they complete thirty years of active naval service exclusive of active duty for training in a Reserve component.

(e) Lieutenant commanders, except lieutenant commanders designated for limited duty and lieutenant commander of the Nurse Corps, whose names, on June 30 of the fiscal year in which they completed twenty years of total commissioned service, are not on a promotion list, shall, subject to the provisions of paragraph (1) of subsection 311 (c) of this title, if not otherwise retired pursuant to law and if they shall have twice failed of selection for temporary promotion to commander, be placed on the retired list on that date. Lieutenant commanders, except lieutenant commanders designated for limited duty and lieutenant commander of the Nurse Corps, who shall twice fail of selection for temporary promotion to commander, if such second failure shall occur subsequent to June 30 of the fiscal year in which they complete twenty years of total commissioned service, shall, if not otherwise retired pursuant to law, be placed on the retired list on June 30 of the fiscal year in which such second failure shall occur: *Provided*, That the definitions of total commissioned service set forth in sections 102 and 202 of this Act shall be applicable to this subsection.

(f) Lieutenant commanders designated for limited duty shall, if not otherwise retired pursuant to law, be placed on the retired list on June 30 of the fiscal year in which they shall have twice failed of selection for temporary promotion to commander: *Provided*, That such an officer instead of such separation from the active list shall, if he had the permanent status of a warrant officer or a commissioned warrant officer when first appointed an officer for the performance of limited duty only, have the option of reverting to the grade and status he would have held had he not been so appointed, and if he had a permanent rating below warrant officer when first so appointed he shall have the option of reverting to the grade and status he would have held had he not been so appointed but had instead been appointed a warrant officer, and in any computation to determine such grade and status all active service as an officer designated for limited duty or as a temporary or Reserve officer shall be included: *And provided further*, That such an officer exercising such option shall, if not otherwise retired pursuant to law, be placed on the retired list in the grade

Commanders.

Ante, pp. 798, 816.

Officers designated for limited duty.

Lieutenant commanders.

Ante, p. 853.*Ante*, pp. 798, 816.

Lieutenant commanders designated for limited duty.

in which then serving upon the completion of a total of thirty years of active naval service, exclusive of active duty for training in a Reserve component, with retired pay at the rate of 75 per centum of his active-duty pay.

Retired pay for officers in grades above lieutenant.

(g) Officers above the grade of lieutenant who are placed on the retired list pursuant to the provisions of this section shall be placed thereon with retired pay at the rate of 2½ per centum of their active-duty pay at the time of retirement multiplied by the number of years of service for which entitled to credit in the computation of their pay on the active list, not to exceed a total of 75 per centum of said active-duty pay: *Provided*, That a fractional year of six months or more shall be considered a full year in computing the number of years' service by which the rate of 2½ per centum is multiplied: *Provided further*, That the retired pay of an officer commissioned in the Regular Navy pursuant to the provisions of the Act approved April 18, 1946 (Public Law 347, Seventy-ninth Congress), or one commissioned in the Regular Navy subsequent to September 8, 1939, while serving on active duty as an officer of the Naval Reserve, who is so placed on the retired list, shall not be less than 50 per centum of his active-duty pay at the time of retirement.

Fractional year.

60 Stat. 92.
34 U. S. C. § 2 *et seq.*
Ante, p. 738; *post*,
pp. 867, 877.

Honorable discharge.

(h) Lieutenants, except lieutenants of the Nurse Corps and lieutenants (junior grade), who shall have twice failed of selection for promotion to lieutenant commander and lieutenant, respectively, and officers whose names are reported in accordance with paragraph (2) of subsection 309 (c) of this Act, shall be honorably discharged from the Navy on June 30 of the fiscal year in which they fail of such selection the second time, or in which their names are reported in accordance with paragraph (2) of subsection 309 (c) of this Act, with a lump-sum payment computed on the basis of two months' active-duty pay at the time of discharge for each year of commissioned service computed in accordance with subsection 102 (d) for line officers or subsection 202 (d) for staff officers, but not to exceed a total of two years' active-duty pay: *Provided*, That for the purpose of this subsection a fractional year of six months or more shall be considered a full year in computing the number of years commissioned service upon which to base such lump-sum payment: *And provided further*, That an officer designated for limited duty, instead of such separation from the active list, shall have the option described in subsection (f) of this section.

Ante, p. 851.

Ante, p. 798.

Ante, p. 816.

Fractional year.

Physical disability.

(i) Officers on a promotion list who, at any time prior to promotion, are found incapacitated for service by reason of physical disability contracted in line of duty shall, when retired, be retired in the rank for which they were selected, with retired pay at the rate of 75 per centum of the active-duty pay of the grade to which selected. For the purpose of this subsection, officers on a promotion list for temporary promotion to the next higher grade shall be considered to be on the promotion list for permanent promotion thereto.

Applicability of designated provisions to officers above grade of ensign.

(j) The provisions of this title relating to the discharge or retirement of officers who have twice failed of selection for temporary promotion shall be applicable to officers above the grade of ensign who fail on professional reexamination for temporary promotion in the same manner as if such officers had twice failed of selection for temporary promotion.

Retired rank, etc.

(k) Nothing in this section shall be held to reduce the retired rank or pay to which an officer would be entitled under other provisions of law.

RETIREMENT OF OFFICERS ABOVE THE GRADE OF CAPTAIN

SEC. 313. (a) Rear admirals who, having been considered by two successive selection boards for recommendation for continuation on the active list, are not so recommended in the approved report of such a board shall, if not otherwise retired pursuant to law, be placed upon the retired list on June 30 of the then current fiscal year with retired pay at the rate of $2\frac{1}{2}$ per centum of their active-duty pay in the grade in which serving at the time of retirement multiplied by the number of years of service for which they would be entitled to credit in the computation of pay on the active list had they been serving in the grade of captain at the time of their retirement, but retired pay so computed shall not exceed a total of 75 per centum of said active-duty pay.

Rear admirals.

(b) Should it be found, as of the time of the convening of a board for the consideration of rear admirals of the line who are not restricted in the performance of duty for continuation on the active list, that the number to be furnished the board as determined pursuant to the provisions of subsection 308 (a) (8) would, except for the proviso to said subsection, be less than 50 per centum of the number of such rear admirals, excluding those who have once failed of selection for continuation on the active list, eligible for such consideration, the Secretary of the Navy shall convene a board of not less than five officers, not restricted in the performance of duty and serving in ranks above that of rear admiral, to consider such rear admirals, excluding those who have once failed of selection for continuation on the active list, who completed four years of service in that grade and thirty-four years of total commissioned service, as defined in section 102 of title I of this Act, prior to July 1 of the current fiscal year, and recommend for retirement a sufficient number so that the number to be furnished the board as so determined shall equal said 50 per centum.

Ante, p. 845.*Ante*, p. 798.

(c) The Secretary of the Navy shall make a special review of vacancies in the grade of rear admiral in the Chaplain Corps in the third fiscal year following the fiscal year in which this Act becomes effective, and in the third fiscal year of each three-year period thereafter, and, should it be found, in any such third year, as of the time of the convening of a board for the consideration of captains of the Chaplain Corps for temporary promotion to the grade of rear admiral that no such captain was selected during the two preceding fiscal years because of lack of existing and estimated vacancies, and that no vacancy exists and none is estimated to occur during the ensuing twelve-month period, the Secretary of the Navy shall convene a board composed of three officers of the line of the grade of rear admiral or above, to consider rear admirals of the Chaplain Corps and to recommend one such officer for retirement.

Review of vacancies.
Rear admirals in
Chaplain Corps.

(d) The Secretary of the Navy shall make a special review of vacancies in the grade of rear admiral in the Dental Corps in the second fiscal year following the fiscal year in which this Act becomes effective, and in the second fiscal year of each two-year period thereafter, and, should it be found, in any such second year, as of the time of the convening of a board for the consideration of captains of the Dental Corps for temporary promotion to the grade of rear admiral, that no such captain was selected during the preceding fiscal year because of lack of existing and estimated vacancies and that no vacancy exists and none is estimated to occur during the ensuing twelve-month period, the Secretary of the Navy shall convene a board composed of one officer of the Dental

Rear admirals in
Dental Corps.

Corps and two officers of the line, of the grade of rear admiral or above, to consider rear admirals of the Dental Corps and to recommend one such officer for retirement.

Selection for temporary promotion of captains.

(e) Should it be found, as of the time of the convening of a board for the consideration of captains of the line who are not restricted in the performance of duty for temporary promotion to the grade of rear admiral, that the number of vacancies existing plus the estimated number of vacancies which will occur during the ensuing twelve-month period in the grade of rear admiral is less than will permit the selection for temporary promotion of a number of such captains equal to 10 per centum of the authorized number of rear admirals, not restricted in the performance of duty, the Secretary of the Navy shall convene a board of not less than five officers, not restricted in the performance of duty, serving in ranks above that of rear admiral, to consider and recommend for retirement a sufficient number of such rear admirals to permit the selection for temporary promotion of the said number of such captains.

Captains designated for engineering or special duty.

(f) Should it be found, as of the time of the convening of a board for the consideration of captains designated for engineering duty, aeronautical engineering duty, or special duty for temporary promotion to the grade of rear admiral, that the number of vacancies existing plus the estimated number of vacancies which will occur during the ensuing twelve-month period in the grade of rear admiral is less than will permit the selection for temporary promotion of a number of such captains equal to 15 per centum of the authorized number of rear admirals designated for engineering duty, aeronautical engineering duty, or special duty, the Secretary of the Navy shall convene a board of not less than five officers, serving in ranks above that of rear admiral, to consider and recommend for retirement a sufficient number of such rear admirals to permit the selection for temporary promotion of the said number of such captains.

Selection for temporary promotion of captains in Medical and Supply Corps.

(g) Should it be found, as of the time of the convening of a board for the consideration of captains in the Medical Corps or in the Supply Corps for temporary promotion to the grade of rear admiral, that the number of vacancies existing plus the estimated number of vacancies which will occur during the ensuing twelve-month period in the grade of rear admiral is less than will permit the selection for temporary promotion of a number of captains in the corps concerned equal to 15 per centum of the authorized number of rear admirals in such corps, the Secretary of the Navy shall convene a board of not less than five officers, serving in the rank of rear admiral or above, to consider and recommend for retirement a sufficient number of such rear admirals to permit the selection for temporary promotion of the said number of such captains.

Rear admirals in Civil Engineer Corps.

(h) The Secretary of the Navy shall make a special review of vacancies in the grade of rear admiral in the Civil Engineer Corps in the second fiscal year following the fiscal year in which this Act becomes effective and in the second fiscal year of each two-year period thereafter, and, should it be found, in any such second year, as of the time of the convening of a board for the consideration of captains of the Civil Engineer Corps for temporary promotion to the grade of rear admiral, that no such captain was selected during the preceding fiscal year because of lack of existing and estimated vacancies, and that no vacancy exists and none is estimated to occur during the ensuing twelve-month period, the Secretary of the Navy shall convene a board composed of one officer of the Civil Engineer Corps and two officers of the line, of the rank of rear admiral or above, to consider rear admirals of the Civil Engineer Corps and to recommend one such officer for retirement.

(i) The boards provided for in this section relative to staff officers, except as otherwise specified in this section, shall be composed of officers on the active list of the Navy of the corps concerned. In case there be not a sufficient number of officers of the corps concerned legally or physically capacitated to serve on a selection board of such corps, officers of the line on the active list of equivalent rank may be detailed to duty on such board to constitute the required membership.

Composition of boards.

(j) The report of a board convened pursuant to the provisions of this section shall be submitted to the President for approval or disapproval; if the President shall disapprove the recommendations of the board in whole or in part, the board shall then recommend additional rear admirals for retirement equal in number to those disapproved by the President.

Submission of report to President.

(k) Officers so recommended for retirement as approved by the President shall, if not otherwise retired pursuant to law, be placed upon the retired list on June 30 of the then current fiscal year with retired pay at the rate of 2½ per centum of their active-duty pay in the grade in which serving at the time of retirement multiplied by the number of years of service for which they would be entitled to credit in the computation of pay on the active list had they been serving in the grade of captain at the time of their retirement, but retired pay so computed shall not exceed a total of 75 per centum of said active-duty pay.

Retired pay.

(l) Nothing in this section shall be held to reduce the retired rank or pay to which an officer would be entitled under other provision of law.

Restriction.

MARINE CORPS

SEC. 314. (a) Commissioned officers of the Marine Corps shall be authorized in number in the same proportion to authorized enlisted strength and shall be distributed in grades, promoted, retired, and discharged in like manner and with the same relative conditions in all respects as provided for commissioned officers of the line of the Navy, by existing law, or by laws hereafter enacted, except as may be necessary to adapt the said provisions to the Marine Corps, or as herein otherwise provided.

(b) Of the authorized number of commissioned officers above the grade of colonel who are not restricted in the performance of duty, not more than 50 per centum may be major generals and above and the remainder brigadier generals.

Officers above grade of colonel not restricted in duty.

(c) The number of brigadier generals designated for supply duty, including the officer serving as the head of the Supply Department, shall not exceed at any one time a number equal to 13 per centum of the number of general officers of the Marine Corps not restricted in the performance of duty authorized at that time.

Supply duty. Brigadier generals.

(d) The total number of officers designated for supply duty in the combined grades of colonel, lieutenant colonel, and major shall not exceed at any one time a number equal to 8 per centum of the total number of officers not restricted in the performance of duty authorized in those grades at that time.

Combined grades of colonel, lieutenant colonel, and major.

(e) The requirement of sea or foreign service in grade shall not apply to temporary promotion of officers of the Marine Corps.

Sea or foreign service.

(f) Selection boards shall consist of nine officers of the active list of the Marine Corps, the composition of the boards to be determined by the Secretary of the Navy: *Provided*, That no officer shall be recommended for temporary promotion or for continuation on the active list unless he shall have received the recommendation of not less than two-thirds of the acting members of the board: *Provided further*, That whenever there are insufficient general officers available to comprise a

Selection boards.

Recommendation for temporary promotion, etc.

Ante, p. 841.

Administrative staff duty.

Appointment of alternate members of board.

Temporary promotion to major general.

Ante, p. 853.

Post, p. 879.

Pay and allowances.

Promotion zone in grade of brigadier general.

selection board for the recommendation of officers for temporary promotion to the grades of brigadier general and colonel without placing thereon general officers who served as members of the same corresponding board the preceding year, officers of the active list of the line of the Navy, not restricted in the performance of duty, of the grade of rear admiral may be substituted for general officers of the Marine Corps in order to comply with the provisions of section 305 (a) (2) of this title: *Provided further*, That selection boards to recommend brigadier generals for temporary promotion to major general shall be composed of officers of the permanent grade of major general on the active list of the Marine Corps to the extent that such officers are deemed available for this duty by the Secretary of the Navy, and the remainder of the board shall be composed of rear admirals on the active list of the line of the Navy, not restricted in the performance of duty: *And provided further*, That administrative staff duty performed by any officer under appointment or detail, and duty in aviation, or in any technical specialty, 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) Whenever officers designated for supply duty are eligible for consideration by a selection board for temporary promotion or for continuation on the active list, the Secretary of the Navy shall appoint, as alternate members of the appropriate selection board, three officers of that designation, and if there be not three available, he shall so appoint such lesser number as may be available, and the junior members of the board who are not restricted in the performance of duty, in like number, shall not act upon the cases of officers designated for supply duty. No such alternate member shall act upon the cases of officers other than those designated for supply duty. No officer designated for supply duty or for limited duty shall act upon the cases of officers not restricted in the performance of duty.

(h) Temporary promotion to major general shall be from brigadier generals who are not restricted in the performance of duty, and such officers shall be eligible for consideration by a selection board for temporary promotion to major general when they will have completed on June 30 of the fiscal year of the convening of the board four years' service in that grade. The date of rank of an officer temporarily appointed in the grade of major general shall be the date of rank held by such officer in the grade of brigadier general under permanent or temporary appointment: *Provided*, That subject to the provisions of subsection 311 (c) (1) and subsection 423 (b) of this Act, such date of rank shall not be earlier than that of the junior officer in the grade of major general: *And provided further*, That such an officer shall be entitled to the pay and allowances of the higher grade from the date of occurrence of the vacancy which he is promoted to fill.

(i) The promotion zone in the grade of brigadier general for officers not restricted in the performance of duty shall be established by the Secretary of the Navy as of the date of the convening of a selection board to consider officers of that grade for recommendation for temporary promotion to the next higher grade. It shall consist of that number of the most senior such officers of the grade of brigadier general who are eligible for selection for temporary promotion to the next higher grade and have not previously failed of such selection, which must be either selected for temporary 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 to best assure to individuals in succeeding years equality of opportunity for promotion. The number shall be determined by

the Secretary of the Navy and shall be based upon a consideration of the estimated number of vacancies which will occur in the next higher grade for each of the ensuing five years and the number of such officers who will be eligible for selection.

(j) Officers serving in the grade of major general in the Marine Corps and officers serving in the grade of rear admiral in the Navy who are entitled to the pay of the upper half of that grade shall take rank among themselves according to their respective dates of rank in such grades. Officers serving in the grade of brigadier general in the Marine Corps and officers serving in the grade of rear admiral in the Navy who are entitled to the pay of the lower half of that grade shall take rank among themselves according to their respective dates of rank in such grades.

Rank in designated grades.

(k) The provisions of this title relating to the selection of rear admirals for continuation on the active list shall not be applicable to major generals.

Nonapplicability.

(l) Should it be found, as of the time of the convening of a board for the consideration of brigadier generals for temporary promotion to the grade of major general, that the number of vacancies existing plus the estimated number of vacancies which will occur during the ensuing twelve-month period in the grade of major general is less than will permit the selection for temporary promotion of a number of brigadier generals equal to 50 per centum of the number of such officers comprising the promotion zone for that grade, the Secretary of the Navy shall convene a board of not less than five officers serving in ranks above that of major general or rear admiral to consider and recommend for retirement a sufficient number of major generals to permit the selection for temporary promotion of the said number of brigadier generals.

Selection for temporary promotion of brigadier generals.

(m) Should it be found, as of the time of the convening of a board for the consideration of colonels, who are not restricted in the performance of duty for temporary promotion to the grade of brigadier general, that the number of vacancies existing plus the estimated number of vacancies which will occur during the ensuing twelve-month period is less than will permit the selection for temporary promotion of a number of such colonels equal to 10 per centum of the authorized number of general officers who are not restricted in the performance of duty, the Secretary of the Navy shall convene a board of not less than five officers serving in ranks above that of major general or rear admiral to consider and recommend for retirement a sufficient number of general officers to permit the selection for temporary promotion of the said number of colonels.

Selection for temporary promotion of colonels.

(n) Brigadier generals, who are not restricted in the performance of duty, whose names are not on the promotion list shall, if not otherwise retired pursuant to law, be placed on the retired list on June 30 of the fiscal year in which they fail of selection for temporary promotion the second time with retired pay at the rate of 2½ per centum of their active-duty pay in the grade in which serving at the time of retirement multiplied by the number of years of service for which they would be entitled to credit in the computation of pay on the active list had they been serving in the grade of colonel at the time of their retirement, but retired pay so computed shall not exceed a total of 75 per centum of said active-duty pay.

Brigadier generals.
Retired pay.

(o) The provisions of this title relating to officers of the Navy designated for limited duty shall be applicable in like manner and with like effect to officers of the Marine Corps designated for limited duty.

Applicability of designated provisions.

(p) The provisions of this title relating to officers of the Navy designated for engineering duty shall be applicable in like manner

and with like effect to officers of the Marine Corps designated for supply duty, except as may be necessary to adapt the said provisions to the Marine Corps or as herein otherwise provided.

Brigadier generals designated for supply duty.

(q) Brigadier generals designated for supply duty, if not retired pursuant to other provisions of law, shall, except as otherwise provided in this section, be placed on the retired list on June 30 of the fiscal year in which they complete five years' service in that grade and thirty-five years' total commissioned service, the latter as defined in section 102 of title I of this Act, with retired pay at the rate of 2½ per centum of their active-duty pay in the grade in which serving at the time of retirement multiplied by the number of years of service for which they would be entitled to credit in the computation of pay on the active list had they been serving in the grade of colonel at the time of their retirement, but retired pay so computed shall not exceed a total of 75 per centum of said active-duty pay.

Ante, p. 798.

Continuation on active list.

(r) Brigadier generals of the Marine Corps designated for supply duty who in the then current fiscal year complete or will complete five years' service in their grade and have completed or will complete in such fiscal year thirty-five years of total commissioned service; those who prior to the then current fiscal year have completed five years' service in their grade and in such fiscal year complete or will complete thirty-five years of total commissioned service; and those who were recommended for continuation on the active list in the approval report of the immediately preceding appropriate selection board, shall be eligible for consideration by a selection board for continuation on the active list: *Provided*, That total commissioned service shall be as defined in section 102 of title I of this Act: *Provided further*, That not to exceed two such brigadier generals recommended for continuation on the active list in the report of a selection board as approved by the President may be so continued until the report of the next succeeding selection board is approved: *And provided further*, That a brigadier general so continued on the active list shall, if not again recommended for continuation on the active list in the approved report of the next succeeding selection board, thereafter be carried in excess of the number authorized to be so continued and shall be placed on the retired list on June 30 of the then current fiscal year.

Ante, p. 798.

(s) In addition to the information otherwise required by this title, the Secretary of the Navy shall furnish the appropriate selection board with the number of brigadier generals designated for supply duty which the board may recommend for continuation on the active list. The number so furnished shall be such number as the Secretary of the Navy shall determine to be necessary to meet the requirements of the Marine Corps not to exceed two.

Selection for temporary promotion of colonels.

(t) Should it be found, as of the time of the convening of a board for the consideration of colonels designated for supply duty for temporary promotion to the grade of brigadier general, that the number of vacancies existing plus the estimated number of vacancies which will occur during the ensuing twelve-month period in the grade of brigadier general is less than will permit the selection for temporary promotion in such period of a number of such colonels equal to 15 per centum of the authorized number of brigadier generals designated for supply duty, the Secretary of the Navy shall convene a board of not less than five officers serving in ranks above that of brigadier general to consider and recommend for retirement a sufficient number of brigadier generals designated for supply duty to permit the selection for temporary promotion in such period of the said number of such colonels.

Number to be continued on active list.

(u) The number to be furnished the board in respect to colonels designated for supply duty to be continued on the active list shall be such number, not to exceed two, as the Secretary of the Navy shall determine to be necessary to meet the requirements of the Marine Corps.

(v) Officers recommended for retirement in the report of a board convened pursuant to subsections (l), (m), and (t) of this section, as approved by the President, shall, if not otherwise retired pursuant to law, be placed on the retired list on June 30 of the then current fiscal year with retired pay at the rate of 2½ per centum of their active-duty pay in the grade in which serving at the time of retirement multiplied by the number of years of service for which they would be entitled to credit in the computation of pay on the active list had they been serving in the grade of colonel at the time of their retirement, but retired pay so computed shall not exceed a total of 75 per centum of said active-duty pay.

(w) From among the officers designated for supply duty who are eligible for consideration for continuation on the active list, the board shall recommend for such continuation those officers whom it considers best fitted for continued service on the active list in number equal to the number furnished the board by the Secretary of the Navy.

(x) Nothing in this section shall be held to reduce the retired rank or pay to which an officer would be entitled under other provisions of law.

(y) The report of a board convened pursuant to the provisions of subsections (l), (m), and (t) of this section shall be submitted to the President for approval or disapproval; if the President shall disapprove the recommendations of the board in whole or in part, the board shall then recommend additional appropriate general officers for retirement equal to the number disapproved by the President.

Retired pay.

Recommendation for continuation on active list.

Retired rank, etc.

Submission of report to President.

DETERMINATION OF UPPER AND LOWER HALF REAR ADMIRALS

SEC. 315. Rear admirals on the active list of the line in the upper half of that grade, exclusive of officers carried as additional numbers in grade, shall be entitled to the pay and allowances prescribed by law for rear admirals of the upper half: *Provided*, That for the purpose of determining the number of rear admirals in the upper half, there shall be excluded those officers carried as additional numbers in that grade, and each rear admiral carried as an additional number in that grade shall be entitled to such pay and allowances from the date on which the officer next junior to him becomes entitled thereto pursuant to this section: *And provided further*, That for the purposes of determining the number of rear admirals in the upper half, an officer serving in the grade of admiral or vice admiral shall be regarded as serving in the grade to which he would be entitled other than by virtue of his appointment in the grade of admiral or vice admiral.

SPECIAL PROVISIONS

SEC. 316. (a) No officer serving in warrant grade shall be temporarily advanced to commissioned warrant officer until he shall have completed six years of service in warrant or higher grade.

(b) So much of paragraphs 2 and 3 of subsection (c) of section 5 of the Act of April 18, 1946 (Public Law 347, Seventy-ninth Congress, second session), as relates to the assignment or reassignment of running mates to officers in the Staff Corps is hereby repealed.

(c) Nothing in this title shall be held to confer permanent commissioned status in the Regular Navy or Marine Corps upon any Reserve officer or any person temporarily appointed to the grade of ensign or above from a grade or rating below ensign.

(d) Notwithstanding any other provision of this title, the President is authorized to terminate any temporary appointment effected pursuant to authority of titles I through IV of this Act.

Officer serving in warrant grade.

Repeal.
60 Stat. 93.
34 U. S. C. §15 (c) (2), (3).

Permanent commissioned status.

Termination of temporary appointment.

Continuation of service of designated officers.

(e) Upon the termination of this title, officers holding permanent commissions in the Regular Navy in grades above commissioned warrant officer serving in a grade by virtue of temporary appointment therein may continue to so serve until a vacancy occurs for their permanent appointment therein and such officers upon a promotion list for temporary promotion to the next higher grade shall be held and considered to be on the promotion list for permanent promotion thereto.

Failure of selection.

(f) A failure of selection for temporary promotion to any grade or a failure of selection for continuation on the active list pursuant to the provisions of this title shall be deemed, in the cases of officers holding permanent appointments in the Regular Navy, to also constitute a failure of selection for permanent promotion to that grade.

Reduction in grade, etc.

(g) Nothing in this title shall be held to reduce the grade or rank held by any officer on the date of approval of this Act under permanent appointment therein.

Retirement of captains.

(h) Notwithstanding any other provision of this title, no captain who will have twenty-nine or more years of total commissioned service on June 30 next after the date of approval of this Act shall be placed on the retired list pursuant to the provisions of this title until he shall have twice failed of selection for promotion to the grade of rear admiral in the approved reports of selection boards convened pursuant to the provisions of the Act approved June 23, 1938 (52 Stat. 944), as amended, or of titles I through IV of this Act: *Provided*, that no such captain designated for engineering duty only, aeronautical engineering duty only, or special duty only shall be placed on the retired list pursuant to the provisions of this title until his name shall have been twice submitted to selection boards, convened pursuant to titles I through IV of this Act, for consideration for promotion to the grade of rear admiral.

34 U. S. C. § 2 *et seq.*
Post, p. 882.

Officers regarded as promoted pursuant to recommendation of board.

(i) All officers holding permanent appointments on the active list of the regular Navy who received their last permanent promotions as "best fitted", "fitted and retained", or "fitted" shall no longer be so characterized, designated, or described, but shall be regarded as having received such promotions pursuant to the recommendation of a selection board as prescribed in titles I through IV of this Act.

Retirement grade.

(j) Any officer serving in the grade of rear admiral or below under authority of this title by virtue of a temporary appointment therein shall, if retired while so serving, be retired in the grade in which serving with retired pay based on the active-duty pay to which he was entitled at the time of retirement unless otherwise entitled to higher retired grade or pay.

Applicability of examination provisions.

(k) In effecting temporary promotions pursuant to the provisions of this title, the provisions of law relative to the mental, moral, and professional examination of officers prior to promotion shall not be applicable to officers not holding permanent appointments on the active list of the Regular Navy above the grade of commissioned warrant officer but shall be applicable to officers holding such appointments. Officers having successfully passed such examination for temporary promotion to a grade shall not again be examined for permanent appointment in that grade.

Affirmation of temporary appointments. Warrant officers.

34 U. S. C. §§ 350-350j.
Ante, pp. 312, 313.

(l) The President is authorized, in his discretion, to affirm the temporary appointments of warrant and commissioned warrant officers who are serving as such on the effective date of this Act pursuant to the authority of the Act of July 24, 1941 (55 Stat. 603), as amended. Upon such affirmation such appointment shall thereafter be considered as having been effected pursuant to the authority contained in this title.

(m) The appointments of officers who are on the lineal lists established pursuant to subsections (a) or (e) of section 304 of this Act, and of retired officers of the Navy or Naval Reserve, who are serving on active duty on the effective date of this Act in the grade of commodore under a temporary appointment for a period of limited duration may be affirmed by the President, and upon such affirmation shall be considered as having been effected pursuant to this title; such officers may continue to so serve under such appointments until they are placed on inactive duty, until their appointments are terminated by their own terms, or until their appointments are terminated by the President, whichever shall occur the earliest: *Provided*, That an officer who is on a lineal list established pursuant to section 304 of this Act who is serving on active duty on the date of the establishment of the appropriate lineal list in the grade of commodore under a temporary appointment for a period of limited duration may, upon the termination of such appointment, be temporarily appointed to the grade and with the precedence therein according to the lineal position to which he would be entitled were he not so serving or had he not been so temporarily appointed: *Provided further*, That retired officers of the Navy or Naval Reserve who are serving on active duty on the effective date of this Act in the grade of commodore under a temporary appointment for a period of limited duration who are retained on active duty immediately subsequent to the termination of such appointments may be temporarily appointed to the grades in which they would have been serving on the effective date of this Act had they not been serving at that time in the grade of commodore under temporary appointments for a period of limited duration. The appointments of officers who are on a lineal list established pursuant to section 304 of this Act and of retired officers of the Navy or Naval Reserve who are serving on active duty on the effective date of this Act in the grade of commodore under a temporary appointment may be affirmed by the President, and upon such affirmation shall be considered as having been effected pursuant to this title; such officers may continue to so serve under such appointments until they are placed on inactive duty, or until their appointment is terminated: *Provided further*, That no officer may continue to serve on active duty in the grade of commodore pursuant to this subsection later than six months after June 30 of the fiscal year following that in which the present war shall end: *And provided further*, That for the purpose of determining the authorized number of officers in the grade of captain in accordance with section 303 of this Act, such number shall be reduced by the number of commodores serving on active duty pursuant to this subsection, or serving on active duty in the grade of commodore by virtue of other provisions of law.

(n) Notwithstanding any other provision of this title, each officer who, pursuant to section 304 of this title, is not appointed to the grade in which he was serving at the time of establishing the lineal list, may be continued in that grade until his temporary appointment is terminated or until the date of his appointment to a lower grade pursuant to section 304.

Commodores.
Ante, pp. 833, 835.

Precedence.
Ante, p. 833.

Reduction of number.
Ante, p. 831.

Continuation in grade.
Ante, p. 833.

TITLE IV—MISCELLANEOUS PROVISIONS

ASSIGNMENT OF OFFICERS TO SPECIAL DUTY

SEC. 401. (a) Officers of the line of the Navy not below the grade of ensign may, upon application, and with the approval of the Secretary of the Navy, be assigned to special duty only, including but not restricted to the performance of specialized duties in the fields of communications, law, naval intelligence, photography, public information, psychology, and hydrography.

(b) The total number of officers assigned to special duty only shall not exceed, at any one time a number equal to $2\frac{5}{10}$ per centum of the total number of officers holding permanent appointments on the active list of the line of the Regular Navy at that time.

(c) Officers assigned to special duty only shall be additional numbers in grade. They shall perform sea or shore duty appropriate to their special qualifications but shall not succeed to command except on shore and then only as authorized by the Secretary of the Navy.

(d) Officers assigned to special duty only shall be described and known as officers designated for special duty.

ASSIGNMENT OF OFFICERS TO ENGINEERING DUTY

SEC. 402. (a) The first paragraph under the heading "Officers for Engineering Duty" of the Act of August 29, 1916 (39 Stat. 580), as amended by the Acts of May 11, 1928 (45 Stat. 498), and June 25, 1940 (54 Stat. 528), is hereby further amended to read as follows:

34 U. S. C. § 71.

"Officers of the line of the Navy not below the grade of ensign may, upon application, and with the approval of the Secretary of the Navy, be assigned to engineering duty only. Officers so assigned shall be additional numbers in grade. They shall perform sea or shore duty in the Navy, appropriate to their special qualification but shall not succeed to command except on shore and then only as authorized by the Secretary of the Navy."

(b) The total number of officers assigned to engineering duty only shall not exceed, at any one time, a number equal to $4\frac{5}{10}$ per centum of the total number of officers holding permanent appointments on the active list of the line of the Regular Navy at that time.

(c) Hereafter officers assigned to engineering duty only shall be described and known as officers designated for engineering duty.

(d) Officers of the Marine Corps assigned to supply duty only shall be described and known as officers designated for supply duty.

ASSIGNMENT OF OFFICERS TO AERONAUTICAL ENGINEERING DUTY

SEC. 403. (a) Officers of the line of the Navy, including officers heretofore assigned to engineering duty only, not below the grade of ensign, may, upon application, and with the approval of the Secretary of the Navy, be assigned to aeronautical engineering duty only.

(b) The total number of officers assigned to aeronautical engineering duty only shall not exceed, at any one time, a number equal to $2\frac{5}{10}$ per centum of the total number of officers holding permanent appointments on the active list of the line of the Regular Navy at that time.

(c) Officers assigned to aeronautical engineering duty only shall be additional numbers in grade. They shall perform sea or shore duty appropriate to their special qualifications but shall not succeed to command except on shore and then only as authorized by the Secretary of the Navy.

(d) Officers assigned to aeronautical engineering duty only shall be described and known as officers designated for aeronautical engineering duty.

ASSIGNMENT OF OFFICERS TO LIMITED DUTY

Appointments by President.

SEC. 404. (a) The President is authorized to permanently appoint in the Regular Navy, in commissioned grades not above the grade of commander; commissioned warrant officers; warrant officers; chief petty officers; and petty officers, first class, of the Regular Navy, for the performance of limited duty only in the technical fields indicated by their warrants or ratings. Such appointments shall be effected by and with the advice and consent of the Senate.

(b) The appointment of such officers in the Staff Corps of the Regular Navy is hereby limited to such appointments in the Supply Corps and Civil Engineer Corps.

(c) The eligibility of commissioned warrant officers; warrant officers; chief petty officers; and petty officers, first class, for appointment pursuant to the authority of subsection (a) of this section shall be determined in accordance with rules to be prescribed by the Secretary of the Navy, but no person shall be eligible for such appointment until he shall have completed ten years of active service in the Navy.

(d) The provisions of subsections (a) and (c) of this section shall be applicable in like manner and with like effect, except as may be necessary to adapt the same thereto, to the Regular Marine Corps.

(e) The total number of officers on the active list of the line of the Regular Navy appointed for limited duty only shall not exceed, in any year, a number equal to $6\frac{2}{100}$ per centum of the total number of officers holding permanent appointments on the active list of the line, exclusive of officers designated for engineering duty, aeronautical engineering duty, and special duty, of the Regular Navy in that year.

(f) The number of officers on the active list of the staff corps concerned appointed for limited duty only shall not in any year exceed the following proportions of the authorized number of officers appointed for limited duty only of the active list of the line in that year: In the Supply Corps, 12 per centum; in the Civil Engineer Corps, 3 per centum.

(g) The total number of officers on the active list of the Marine Corps appointed for limited duty only shall not exceed, in any year, a number equal to $6\frac{2}{100}$ per centum of the total number of officers holding permanent appointments on the active list, exclusive of officers designated for supply duty, of the Marine Corps in that year.

(h) For two years after the date of approval of this Act, the President may make original appointments, pursuant to the provisions of the preceding subsections of this section, in the grade of commander or any lower grade, in accordance with the needs of the service as determined by him, but, with respect to line officers appointed for limited duty only, not to exceed in any grade the maximum number of such officers for that grade as last computed pursuant to subsection 103 (f). No person shall be eligible for original appointment in a grade above ensign except he shall have completed service in the Navy as follows: For commander, twenty-eight years; for lieutenant commander, twenty-two years; for lieutenant, sixteen years; for lieutenant (junior grade), thirteen years. Commissioned warrant officers; warrant officers; chief petty officers; and petty officers, first class, of the Regular Navy, who are otherwise eligible, shall be eligible for such appointment, notwithstanding that they may be serving in commissioned grades by virtue of temporary appointment therein, but no such person shall be so appointed in a higher grade or with a higher lineal rank in grade than the grade and lineal rank in grade held by him by virtue of his temporary appointment. Original appointments pursuant to this subsection shall be effected with such dates of rank and registered numbers as may be necessary to place each appointee in a lineal position within the grade to which initially appointed commensurate as far as possible with his total length of active naval service. Officers originally appointed pursuant to this subsection to a grade above lieutenant (junior grade) in the line shall be carried as excess in grade until the next subsequent annual computation shall be made to determine the total numbers of line officers authorized in the grade concerned.

(i) Upon the termination of subsection (h) of this section all original appointments effected pursuant to the authority of subsection (a) of this section shall be in the grade of ensign.

Staff Corps.

Determination of eligibility.

Marine Corps.

Officers appointed for limited duty.

Marine Corps.

Original appointments by President.

Eligibility.

Dates of rank, etc.

Excess in grade.

Appointments in grade of ensign.

- Pay and allowances. (j) No officer appointed for limited duty only shall suffer any reduction in pay and allowances to which he was entitled at the time of such appointment by virtue of his permanent status.
- Marine Corps. (k) The provisions of subsections (h), (i), and (j) of this section are hereby made applicable in like manner and with like effect, except as may be necessary to adapt the same thereto, to the Regular Marine Corps.
- Assignment to engineering duty, etc. (l) Any officer appointed in the line of the Navy for limited duty only, may, upon application, and upon determination by the Secretary of the Navy, in accordance with rules to be prescribed by him, that such officer is qualified therefor, be assigned to engineering duty only, aeronautical engineering duty only, or special duty only, or to unrestricted performance of duty. Upon being so assigned, his status as an officer designated for limited duty shall terminate.
- (m) Any officer appointed in a staff corps of the Navy for limited duty only may, upon application, and upon determination by the Secretary of the Navy, in accordance with rules to be prescribed by him, that such officer is qualified therefor, be assigned to unrestricted performance of duty in the staff corps concerned. Upon being so assigned, his status as an officer designated for limited duty shall terminate.
- (n) Any officer appointed in the Marine Corps for limited duty only may, upon application, and upon determination by the Secretary of the Navy, in accordance with rules to be prescribed by him, that such officer is qualified therefor, be assigned to supply duty only, or to unrestricted performance of duty. Upon being so assigned, his status as an officer designated for limited duty shall terminate.
- Designation. (o) Officers appointed for limited duty only shall be described and known as officers designated for limited duty.

ESTABLISHMENT OF OFFICER GRADES IN THE STAFF CORPS

SEC. 405. The grades above that of commissioned warrant officer in the line of the Navy established under permanent provisions of existing law or of titles I through IV of this Act are hereby similarly established in each of the staff corps of the Regular Navy and the Naval Reserve in lieu of existing grades above that of commissioned warrant officer in each staff corps. Each staff officer on the active list of the Navy or Naval Reserve serving in a grade above that of commissioned warrant officer on the date of this Act shall be regarded as having been appointed to either or both the permanent or temporary grade established by this section in his corps corresponding to the permanent or temporary rank, or both, then held by him under the conditions of his existing appointment. Nothing in this section shall operate to establish in any staff corps a grade higher than the highest rank now provided for that corps under permanent provisions of law.

ADDITIONAL NUMBERS IN GRADE CHANGED TO REGULAR NUMBERS

SEC. 406. Officers of the Navy, except those assigned to engineering duty only, aeronautical engineering duty only, or special duty only, and officers of the Marine Corps, except those assigned to supply duty only, who, on the date of approval of this Act, are additional numbers in grade, are hereby changed to regular numbers on the Navy and Marine Corps lists, respectively.

GRADE OF ACTING CHAPLAIN ABOLISHED

SEC. 407. The grade of acting chaplain in the Navy is hereby abolished and hereafter appointments to the Corps of Chaplains shall be in the grade of lieutenant (junior grade), by and with the advice

and consent of the Senate: *Provided*, That officers now holding appointments as acting chaplains shall be commissioned in the grade of lieutenant (junior grade) by the President without the advice and consent of the Senate: *And provided further*, That nothing contained herein shall operate to prevent the appointment of any person to the Corps of Chaplains in a grade above that of lieutenant (junior grade) pursuant to the Act of April 18, 1946 (Public Law 347, Seventy-ninth Congress). No person shall be appointed to the Corps of Chaplains pursuant to this section until he shall have established his physical, mental, moral, and professional fitness to the satisfaction of the Secretary of the Navy.

60 Stat. 92.
34 U. S. C. § 2 et seq.
Ante, pp. 738, 867;
post, p. 877.

LIMITATION ON APPOINTMENTS IN THE GRADE OF ENSIGN FOR ENGINEERING DUTY, AERONAUTICAL ENGINEERING DUTY, AND SPECIAL DUTY

SEC. 408. The President is authorized to permanently appoint and regularly commission in the line of the Navy in the grade of ensign, annually, officers designated for engineering duty, aeronautical engineering duty, or special duty, respectively, except officers designated for special duty who are required to hold a graduate degree, who are authorized to be so appointed and commissioned in the grade of lieutenant (junior grade). Such appointments shall not exceed as to each such designation the estimated number of vacancies, as determined by the Secretary of the Navy, which will occur in the grade to which appointed during the current fiscal year.

APPOINTMENTS IN THE GRADE OF ENSIGN IN THE STAFF CORPS

SEC. 409. In any staff corps of the Regular Navy wherein officers may now be originally commissioned in the rank of ensign, the President is authorized to permanently appoint and regularly commission in the grade of ensign, annually, a number of officers bearing the same relation to the number of officers of the line of the Regular Navy who are that year permanently appointed and regularly commissioned in the grade of ensign as the authorized number of officers on the active list of the Regular Navy in that corps bears to the authorized number of officers on the active list in the line of the Regular Navy: *Provided*, That when the ratio of officers on the active list in the line of the Regular Navy to officers on the active list of the Regular Navy in the staff corps concerned is greater than the ratio of the authorized number of such line officers to the authorized number of such officers in that staff corps, the President may permanently appoint and regularly commission in the grade of ensign in that corps such additional officers, not to exceed the number necessary to bring said ratios into equality, as he shall determine to be required to meet the needs of the service.

PROMOTION TO THE GRADE OF LIEUTENANT (JUNIOR GRADE) IN THE STAFF CORPS

SEC. 410. A staff corps officer of the grade of ensign shall be eligible for promotion to the grade of lieutenant (junior grade) on the third anniversary of the date of rank stated in his commission as ensign.

EXAMINATION OF OFFICERS PRIOR TO PROMOTION

SEC. 411. (a) Except as otherwise provided, nothing in titles I through IV of this Act shall be held or construed to modify the provisions of existing law relating to the physical, mental, moral, and professional examination of officers prior to promotion, and such provisions of law, as herein amended, shall be applicable to all promotions effected pursuant to titles I through IV of this Act.

34 U. S. C. § 283.

Suspension from promotion.

(b) Section 1505, Revised Statutes, as amended, is hereby further amended to read as follows:

"SEC. 1505. Any officer of the Navy on the active list who, upon examination for promotion, is found not professionally qualified, shall be suspended from promotion for a period of six months from the date of approval of said examination, and upon the termination of said suspension from promotion he shall be reexamined. In the case of his success upon such reexamination he shall, if otherwise qualified, be promoted and assigned the date of rank and precedence in the higher grade which he would have held had he not been so suspended and shall be entitled to the pay and allowances of such higher grade from the date upon which he became eligible for promotion. Officers of the grade of ensign who fail on such reexamination shall be honorably discharged from the service with a lump-sum payment computed on the basis of two months' active duty pay at the time of discharge for each year of active commissioned service in the Regular Navy and Naval Reserve, exclusive of duty for training, but not to exceed a total of one year's active duty pay."

34 U. S. C. §§ 280, 284, 322, 323.

Laws relating to examination for promotion, etc.

(c) Section 20 of the Act approved May 22, 1917 (40 Stat. 89), is hereby amended to read as follows:

"SEC. 20. That hereafter all laws relating to the examination of officers of the Navy for promotion shall be construed to apply to staff officers of the Navy on the active list: *Provided*, That the President is authorized to direct the Secretary of the Navy to take such action on the records of proceedings of naval examining boards and boards of naval surgeons for the promotion of officers of the Navy as is now required by law to be taken by the President."

RETIREMENT OF OFFICERS SPECIALLY COMMENDED FOR PERFORMANCE OF DUTY IN COMBAT

Rank and pay.

SEC. 412. (a) All officers of the Navy, Marine Corps, and the Reserve components thereof, who have been specially commended for their performance of duty in actual combat by the head of the executive department under whose jurisdiction such duty was performed, when retired, except officers on a promotion list who may be retired for physical disability, shall, upon retirement, be placed upon the retired list with the rank of the next higher grade than that in which serving at the time of retirement and with three-fourths of the active-duty pay of the grade in which serving at the time of retirement and the grade in which serving at the time of retirement shall be construed to mean the highest grade in which so serving whether by virtue of permanent or temporary appointment therein: *Provided*, That all officers heretofore and hereafter holding rank or grade on the retired list above that of captain in the Navy or colonel in the Marine Corps solely by virtue of such commendation, if hereafter recalled to active duty, may, in the discretion of the Secretary of the Navy, be so recalled either in the rank or grade to which they would otherwise be entitled had they not been accorded higher rank or grade by virtue of such commendation, or in the rank or grade held by them on the retired list: *Provided further*, That the provisions of this subsection shall not apply in the case of any officer who has been so commended if the act or service justifying the commendation was performed after December 31, 1946: *Provided further*, That nothing in this subsection shall be construed to increase the retired pay of officers heretofore or hereafter placed upon the honorary retired list for the Naval Reserve: *Provided further*, That officers of the classes described in this subsection who have been retired prior to the date of approval of this Act shall be entitled to the benefits of this subsection from the date of

Recall to active duty.

Nonapplicability.

Restriction.

Retirement prior to approval of Act.

approval of this Act: *And provided further*, That nothing in this subsection shall be held to reduce the retired rank or pay to which an officer would be entitled under other provision of law.

(b) Section 309 of the Act of June 25, 1938 (52 Stat. 1183), is amended by deleting the period at the end of the section and adding the following: “; however, all naval reservists heretofore and hereafter holding rank or grade on the honorary retired list above that of captain in the Naval Reserve solely by virtue of such commendation, if hereafter recalled to active duty, may, in the discretion of the Secretary of the Navy, be so recalled either in the rank or grade to which they would otherwise be entitled had they not been accorded higher rank or grade by virtue of such commendation, or in the rank or grade held by them on the honorary retired list: *And provided further*, That the provisions of the preceding proviso shall not apply in the case of any naval reservist who has been so commended if the act or service justifying the commendation was performed after December 31, 1946.”

Restriction.

34 U. S. C. § 855h.

Naval reservists.

DESIGNATION OF NAVAL OFFICERS FOR CERTAIN COMMANDS OR UNUSUAL MISSIONS

SEC. 413. (a) The President is authorized to designate officers of the active list of the Navy for the command of fleets or subdivisions thereof, or to command naval units afloat organized for the purpose of performing a special or unusual mission, or for the performance of any duty of great importance and responsibility, and officers so designated may, by and with the advice and consent of the Senate, have the grade, rank, pay, and allowances of admiral or vice admiral while so serving: *Provided*, That the number of officers who may be so serving at any one time shall not exceed 15 per centum of the total authorized number of officers of the line of the Regular Navy above the grade of captain, determined pursuant to sections 103 and 303 of this Act, and, of such number, not to exceed eight, may be serving in the grade of admiral: *Provided further*, That after July 1, 1948, except in time of war or national emergency declared after the effective date of this Act, not to exceed twenty-six officers, including the Chief of Naval Operations, may be so serving at any one time of whom only the Chief of Naval Operations, and three others, may have the rank of admiral; whenever a naval officer is assigned as Chief of Staff to the President as Commander in Chief, he shall have, by and with the advice and consent of the Senate, unless entitled under other provisions of law to higher grade, rank, pay, or allowances, the grade, rank, pay, and allowances of admiral while so serving and shall be in addition to the numbers otherwise authorized by this subsection: *Provided further*, That the designation of any officer as authorized by this section shall not create a vacancy in any grade of the Navy or increase the total number of officers allowed by law: *And provided further*, That officers so designated shall have such precedence among themselves in the grade in which serving pursuant to this section as may be determined by the Secretary of the Navy.

Ante, pp. 798, 831.

Precedence.

(b) In time of war or national emergency the designations authorized by this section shall be made from among officers not below the grade of captain, and at all other times from among officers above the grade of captain.

(c) Each officer so designated shall receive the pay and allowances now or hereafter prescribed by law for the grade in which serving pursuant to this section from the date of reporting for the duty designated and until detached therefrom, at which time he shall resume his regular grade and lineal position on the active list of the Navy.

Pay and allowances.

(d) Nothing in this section shall be held or construed as amending or repealing the provisions of sections 1434, 1463, or 1464 of the Revised Statutes of the United States.

34 U. S. C. §§ 216, 424, 425.
Ante, p. 453.

RETIREMENT OF OFFICERS WITH HIGHEST GRADE HELD UNDER PROVISIONS OF SECTION 413

SEC. 414. Any officer of the Navy who may be retired while serving in accordance with the provisions of section 413 of this Act, or subsequent to such service, may, in the discretion of the President, by and with the advice and consent of the Senate, when retired, be placed on the retired list with the highest grade or rank held by him while on the active list: *Provided*, That no increase in retired pay shall accrue solely as the result of such advancement in rank on the retired list: *Provided further*, That the President, by and with the advice and consent of the Senate, may in his discretion extend the privilege herein granted to such officers heretofore or hereafter retired, who served in the rank of admiral or vice admiral pursuant to the authority of section 18 of the Act of May 22, 1917 (40 Stat. 89), or the Act of July 17, 1941 (55 Stat. 598).

34 U. S. C. §§ 1, 212-216, 424, 425, 564.
Ante, p. 453.
34 U. S. C. § 212a.

DESIGNATION OF OFFICERS OF THE MARINE CORPS FOR SPECIAL PURPOSES

SEC. 415. (a) The President is authorized to designate officers of the active list of the Marine Corps for appropriate higher commands, or for the performance of any duty of great importance and responsibility, and officers so designated may, by and with the advice and consent of the Senate, have the grade, rank, pay, and allowances of lieutenant general while so serving: *Provided*, That the number of officers who may be so serving at any one time shall not exceed 10 per centum of the total authorized number of officers of the Regular Marine Corps above the grade of colonel, determined pursuant to sections 103 and 303 of this Act, made applicable to the Marine Corps by sections 114 and 314 of this Act, exclusive of those assigned to supply duty only: *Provided further*, That after July 1, 1948, except in time of war or national emergency declared after the effective date of this Act, not to exceed two officers may be so serving at any one time: *Provided further*, That whenever a marine officer is assigned as Chief of Staff to the President as Commander in Chief, he shall have, by and with the advice and consent of the Senate, the grade, rank, pay, and allowances of general while so serving: *And provided further*, That the designation of any officer as authorized by this section shall not create a vacancy in any grade of the Marine Corps nor increase the total number of officers allowed by law.

Ante, pp. 798, 831.
Ante, pp. 811, 863.

(b) In time of war or national emergency the designations authorized by this section shall be made from officers not below the grade of colonel, and at all other times from among officers above the grade of colonel.

Pay and allowances.

(c) Each officer so designated shall receive the pay and allowances now or hereafter prescribed by law for the grade in which serving pursuant to this section from the date of reporting for the duty designated and until detached therefrom, at which time he shall resume his regular grade and lineal position on the active list of the Marine Corps.

Precedence.

(d) Officers serving in the grade of lieutenant general pursuant to this section shall, while so serving, have such precedence among themselves in that grade as may be determined by the Secretary of the Navy.

Retirement.

(e) Any officer of the Marine Corps who may be retired while serving in accordance with the provisions of this section, or subsequent to

such service, may, in the discretion of the President, by and with the advice and consent of the Senate, when retired, be placed on the retired list with the highest grade or rank held by him while on the active list: *Provided*, That no increase in retired pay shall accrue solely as the result of such advancement in rank on the retired list.

RETIREMENT AGE LIMIT FOR OFFICERS

SEC. 416. (a) Nothing in titles I through IV of this Act shall be held to supersede, amend, or repeal the provisions of existing law relating to the retirement of officers attaining the age of sixty-two years.

(b) Nothing in titles I through IV of this Act shall be held to repeal sections 1506 or 1507 of the Revised Statutes.

34 U. S. C. §§ 341, 342.

AMENDMENT OF THE ACT OF APRIL 18, 1946 (PUBLIC LAW 347, SEVENTY-NINTH CONGRESS)

SEC. 417. The Act of April 18, 1946 (Public Law 347, Seventy-ninth Congress), is hereby amended as follows:

60 Stat. 92.
34 U. S. C. § 2 *et seq.*
Ante, pp. 738, 867.

Substitute a comma for the period at the end of section 4 and add the following: "and such authorized number of commissioned officers shall include officers now or hereafter carried under any provision of law as additional or extra numbers in grade."

AMENDMENT OF THE ACT OF AUGUST 27, 1940 (54 STAT. 864), AS AMENDED (34 U. S. C. 737, 737 (A))

SEC. 418. The Act of August 27, 1940 (54 Stat. 864), as amended (34 U. S. C. 737, 737 (a)), is hereby further amended as follows:

Insert a period after the word "necessary" in the first sentence of section 2 and delete from the same said first sentence the following: "and the authorized number of commissioned officers of the line of the Navy and Marine Corps is increased accordingly."

AMENDMENT OF THE ACT OF JUNE 27, 1942 (56 STAT. 422)

SEC. 419. The Act of June 27, 1942 (56 Stat. 422), as amended, is hereby further amended as follows:

34 U. S. C. §§ 338-338g.

Insert a period after the word "necessary" in the first sentence of section 1 and delete from the same said first sentence the following: "and the authorized number of commissioned officers of the line and of each staff corps to which such appointments may be made is increased accordingly."

AMENDMENT OF THE ACT OF JUNE 30, 1914 (38 STAT. 404), AS AMENDED

SEC. 420. So much of the Act of June 30, 1914 (38 Stat. 404), as amended by the Acts of August 29, 1916 (39 Stat. 576), July 1, 1918 (40 Stat. 708), and June 25, 1940 (54 Stat. 527), as relates to the commissioned officer strength of the active list of the staff corps of the Navy, is hereby further amended to read as follows:

34 U. S. C. § 3 *et seq.*
Ante, p. 96.

"The total authorized number of commissioned officers of the active list, exclusive of commissioned warrant officers, of the Supply Corps and Civil Engineer Corps shall be 12 and 3 per centum, respectively, of the total authorized number of commissioned officers of the active list of the line of the Navy. The total authorized number of commissioned officers of the Medical Corps, Dental Corps, Chaplain Corps, and Nurse Corps shall be sixty-five one-hundredths of 1 per centum, twenty one-hundredths of 1 per centum, and one hundred and twenty-five one-thousandths of 1 per centum, and six-tenths of 1 per

Authorized number of officers.

centum, respectively, of the sum of the total authorized number of commissioned officers of the Navy and Marine Corps (exclusive of commissioned warrant officers), the total authorized number of enlisted men of the Navy and Marine Corps, the total authorized number of midshipmen at the Naval Academy, the actual number of commissioned warrant officers, and warrant officers on the active list of the Navy and Marine Corps, and the actual number of midshipmen on active duty for flight training pursuant to the Act of August 13, 1946 (Public Law 729, Seventy-ninth Congress). The Secretary of the Navy shall make computations to determine the authorized strength of the Medical Corps, the Dental Corps, the Chaplain Corps, the Medical Service Corps, and the Nurse Corps, as of the date of approval of this Act and, thereafter, as of January 1 of each year, and the number so determined for each such corps shall be considered the authorized number of officers for that corps until a subsequent computation is made as of January 1 of each year, and the numbers so determined, which shall be considered the authorized number of officers for each corps, shall not be varied between computations."

60 Stat. 1057.
34 U. S. C. § 1020
et seq.
Post, p. 880.

SERVICE IN GRADE TO INCLUDE SERVICE IN GRADE UNDER TEMPORARY
APPOINTMENT

SEC. 421. In computing length of service in grade under any provision of titles I through IV of this Act each officer on active duty on the date of this Act shall be credited with all time from the date of rank in his grade or in a higher grade, whether under permanent appointment or temporary appointment, whichever is earlier: *Provided*, That any officer promoted in grade subsequent to the date of approval of this Act shall be credited with service in the grade to which so promoted only from the date of his eligibility for promotion to that grade: *And provided further*, That notwithstanding the foregoing, no officer who has not lost numbers or precedence shall become eligible for consideration by a selection board until all officers of his grade senior to him in lineal position become so eligible.

CONTINUATION OF TEMPORARY APPOINTMENTS OF CERTAIN MEMBERS OF
THE HOSPITAL CORPS AND THE NAVAL RESERVE

SEC. 422. (a) Members of the Naval Reserve ordered to active duty in connection with organizing, administering, recruiting, instructing, training, or drilling the Naval Reserve, or ordered to temporary active duty for the purpose of prosecuting special work, who on the date of approval of this Act are serving under temporary appointments pursuant to the Act of July 24, 1941 (55 Stat. 603), as amended, in grades above commissioned warrant officer may continue to serve under such temporary appointments until not later than six months after June 30 of the fiscal year following that in which the present war shall end, and such temporary appointments shall be deemed to have been made pursuant to title III of this Act: *Provided*, That no such officer may be continued on active duty in a grade higher than that required to maintain, with respect to officers placed on a lineal list pursuant to section 304 of this Act, the relative precedence to which he was entitled immediately prior to the establishment of the appropriate lineal list. The President is authorized to effect such temporary adjustment of grade and date of rank of such officers as is required to accomplish the purpose of this proviso, and no such temporary adjustment shall remain in effect later than six months after June 30 of the fiscal year following that in which the present war shall end.

34 U. S. C. §§ 350-
350j.
Ante, pp. 312, 313.

Ante, p. 829.

Ante, p. 833.

(b) Members of the Hospital Corps of the Navy and Naval Reserve who, on the date of approval of this Act, are serving under temporary appointments pursuant to the Act of July 24, 1941 (55 Stat. 603), as amended, in grades above commissioned warrant officer may continue to serve under such temporary appointments until the effectuation of their appointments in the Medical Service Corps of the Navy or until and including the last day of the eleventh month following the date of approval of this Act, whichever may be earlier.

34 U. S. C. §§ 350-350j.
Ante, pp. 312, 313.

SPECIFICATIONS BY SECRETARY OF NAVY OF QUALIFICATIONS TO BE REQUIRED
IN CERTAIN OFFICERS FOR SELECTION TO FLAG RANK

SEC. 423. (a) Notwithstanding any other provision of titles I through IV of this Act, whenever in the opinion of the Secretary of the Navy there is an inadequate number of officers to meet the needs of the service in the grade of rear admiral in the line or in any staff corps of the Navy, or in the grade of brigadier general or major general in the Marine Corps, who are specially qualified for a type of duty required of officers of that grade, the Secretary of the Navy may direct that, of the total number of officers which a selection board may recommend for promotion to such a grade, such number, as determined by him to be necessary to meet the needs of the service, shall be officers who are specially qualified for the required type of duty: *Provided*, That if an officer of any grade who is junior in lineal rank to the junior officer in the promotion zone of the same grade be selected for promotion solely by reason of the foregoing, the selection board shall so certify in its report.

(b) An officer of any grade junior in lineal rank to the junior officer in the promotion zone of the same grade who may be promoted by virtue of selection for promotion solely by operation of subsection (a) of this section shall, when one or more officers junior in lineal rank to the junior officer in such promotion zone are promoted pursuant to selection by the board convened next following that which selected the first-mentioned officer, have precedence in the grade for which selected according to his relative precedence with such other officer or officers in the grade from which promoted if at the time of his selection another officer junior to him in lineal rank was not selected other than pursuant to subsection (a) of this section and, if all the officers concerned be of a given staff corps of the Navy, the first-mentioned officer, when all others concerned are promoted, shall be reassigned a running mate as if he were selected when the other officers concerned were selected. When all the officers concerned shall have been promoted to the grade for which selected, the President shall assign the first-mentioned officer such later date of rank in his grade that will insure the order of precedence herein prescribed and such officer thereafter shall take rank for all purposes from such later date.

Precedence.

Reassignment of running mate.

AMENDMENT OF THE ACT OF MAY 4, 1898 (30 STAT. 380), AS AMENDED
(34 U. S. C. 21)

SEC. 424. So much of the Act of May 4, 1898 (30 Stat. 380), as amended by the Act of March 18, 1940 (54 Stat. 54), the Act of March 17, 1941 (55 Stat. 43), and the Act of August 8, 1946 (60 Stat. 932), is hereby further amended to read as follows:

34 U. S. C. § 21.

"In addition to the number of officers of the Medical Corps of the Navy authorized by other provisions of law the President may appoint, without the advice and consent of the Senate, for temporary service in such corps, lieutenants (junior grade) who shall while so serving

Appointment of lieutenants (jg) for temporary service in Medical Corps.

receive the pay and allowances now or hereafter prescribed by law for that grade. Notwithstanding any other provision of law to the contrary, persons appointed pursuant to the authority contained in this Act shall not be placed on the lineal list of the Medical Corps, shall not be assigned running mates, and shall not be eligible for promotion while serving under such temporary appointments. The number of persons who may be so serving at any one time pursuant to this Act shall not exceed two hundred and fifty: *Provided*, That in time of war or declared national emergency the number of persons who may be so temporarily appointed and who may so serve may be increased to the extent determined by the President as necessary to meet the exigencies of the naval service."

AMENDMENT OF PUBLIC LAW 729, SEVENTY-NINTH CONGRESS

60 Stat. 1061.
34 U. S. C. § 405a.

SEC. 425. Section 12 of the Act of August 13, 1946 (Public Law 729, Seventy-ninth Congress, second session), is hereby amended by substituting the word "three" for the word "six" therein.

SPECIAL PROVISIONS

50 U. S. C. app.
§§ 806-814; 34 U. S. C.
§§ 350, 737a, 853c-2a.
56 Stat. 464.
50 U. S. C. app.
§§ 808, 809; 34 U. S. C.
§§ 737a, 853c-2a.

SEC. 426. (a) The provisions of the Act of June 30, 1942 (56 Stat. 463), as amended, which relate to personnel of the Navy and Marine Corps, with the exception of sections 3 and 4 of the said Act, are hereby repealed, but this repeal shall in no way affect any provision of the said Act insofar as it relates to the personnel of the Coast Guard.

(b) Nothing in titles I through IV of this Act shall be held to affect any provision of law which relates to personnel of the Coast Guard, Coast and Geodetic Survey, or Public Health Service.

AMENDMENT OF THE ACT OF DECEMBER 28, 1945 (59 STAT. 666)

5 U. S. C. § 456c.

SEC. 427. Effective thirty days after the second appointment of an officer of the Dental Corps of the Regular Navy to the grade of rear admiral pursuant to the provisions of titles I through IV of this Act, section 3 of the Act of December 28, 1945 (59 Stat. 666), is amended as follows:

(a) In the second sentence of said section 3, after the word "Navy" insert the words "of the grade of rear admiral".

(b) Strike out the third sentence of said section 3.

AMENDMENT OF PUBLIC LAW 56, EIGHTIETH CONGRESS

Ante, p. 93.

SEC. 428. Effective thirty days after the first appointment of an officer of the Chaplain Corps of the Regular Navy to the grade of rear admiral pursuant to the provisions of titles I through IV of this Act, section 1 of the Act of May 15, 1947 (Public Law 56, Eightieth Congress), is amended to read as follows:

"That there shall be in the Bureau of Naval Personnel a Chief of Chaplains, designated by the Chief of Naval Personnel from among officers of the Chaplain Corps of the Regular Navy not below the grade of rear admiral, and such officer shall, while so serving, receive the pay and allowances provided by law for rear admirals of the upper half."

AMENDMENT OF THE ACT OF JANUARY 20, 1942 (56 STAT. 10, 34 U. S. C. 622)

SEC. 429. Section 1 of the Act of January 20, 1942 (56 Stat. 10, 34 U. S. C. 622) is amended by deleting the words "Lieutenant general" and substituting therefor the word "general".

LIMITATION ON NUMBER OF RESERVE AND RETIRED OFFICERS SERVING ON
ACTIVE DUTY IN FLAG RANKS

SEC. 430. In addition to fleet admirals and to the number of rear admirals and above authorized by titles I, II, and III and by section 413 of this Act, a total of not to exceed ten retired and Reserve officers may be serving on active duty in the grade of rear admiral or above: *Provided*, That the above shall be exclusive of retired officers ordered to temporary active duty on boards of officers as provided in titles I through IV of this Act: *And provided further*, That the above restrictions shall not apply in time of war or national emergency declared after the date of approval of this Act.

Ante, pp. 798, 815,
829.
Ante, p. 875.

COMPUTATION OF RETIRED PAY

SEC. 431. Officers of the Navy, the Marine Corps, and the Reserve components thereof, heretofore or hereafter retired under any provision of law shall have their retired pay computed on the basis of the rates of pay which are now or may be hereafter provided by law for officers on the active list.

AMENDMENTS TO CERTAIN ACTS RELATING TO RETIRED PAY

SEC. 432. (a) Subsection (a) of section 7 of the Act of February 21, 1946 (Public Law 305, Seventy-ninth Congress, second session), is hereby amended by striking out the period at the end thereof and substituting in lieu thereof the following: "*And provided further*, That in the case of officers hereafter retired, except those retired for physical disability or in accordance with section 412 of this Act, whose computation of pay on the active list is not based upon years of service they shall receive retired pay at the rate of 2½ per centum of their active-duty pay in the grade in which serving at the time of retirement multiplied by the number of years of service for which they would be entitled to credit in the computation of pay on the active list had they been serving in the grade of captain in the Navy or colonel in the Marine Corps at the time of their retirement, but retired pay so computed shall not exceed a total of 75 per centum of said active-duty pay."

60 Stat. 27.
34 U. S. C. § 410c (a).

Retired pay.

(b) Section 9 of the Act of February 21, 1946 (Public Law 305, Seventy-ninth Congress, second session), is hereby amended by inserting between the second and third provisos thereof the following new proviso: "*Provided further*, That in the case of an officer hereafter retired whose computation of pay on the active list is not based upon years of service he shall receive retired pay at the rate of 2½ per centum of his active-duty pay in the grade in which serving at the time of retirement multiplied by the number of years of service for credit in the computation of pay on the active list had he been serving in the grade of captain in the Navy or colonel in the Marine Corps at the time of his retirement, but retired pay so computed shall not exceed a total of 75 per centum of said active-duty pay."

60 Stat. 28.
34 U. S. C. § 410d.

(c) This section shall be effective as of the date of approval of this Act.

Effective date.

AMENDMENT OF THE ARMY-NAVY MEDICAL SERVICES CORPS ACT OF 1947

SEC. 433. The Army-Navy Medical Service Corps Act of 1947 is hereby amended as follows:

Ante, p. 734.

(a) The second paragraph of section 201 and sections 202 and 208 are hereby repealed.

Ante, pp. 736, 737,
738.

(b) Renumber the present sections 203, 204, 205, 206, 207, and 209, as sections 202, 203, 204, 205, 206, and 207, respectively.

Ante, pp. 737, 738.

Ante, p. 737.

(c) In the first sentence of the present section 204, strike out "203" and substitute therefor "202".

Ante, p. 738.

(d) In the present section 206 strike out "204" wherever appearing and substitute therefor "203"; and in said section 206 insert before the colon the following: ", as amended".

AMENDMENTS TO THE ACT OF APRIL 16, 1947 (PUBLIC LAW 36,
EIGHTIETH CONGRESS)

Ante, p. 47.

SEC. 434. (a) Section 201 of the Act of April 16, 1947 (Public Law 36, Eightieth Congress), is hereby amended by striking out the colon as it appears after the word "ensign" in the second sentence thereof and substituting a period therefor, and by deleting the proviso and the last sentence thereof.

Ante, p. 47.

(b) Section 203 of the Act of April 16, 1947 (Public Law 36, Eightieth Congress), is hereby amended by deleting the last sentence and the proviso thereof.

Ante, p. 48.

(c) The Act of April 16, 1947 (Public Law 36, Eightieth Congress), is hereby amended by striking out the words "the Medical Corps and the Dental Corps" as they appear in section 205 thereof and substituting therefor the words "the Medical, Dental, and Medical Service Corps".

Ante, p. 49.

(d) Section 207 of the Act of April 16, 1947 (Public Law 36, Eightieth Congress), is hereby amended by striking out subsection (a) thereof, and by redesignating the present subsections (b), (c), (d), (e), (f), (g), (h), (i), and (j) thereof as subsections (a), (b), (c), (d), (e), (f), (g), (h), and (i), respectively.

SPECIAL PROVISION FOR NURSES

Ante, p. 47.

SEC. 435. Nurses appointed in the Nurse Corps of the Regular Navy pursuant to section 203 of the Act of April 16, 1947 (Public Law 36, Eightieth Congress), shall be deemed for all purposes as holding permanent commissions in the Regular Navy.

ACTS REPEALED

SEC. 436. All laws or parts of laws inconsistent with the provisions of titles I through IV of this Act are hereby repealed, and the provisions of titles I through IV of this Act shall be in effect in lieu thereof and such repeal shall include but shall not be limited to the following Acts or parts of Acts:

34 U. S. C. § 395.

(a) Section 1481 of the Revised Statutes of the United States.

(b) That part of the Act of August 29, 1916 (39 Stat. 556), as amended, which appears on page 609 and the following of volume 39 of the Statutes at Large under the title "Marine Corps" except the fourth proviso of the second (34 U. S. C. 621), and so much of the seventh as appears in Thirty-fourth United States Code, 635 and 639; the eighth (34 U. S. C. 640); the last sentence of the tenth (34 U. S. C. 665, 666); and the fifteenth (34 U. S. C. 701, 702) paragraphs thereof.

(c) The first paragraph of section 18 of the Act of May 22, 1917 (40 Stat. 84; 34 U. S. C. 212-215).

Ante, p. 48.

(d) The Act of June 10, 1926 (44 Stat. 717; 34 U. S. C. 348 and following), as amended.

34 U. S. C. § 626a et seq.

(e) Sections 1, 2, 4, 5, 6, 7, 8, and 10 of the Act of May 29, 1934 (48 Stat. 811), as amended.

34 U. S. C. §§ 348c, 349-349k.

(f) The Act of August 5, 1935 (49 Stat. 530), as amended.

34 U. S. C. § 2 et seq.

(g) The Act of June 23, 1938 (52 Stat. 944), as amended.

34 U. S. C. § 3 et seq.

(h) The Act of June 25, 1940 (54 Stat. 527), except section 1 thereof.

(i) The Act of July 17, 1941 (55 Stat. 598; 34 U. S. C. 212a).

(j) Section 1 of the Act of June 16, 1942 (56 Stat. 370; 34 U. S. C. 398b).

(k) Sections 1 to 6, inclusive, of the Act of March 3, 1899 (30 Stat. 1004).

34 U. S. C. §§ 395, 1126, 274.

(l) The first proviso of the Act of December 19, 1913 (38 Stat. 241; 34 U. S. C. 623).

(m) The first paragraph of section 30 of the Act of March 4, 1925 (43 Stat. 1279; 34 U. S. C. 399), as amended.

(n) The Act of January 16, 1936 (49 Stat. 1092; 34 U. S. C. 399f).

(o) The Act of February 23, 1942 (56 Stat. 120; 34 U. S. C. 399h).

(p) Section 206 of the Act of April 16, 1947 (Public Law 36, Eightieth Congress).

Ante, p. 48.

TITLE V—ARMY

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Post, p. 913.

REGULAR ARMY OFFICERS—AUTHORIZED STRENGTH

SEC. 501. There is authorized a strength of fifty-one thousand active list commissioned officers in the Regular Army, exclusive of the numbers authorized by law for the Army Nurse Corps, the Women's Medical Specialist Corps, professors of the United States Military Academy, and any numbers authorized by special provisions of law providing for officers in designated categories as additional numbers.

REGULAR ARMY OFFICERS—APPOINTMENT—ASSIGNMENT IN BRANCH—AUTHORIZED STRENGTH OF BRANCHES

SEC. 502. (a) In addition to the officers permanently appointed in general officer grades above that of major general (authorized by other provisions of law), Regular Army officers shall be permanently

Appointment by President.

appointed by the President, by and with the advice and consent of the Senate, in the Regular Army in the commissioned officer grades of major general, brigadier general, colonel, lieutenant colonel, major, captain, first lieutenant, and second lieutenant.

General officers.

(b) Officers holding permanent appointments in any general officer grade in the Regular Army shall be known as general officers of the Regular Army. Appointments of officers in general officer grades in the Regular Army shall be made in the Medical Corps, in the Dental Corps, in the Veterinary Corps, and as chaplains; but otherwise they shall be made in the Regular Army without specification of branch, arm, or service. When the appointments are in the Medical Corps, the Dental Corps, the Veterinary Corps, and as chaplains, general officers of the Regular Army may be specifically referred to as general officers, Medical Corps, Regular Army; general officers, Dental Corps, Regular Army; general officers, Veterinary Corps, Regular Army; and general officers, chaplains, Regular Army.

Grades below brigadier general.

(c) Appointments of officers in commissioned officer grades below that of brigadier general in the Regular Army shall be made in the Air Corps, in each of the several corps of the Medical Department, as chaplains, and as professors of the United States Military Academy; but otherwise they shall be made in the Regular Army without specification of branch, arm, or service. Those appointed without specification of branch, arm, or service shall be assigned (and may from time to time be transferred and reassigned) by the Secretary of War in the several branches, arms, and services of the Regular Army (excluding the Air Corps, the several corps of the Medical Department, and the chaplains) according to the professional qualifications of the officers concerned and the needs of the branches, arms, and services: *Provided*, That assignments, transfers, and reassignments of officers of the Corps of Engineers to and from duties involving the civil functions of the Corps of Engineers shall be made only by approval of the Secretary of War upon the recommendation of the Chief of Engineers.

Officers of Corps of Engineers.

Determination of officer strength.

(d) The authorized active list commissioned officer strength of the Air Corps of the Regular Army; of each of the several corps of the Medical Department of the Regular Army; of the Chaplains of the Regular Army; and of each of the several corps, arms, and services of the Regular Army in which officers are assigned (as distinguished from those in which officers are appointed); shall, from time to time, be determined by the Secretary of War (within the authorized active list commissioned officer strength of the Regular Army and within any limitations provided by laws enacted after January 1, 1947).

Details.

(e) Under regulations prescribed by the Secretary of War, officers appointed or assigned in one branch, arm, or service, may be detailed in, or for duty with, any other branch, arm, or service.

Persons vested with office under appointments as officers.

(f) Persons now vested with office in the Regular Army in the several commissioned officer grades under appointments as officers in the several branches, arms, and services (excluding those appointed in the Air Corps, the several corps of the Medical Department, as Chaplains, and as professors of the United States Military Academy) shall be deemed to hold such office under appointments in the Regular Army without specification of branch, arm, or service and to be assigned in the branch, arm, or service specified in their appointments.

Effective date.

(g) This section shall not become effective until December 31, 1947, for the purpose during the interim of administering the Act of December 28, 1945 (Public Law 281, Seventy-ninth Congress, 59 Stat. 663), as amended, and other Acts or provisions of law providing for the appointment of persons as additional officers of the Regular Army; but otherwise this section shall be effective on the date of enactment of this Act.

10 U. S. C. §§ 481, 505-505d, 552a, 552c.

GENERAL OFFICERS OF THE REGULAR ARMY—AUTHORIZED NUMBERS—
SENIORITY LIST—DATE OF RANK

SEC. 503. (a) There is authorized on the active list of the Regular Army a strength of general officers of the Regular Army (exclusive of the numbers of general officers authorized for the several corps of the Medical Department and the chaplains) equal to three-fourths of 1 per centum of that number which equals the authorized active list commissioned officer strength of the Regular Army less the authorized active list commissioned officer strengths of the several corps of the Medical Department and the chaplains, of which not more than 50 per centum may be in permanent grade above that of brigadier general; and, in addition, a strength of general officers of the Regular Army in the Medical Corps equal to one-half of 1 per centum of the authorized active list commissioned officer strength of such corps, of which not more than 50 per centum may be in permanent grade above that of brigadier general; and, in addition, a strength of general officers of the Regular Army in the Dental Corps equal to one-half of 1 per centum of the authorized active list commissioned officer strength of such corps, of which not more than 50 per centum may be in permanent grade above that of brigadier general; and, in addition, a strength of general officers of the Regular Army in the Veterinary Corps equal to one-half of 1 per centum of the authorized active list commissioned officer strength of such corps, of which not more than 50 per centum may be in permanent grade above that of brigadier general; and, in addition, a strength of general officers of the Regular Army as chaplains equal to one-half of 1 per centum of the authorized active list commissioned officer strength of the chaplains of the Regular Army, of which not more than 50 per centum may be in permanent grade above that of brigadier general: *Provided*, That there shall be no additional appointments in any permanent grade above that of major general: *Provided further*, That the percentages above specified shall not result in more than three hundred and fifty-seven officers on the active list of the Regular Army in permanent grade above that of colonel, of which there shall be not more than sixteen in the Medical Corps, four in the Dental Corps, one in the Veterinary Corps, two chaplains, and three hundred and thirty-four in the Army, exclusive of Medical Department and chaplains; and of such total number there shall be not more than one hundred and seventy-eight on the active list of the Regular Army in permanent grade above that of brigadier general and of such one hundred and seventy-eight there shall be not more than eight in the Medical Corps, none in the Veterinary Corps, two in the Dental Corps, one chaplain, and one hundred and sixty-seven in the Army, exclusive of Medical Department and chaplains; and of the foregoing total number of permanent general officers of the Regular Army, unless a National emergency is declared after the date of this Act and before July 1, 1948, there shall, after such date, and until a National emergency is thereafter declared, be not more than forty-four serving in any grade above that of major general as specifically limited in section 504 of this title: *Provided further*, That of the three hundred and thirty-four Regular Army officers authorized in permanent grade above that of colonel in the Army, exclusive of Medical Department and chaplains, specified in the preceding proviso, there shall be in the Army less the Air Corps and in the Air Corps, respectively, not more than such numbers as are derived by allotments to each, proportional to the respective strengths authorized for the Army promotion list and the Air Corps promotion list; and of each such allotment there shall be not more than 50 per centum in permanent grade above that of brigadier general: *And provided further*, That, whenever the application of the percentages specified in this

Authorized strength.

Additional appointments.

Authorized numbers.

Fractions.

Appointments in
Diplomatic Service,
etc.

section results in a fraction of a whole number, fractions of one-half and greater shall be counted as a whole number and fractions of less than one-half shall be disregarded: *And provided further*, That the numbers of general officers set forth in this subsection and in the several provisos thereof shall be exclusive of general officers on the active list of the Regular Army who are specifically authorized by Acts of Congress to hold appointments in the Diplomatic or Consular Service of the Government or to hold any civil office under the Government or any instrumentality thereof.

Maintenance of
seniority list.

(b) There shall be maintained a seniority list of the general officers of the Regular Army. The first name on the list shall be that of the general officer most senior in permanent general officer grade; the second name on the list shall be that of the senior next below the first; the third on the list shall be that of the senior next below the second; and so on throughout the list.

Brigadier generals.

(c) DATE OF RANK.—(1) The date of rank of an officer appointed in the grade of brigadier general in the Regular Army shall be the date of appointment: *Provided*, That, if at time of appointment he holds office in temporary grade of brigadier general or any higher temporary grade, his date of rank shall be the date of rank held in such temporary grade, or formerly held in the temporary grade of brigadier general if appointed to higher temporary grade from that grade; but in no event shall such date of rank be earlier than that of the junior officer in the permanent grade of brigadier general in the Regular Army.

Major generals.

(2) The date of rank of an officer appointed in the grade of major general in the Regular Army shall be the date of rank held by such officer in the grade of brigadier general in the Regular Army: *Provided*, That, if at time of appointment he does not hold office in permanent grade of brigadier general, but does hold office in the temporary grade of brigadier general or higher temporary grade, his date of rank shall be the date of rank held in such temporary grade, or formerly held in the temporary grade of brigadier general if appointed to higher temporary grade from that grade: *And provided further*, That such date of rank shall not be earlier than that of the junior officer in the permanent grade of major general in the Regular Army.

Effective date.
Repeals.

(d) The provisions of this section shall be effective immediately upon the enactment of this Act and the following Acts and parts of Acts and all other laws or parts of laws inconsistent or in conflict with the provisions of this section are hereby repealed:

41 Stat. 760.

(1) That part of section 4 of the National Defense Act, as amended, which precedes the paragraph commencing with the words, "Sec. 4a." (10 U. S. C. 482, 483, 487, 551).

(2) The Act of May 28, 1940 (54 Stat. 227; 10 U. S. C. 482c).

(3) Section 4 of the Act of June 13, 1940 (54 Stat. 381), as amended (10 U. S. C. 551a).

GENERAL OFFICERS—ASSIGNMENTS—POSITIONS CARRYING RANK OF
GENERAL AND LIEUTENANT GENERAL

SEC. 504. (a) General officers holding office in any general officer grade, under permanent or temporary appointments, including general officers of the Army of the United States, or any component thereof, serving on active Federal duty, may be assigned or detailed to any duties or positions under regulations prescribed by the President.

Designation of cer-
tain positions by
President, etc.

(b) The President is authorized, from time to time, to designate certain positions of importance and responsibility which shall carry the rank of general and lieutenant general, respectively, and to designate and assign to such positions any of the general officers holding

office in the grade of major general or higher grade, under permanent or temporary appointments (including general officers of the Army of the United States and general officers of each of the components thereof who may be serving on active Federal duty), and such officers, so designated and assigned, shall have the rank, title, pay, and allowances of a general or lieutenant general, as the case may be, while so serving, without vacation of their permanent grade, and, upon termination of such an officer's service in any such position he shall resume his permanent grade or whatever temporary grade he may, at that time, be entitled to hold: *Provided*, That such officers shall have the rank, title, pay, and allowances of a general or lieutenant general under the provisions of this section only when appointed in such positions by the President, by and with the advice and consent of the Senate: *Provided further*, That the number of such positions and the number of officers serving in such positions shall not exceed 15 per centum of the total number of general officers serving on active Federal military duty (including those holding office under temporary appointments and general officers of the Army of the United States, and the several components thereof), and, of such number not more than 25 per centum may be positions carrying the rank of general: *Provided further*, That, unless a national emergency is declared after the date of this Act and before July 1, 1948, there shall, after such date, and until a national emergency is thereafter declared, be no additional officers appointed in any grade above that of general and the total number of officers serving on active duty in grades above major general under this section or any other provision of law, shall not exceed the following: Forty-four in grade of lieutenant general or higher grade, of which not more than nine shall be above the grade of lieutenant general, and of the nine above the grade of lieutenant general, one shall be the Chief of Staff of the Army and one shall be the officer occupying the corresponding position of the Army Air Forces, and of the remaining seven above the grade of lieutenant general there shall be not more than four in the Army less the Air Corps and not more than three in the Air Corps and of the total forty-four in grade of lieutenant general or higher, there shall be not more than twenty-seven in the Army less the Air Corps and not more than seventeen in the Air Corps; except that there may be a general officer, either of the Air Corps or other than of the Air Corps, appointed as Chief of Staff to the President, and such officer, unless he be entitled to rank, title, or grade, and the pay and allowances of a general, or of a higher grade under some other provision of law, shall, when appointed to such position by and with the advice and consent of the Senate, have the rank, title, pay, and allowances of a general and he shall be additional to the numbers hereinbefore set forth in this proviso: *And provided further*, That the numbers of general officers set forth in this subsection and in the several provisos thereof shall be exclusive of general officers on the active list of the Regular Army who are specifically authorized by Acts of Congress to hold appointments in the Diplomatic or Consular Service of the Government or to hold any civil office under the Government or any instrumentality thereof.

(c) Within the limitations as to numbers in grade prescribed in this Act, one officer of the Navy, including the Marine Corps, one officer of the Army less the Air Corps, and one officer of the Air Corps, when designated by the President, by and with the advice and consent of the Senate, as senior members of the Military and Naval Staff Committee of the United Nations shall, while so serving, be entitled to the rank, pay, and allowances of a vice admiral or lieutenant general, as the case may be, and, in addition thereto, a personal money allowance of \$2,200 per year.

Rank, pay, etc.

Number of positions, etc.

Additional appointments.

Total number.

Appointments in Diplomatic Service, etc.

Members of Military and Naval Staff Committee, United Nations.

Retirement.

(d) Any officer of the Regular Army who may be retired while serving in accordance with the provisions of subsection (b) or (c) of this section, or subsequent to such service, may, in the discretion of the President, by and with the advice and consent of the Senate, when retired, be placed on the retired list with the highest such grade or rank held by him while on the active list: *Provided*, That no increase in retired pay shall accrue solely as the result of such advancement in grade or rank on the retired list: *Provided further*, That the President, by and with the advice and consent of the Senate, may in his discretion extend the privilege herein granted to officers heretofore or hereafter retired, who served in the grade of general or lieutenant general between December 7, 1941, and June 30, 1946.

56 Stat. 362.

(e) The second paragraph of section 7 of the Pay Readjustment Act of 1942, as amended (37 U. S. C. 107), is hereby amended to read as follows:

Pay and allowances.

"Officers of the Navy serving in the grade of vice admiral, officers of the Army serving in the grade of lieutenant general, and officers of the other services mentioned in the title of this Act serving in corresponding grades, shall be entitled, while so serving, to the pay and allowances of a rear admiral (upper half) and to a personal money allowance of \$500 per year. Officers of the Navy serving in the grade of admiral, officers of the Army serving in the grade of general, and officers of the other services mentioned in the title of this Act serving in corresponding grades, shall be entitled, while so serving, to the pay and allowances of a rear admiral (upper half) and to a personal money allowance of \$2,200 per year. Officers serving as the Chief of Naval Operations, the Chief of Staff of the Army, or in the corresponding position in the Army Air Forces, or as the Commandant of the Marine Corps, shall be entitled, while so serving, to the pay and allowances of a rear admiral (upper half) and to a personal money allowance of \$4,000 per year."

Repeal.

(f) The Act of August 5, 1939 (53 Stat. 1214), as amended (10 U. S. C. 482b), is hereby repealed.

REGULAR ARMY OFFICERS—AUTHORIZED NUMBERS IN GRADES BELOW
BRIGADIER GENERAL—PROMOTION LISTS—SENIORITY—DATE OF RANK

Promotion-list officers.

SEC. 505. (a) The names of all active list commissioned officers of the Regular Army in permanent grades below that of brigadier general (except professors of the United States Military Academy, officers of the Army Nurse Corps, and Women's Medical Specialist Corps, and officers in special categories excluded by some express provision of law) shall be carried on promotion lists as hereinafter prescribed and such officers may be referred to as promotion-list officers. As used in this section the phrase "total authorized promotion-list strength" means the authorized active list commissioned officer strength of the Regular Army, exclusive of the numbers authorized by law for the Army Nurse Corps, the Women's Medical Specialist Corps, professors of the United States Military Academy, any numbers authorized by special provisions of law providing for officers in designated categories as additional numbers and the number of active list general officers of the Regular Army.

"Total authorized promotion-list strength."

Schedule of percentages.

(b) (1) The authorized numbers in each of the several grades in each of the several promotions lists shall be prescribed by the Secretary of War by a schedule of percentages in grades for each list (there being authorized for each grade a percentage of the total strength authorized for that list), which schedule of percentages may be different for each promotion list, but the numbers thus authorized in each of the several grades in each of the several promotion lists shall not exceed any limitations prescribed by laws enacted after January

1, 1947, and shall not exceed in any promotion list the following percentages of the total strength authorized for that list: 8 per centum in grade of colonel, 14 per centum in grade of lieutenant colonel, 19 per centum in grade of major, 23 per centum in grade of captain, 18 per centum in grade of first lieutenant, and 18 per centum in grade of second lieutenant: *Provided*, That in the Medical Corps, Dental Corps, and chaplains promotion lists there shall be no second lieutenants, and the numbers authorized in the grade of first lieutenant in such promotion lists shall be all those not authorized in higher grades: *Provided further*, That numbers may be authorized for any grade in any promotion list in lieu of authorizations in higher grades: *And provided further*, That this provision shall not operate to require a reduction in permanent grade of any officer in any promotion list now holding permanent appointment in any grade.

(2) The number authorized by the Secretary of War for each grade in each promotion list may be exceeded by the number of vacancies existing in higher grades in that list. The authorized numbers in grades below colonel shall from time to time be temporarily increased as provided in sections 508 and 509 of this title in order to give effect to the promotion system prescribed in those sections.

(c) PROMOTION LISTS.—(1) The Army promotion list shall contain the names of all promotion-list officers except officers of the Air Corps, the several corps of the Medical Department, and chaplains.

(2) The Air Corps promotion list shall contain the names of all promotion-list officers of the Air Corps.

(3) The Medical Corps promotion list shall contain the names of all promotion-list officers of the Medical Corps.

(4) The Dental Corps promotion list shall contain the names of all promotion-list officers of the Dental Corps.

(5) The Veterinary Corps promotion list shall contain the names of all promotion-list officers of the Veterinary Corps.

(6) The Medical Service Corps promotion list shall contain the names of all promotion-list officers of the Pharmacy Corps, the Medical Administrative Corps, and the Medical Service Corps.

(7) The chaplains promotion list shall contain the names of all promotion-list chaplains.

(d) DATE OF RANK AND SENIORITY IN PERMANENT GRADE.—(1) On each of the several promotion lists, names of officers shall be arranged by grade in which the officers hold permanent appointments in the Regular Army in the following order: First, colonels; second, lieutenant colonels; third, majors; fourth, captains; fifth, first lieutenants; and, sixth, second lieutenants. The words "grade", "senior", and "seniority" as used in this section mean "permanent grade", "senior in permanent grade", and "permanent grade seniority", respectively.

(2) Among officers of the same grade and promotion list, names shall be arranged as provided in this title and seniority among such officers shall be established thereby. The officer whose name appears first on the list shall be the senior, the officer whose name appears second on the list shall be the senior next below the first, the officer whose name appears third on the list shall be the senior next below the second, and so on throughout the list.

(3) Among officers of the same grade whose names are not contained on the same promotion list, the officer with the earliest date of rank shall be the senior, and in cases of same date of rank, the officer with the greatest amount of continuous active commissioned service in the Regular Army shall be the senior, and in cases where this is the same, seniority shall be as established at time of original appointment in the Regular Army, and in cases not covered by the foregoing, as established by the Secretary of War. Any officer transferred from one

Exclusion of second lieutenants, etc.

Numbers in lieu of authorizations in higher grades.
Reduction in grade.

Authorized number exceeded by vacancies, etc.

Post, p. 894.

"Grade"; "senior"; "seniority."

branch, arm, or service to another, the officers of which are contained on a different promotion list, shall have his name entered upon such new promotion list among the officers in his grade in accordance with their relative seniority as hereinabove defined.

Placement at bottom of list.

(4) Unless specifically provided otherwise, upon appointment of a promotion-list officer in any grade, such officer's name shall be placed at the bottom of the list of officers of the grade in which appointed.

Establishment of designated lists.

(e) (1) The Army and Air Corps promotion lists described in this section shall be established by entering thereon the names of the officers concerned without change in the order of their precedence on the promotion list as established under the law prior to enactment of this Act: *Provided*, That the provisions of subsection 517 (a) of this title shall first be carried out.

Post, p. 909.

(2) The Medical Corps, Dental Corps, Veterinary Corps, Medical Service Corps, and Chaplains promotion lists described in this section shall be established by entering thereon the names of the officers concerned without change in the order of their precedence determined by the total amount of service creditable to them for promotion purposes under existing law and in cases of an equal amount of such service, the officer with the greatest amount of continuous commissioned service on the active list of the Regular Army shall have precedence, and in cases where this is the same, precedence shall be in accordance with permanent seniority standing as established at time of original appointment in the Regular Army, and in cases not covered by the foregoing, precedence shall be established by the Secretary of War: *Provided*, That the provisions of subsection 517 (b) of this title shall first be carried out.

Post, p. 909.

Effective date.

(f) This section shall not become effective until December 31, 1947, for the purpose, during the interim, of administering the Act of December 28, 1945 (Public Law 281, Seventy-ninth Congress, 59 Stat. 663), as amended, and other Acts or provisions of law providing for the appointment of persons as additional officers of the Regular Army; but otherwise this section shall be effective on the date of enactment of this Act. Effective December 31, 1947, section 24a of the National Defense Act, as amended (10 U. S. C. 553), and section 1 of the Act of July 31, 1935 (49 Stat. 505; 10 U. S. C. 553a), shall be repealed.

10 U. S. C. §§ 481, 505-509d, 552a, 552c.
Ante, pp. 95, 735, 736; *post*, p. 894.

Repeals.
41 Stat. 771.

REGULAR ARMY OFFICERS—PROCUREMENT OF ADDITIONAL OFFICERS

Appointment of additional officers by President.

SEC. 506. (a) Within the authorized active list commissioned officer strength of the Regular Army, the President, by and with the advice and consent of the Senate, is authorized to appoint additional officers in the Regular Army in commissioned officer grades as hereinafter in this section prescribed, subject to the conditions and limitations set forth.

Qualifications.

(b) All persons appointed officers in the Regular Army pursuant to this section shall be citizens of the United States, at least twenty-one years of age, of good moral character, physically qualified for active military service, and shall have such other qualifications as may be prescribed by the Secretary of War.

Service credit.

(c) For the purpose of determining grade, position on promotion list, permanent grade seniority, and eligibility for promotion, each person initially appointed and commissioned an officer in the Regular Army shall, at time of appointment, be credited with an amount of service equivalent to the total period of active Federal service performed after attaining the age of twenty-one years as a commissioned officer in the Army of the United States or any component thereof subsequent to December 31, 1947, and prior to such appointment, but in no event shall any person be credited for such purposes with more than five years of such service. In addition to the foregoing and for

the purposes hereinabove specified, each person appointed and commissioned an officer of the Medical Corps of the Regular Army shall, at time of appointment, be credited with an amount of service equal to four years; each person appointed and commissioned an officer of the Dental Corps, each person appointed a Chaplain of the Regular Army, and each person appointed and commissioned an officer of the Regular Army with a view to assignment in the Judge Advocate General's Department, shall, at time of appointment, be credited with an amount of service equal to three years; each person appointed and commissioned an officer of the Veterinary Corps shall, at time of appointment, be credited with an amount of service equal to two years; and each person appointed and commissioned an officer of the Medical Service Corps who at the time of appointment holds a degree of doctor of philosophy or comparable degree recognized by the Surgeon General in a science allied to medicine may, subject to regulations as prescribed by the Secretary of War, be credited at the time of appointment with an amount of service equal to three years. Notwithstanding the foregoing or any other provisions of law, no person formerly a cadet at the United States Military Academy may be appointed and commissioned an officer of the Regular Army prior to the date on which his classmates at the United States Military Academy are graduated and appointed officers; and any person who was a cadet at, but did not graduate from, the United States Military Academy, shall not, upon appointment as a commissioned officer of the Regular Army, be credited with a period of service greater than the service credited to any member of his class at the Academy whose service in the Army has been continuous since graduation.

Restriction.

(d) Upon the basis of service credited as provided in subsection (c) of this section, the commissioned officer grade in which a person shall be appointed shall be determined as follows: Persons who have no service credit and those who are credited with less than three years' service shall be appointed in the grade of second lieutenant; persons who are credited with three or more years' service, but less than seven years' service, shall be appointed in the grade of first lieutenant; persons who are credited with seven or more years' service shall be appointed in the grade of captain. The names of such persons so appointed shall be placed upon the applicable promotion list immediately below those officers of the same grade having the same or next greater period of service.

Determination of grade.

(e) No person shall be initially appointed in the Regular Army in any commissioned officer grade under the provisions of this section when the length of time from date of birth to date of appointment exceeds: For all persons except those hereinafter specifically mentioned, twenty-seven years; for persons appointed in the Medical Corps, the Dental Corps, and the Veterinary Corps and persons appointed with view to assignment in the Judge Advocate General's Department, thirty-two years; for persons appointed in the Medical Service Corps, thirty years; for persons appointed as chaplains, thirty-four years: *Provided*, That for any person, the number of years from date of birth to date of appointment hereinabove specified shall, respectively, be increased by the number of years, months, and days, of active Federal service performed by such person after attaining the age of twenty-one years as a commissioned officer in the Army of the United States or any component thereof subsequent to December 31, 1947, and prior to such appointment, but not by more than five years: *And provided further*, That until June 30, 1953, the Secretary of War may, in his discretion, waive such maximum age limitations for any person who served in the armed forces of the United States prior to September 2, 1945.

Age limitations.

Graduates of U. S. Military Academy.

(f) Notwithstanding any other provision of law, when any cadet of the United States Military Academy has completed the prescribed course of instruction, he may upon graduation be promoted and appointed a second lieutenant in the Regular Army, and whenever any such appointment would result in there being a number of active list commissioned officers in the Regular Army in excess of the authorized active list commissioned officer strength, such strength shall be temporarily increased as necessary to authorize such appointment. The graduates of each class shall be assigned relative seniority among themselves under regulations prescribed by the Secretary of War and no cadet upon graduation, promotion, and appointment shall be given any service credit under the provisions of subsection (c) of this section.

Effective date.

(g) The provisions of this section shall become effective December 31, 1947. Until December 31, 1947, initial appointments of persons as commissioned officers in each of the several arms and services of the Regular Army shall continue to be made in accordance with the provisions of the Act of December 28, 1945 (Public Law 281, Seventy-ninth Congress; 59 Stat. 663), as amended, and other provisions of law authorizing appointments of persons as additional officers of the Regular Army, but effective December 31, 1947, no further appointments shall be made under the provisions of the Act of December 28, 1945, as amended (*supra*). Effective December 31, 1947, each commissioned officer of the Medical Corps who on that date has less than four years' service credit, each commissioned officer of the Dental Corps, each Regular Army Chaplain, and each commissioned officer of the Judge Advocate General's Department, who on that date has less than three years' service credit, and each commissioned officer of the Veterinary Corps, who on that date has less than two years' service credit, shall, for promotion, seniority, and promotion-list-position purposes, be credited on that date with four years' service, three years' service, and two years' service, respectively. Effective December 31, 1947, the following Acts and parts of Acts and all other laws, or parts of laws in conflict or inconsistent with the provisions of this section, shall be repealed:

10 U. S. C. §§ 481, 505-505d, 552a, 552c. *Ante*, pp. 95, 735, 736; *post*, p. 894.

Service credit.

Repeals.

41 Stat. 774.

(1) Section 24e of the National Defense Act, as amended (10 U. S. C. 484, 64, 92, 122, 141, 151, 123, 231).

(2) The Act of May 17, 1886 (24 Stat. 50; 10 U. S. C. 486).

REGULAR ARMY OFFICERS—SELECTION BOARDS—PROMOTION GENERALLY

Recommendation for promotion by selection board.

SEC. 507. (a) (1) Unless expressly provided otherwise by some provision of law, general officers of the Regular Army and promotion-list officers of the Regular Army shall be permanently promoted to and appointed in the grades of major general, brigadier general, colonel, lieutenant colonel, major, and captain in the Regular Army only when recommended for promotion to those grades by a selection board as provided in this title.

Appointment of board members, etc.

(2) Selection boards shall be convened from time to time in such number and under such regulations as the Secretary of War may prescribe. Board members shall be appointed by the Secretary of War. There shall not be less than five members on each board.

(3) Selection boards shall serve for such length of time as the Secretary of War may prescribe, but no one board shall serve longer than one year. No officer shall serve on two consecutive selection boards for the same grade, when the second of such boards considers any of the officers who were considered but not recommended for that grade by the first.

(4) Board members must be senior in permanent grade and temporary rank to any officer being considered by their board. They must be Regular Army officers holding commissions in a grade above that

of lieutenant colonel either in the Regular Army or under temporary appointment in the Army of the United States.

(5) A majority of the total membership of any board must agree on each of the officers recommended for promotion by that board.

(6) The President may remove from the recommended list the name of any officer recommended for promotion to any grade by any selection board who in his opinion is not qualified for promotion. Any officer whose name is removed from the recommended list for any grade by the President or who, after nomination by the President for any grade, cannot be appointed because of advice by the Senate that the appointment does not have its consent, shall continue to be eligible for consideration for promotion as though he had not been considered for that grade by the selection board which had recommended him, and the next succeeding selection board may select and recommend the officer concerned for promotion, and thereupon his name shall again be placed on the recommended list and when promoted such officer shall take the same date of rank and place on the promotion list he would have had had he been promoted as a result of his original selection; however, should any officer, having once been selected for promotion to any grade under section 509 of this title, fail of promotion to such grade either (a) by virtue of having his name removed from the recommended list by the President, or (b) on account of advice by the Senate that the appointment does not have its consent, again fail of promotion to the next higher grade either (a) by being considered but not selected by the next succeeding selection board, (b) by virtue of having his name removed from the recommended list by the President, or (c) on account of advice by the Senate that the appointment does not have its consent, he shall be deemed to have twice failed of selection and shall be eliminated from the active list of the Regular Army in accordance with the provisions of subsection 509 (h) of this title.

(7) Officers on a recommended list for promotion to any grade under the provisions of this title, who, at any time prior to promotion, are found incapacitated for service by reason of physical disability contracted in line of duty shall, when retired, be retired in the grade for which they were recommended, with retired pay at the rate of 75 per centum of the active-duty pay of the grade to which recommended, unless entitled to higher retired rank or pay under other provisions of law.

(8) Each member of a selection board provided for in this title shall swear or affirm that he will, without prejudice or partiality, and having in view both the special fitness of officers and the efficiency of the Army, perform the duties imposed upon him as herein provided.

(b) In time of emergency declared by the President or by the Congress, and in time of war, the President is authorized, in his discretion, to suspend the operation of all or any part or parts of the several provisions of law pertaining to promotion.

(c) Any officer eligible for consideration by a selection board shall have the right to forward through official channels at any time not later than ten days after the convening of said board a written communication inviting attention to any matter of record in the War Department concerning himself which he deems important in the consideration of his case: *Provided*, That such communication shall not contain any reflection upon the character, conduct, or motives of or criticism of any officer.

(d) The provisions of this title shall be effective immediately upon its enactment with respect to permanent grade promotion appointments of Regular Army officers to the grades of major general and brigadier general and with respect to permanent grade promotion

Agreement of majority.

Removal of name by President, etc.

Post, p. 896.

Physical disability.

Oath.

Suspension of provisions.

Right of officer to forward communication concerning himself.

Effective date.

Prior confirmation,
etc.

appointments of Regular Army promotion-list officers to grade of colonel: *Provided*, That in the case of any Regular Army officer who on the date of enactment of this Act has been nominated by the President and confirmed by the Senate for appointment to any grade but not yet appointed in that grade, such officer shall be appointed in that grade as soon as a vacancy exists therein irrespective of the requirements of this title with respect to promotions. Regular Army promotion-list officers shall continue to be promoted to and appointed in the permanent grades of lieutenant colonel, major, captain, and first lieutenant in accordance with existing provisions of law until December 31, 1947, and on that date the provisions of this title shall become effective for promotion of all Regular Army promotion-list officers to all permanent grades.

41 Stat. 774.

(1) Effective December 31, 1947, section 24c of the National Defense Act, as amended (10 U. S. C. 552, 556, 125, 143a), is further amended by deleting therefrom all words except the words:

Examinations.

"Existing laws providing for the examination of officers for promotion are hereby repealed, except those relating to physical examination, which shall continue to be required for promotion to all grades below that of brigadier general, and except also those governing the examination of officers of the Medical, Dental, and Veterinary Corps. Officers of said three Corps shall be examined in accordance with laws governing examination of officers of the Medical Corps."

Repeals.

(2) Effective December 31, 1947, section 3 of the Act of July 31, 1935 (49 Stat. 506), as amended (10 U. S. C. 552a); section 1257 Revised Statutes (10 U. S. C. 557); and section 8 of the Act of April 3, 1939 (53 Stat. 558), shall be repealed.

10 U. S. C. § 41.

REGULAR ARMY OFFICERS—PROMOTION TO GRADE OF FIRST LIEUTENANT

Increase of authorized number.

SEC. 508. Promotion-list officers in permanent grade of second lieutenant shall be promoted to and appointed in the grade of first lieutenant in the Regular Army on completion of three years' service, and the authorized number of officers in the grade of first lieutenant shall, from time to time, be temporarily increased as necessary to authorize such appointments ("years' service" as used in this section means and includes all service creditable for promotion purposes). Second lieutenants who are found to be not fully qualified shall have their commissions revoked and be discharged under the authority of section 23 of the National Defense Act, as amended (10 U. S. C. 484a). Whenever there are vacancies in any promotion list in the grade of first lieutenant, officers of that list in the grade of second lieutenant may, under regulations prescribed by the Secretary of War, be promoted and appointed in the grade of first lieutenant before completion of three years' service, but no officer in the grade of second lieutenant will be promoted under the provisions of this section ahead of any officer in that grade whose name appears above his on the promotion list concerned. This section shall be effective December 31, 1947.

Revocation of commissions, etc.

39 Stat. 181.

Effective date.

REGULAR ARMY OFFICERS—PROMOTION TO GRADES OF CAPTAIN, MAJOR, AND LIEUTENANT COLONEL—ELIMINATION OF THOSE NOT PROMOTED

Promotion-list officers.

SEC. 509. (a) After January 1, 1949, promotion-list officers shall be promoted to and appointed in the permanent grades of captain, major, and lieutenant colonel in the Regular Army, or eliminated from the active list, as hereinafter in this section prescribed.

(b) Irrespective of the existence of any vacancies, each promotion-list officer in permanent grade of first lieutenant, captain, and major shall be considered by a selection board for promotion to the permanent grade of captain, major, and lieutenant colonel, sufficiently in

advance of the date on which he completes seven, fourteen, and twenty-one years' service, respectively, so that such officer, if recommended by the selection board, may be promoted to and appointed in such grade on the date on which he completes such length of service ("years' service" as used in this section means and includes all service creditable for promotion purposes).

(c) Based upon the number of vacancies existing and anticipated in any promotion list in the grade of captain, major, and lieutenant colonel, respectively, the Secretary of War may direct a selection board to consider and recommend for promotion to such grades officers of that list in permanent grade of first lieutenant, captain, and major, respectively, irrespective of the length of service of such officers.

(d) In no instance shall any officer be considered by any selection board for promotion to the grade of captain, major, or lieutenant colonel more than two years prior to the date on which it is anticipated he will, if recommended by such board, be appointed in that grade. Whenever any officer is considered by any selection board under any provision of this section for promotion to the grade of captain, major, or lieutenant colonel in any promotion list, such board shall also consider all officers of that officer's grade and promotion list whose names appear above his on that list and are not carried on the recommended list for the next higher grade: *Provided*, That no officer who has been twice considered and not recommended for promotion to any one grade shall thereafter again be considered for promotion under the provisions of this section.

(e) (1) When officers in the grade of first lieutenant, captain, and major are to be considered by a selection board for promotion to the grade of captain, major, and lieutenant colonel, respectively, to fill vacancies in these grades, existing or anticipated, the Secretary of War, in his discretion, may follow the procedure described in paragraph (3) of this subsection, or he may direct the selection board to consider officers in the grades of first lieutenant, captain, or major (as the case may be) in the order of their seniority as their names appear on the promotion list concerned, recommend those who are fully qualified for promotion to the grade concerned, pass over those who are not fully qualified for promotion to such grade, and continue such procedure until a specified number of recommended officers is obtained.

(2) When officers in the grade of first lieutenant, captain, and major must be considered by a selection board for promotion to the grade of captain, major, and lieutenant colonel, respectively, by reason of completion of years of service, or by reason of being on a promotion list above an officer of that list who must be considered for that reason, the Secretary of War, in his discretion, may follow the procedure described in paragraph (3) of this subsection, or he may furnish to the selection board a list of officers to be considered for promotion to the grade concerned and direct such board to recommend from among the officers so listed all those and only those considered by the board to be fully qualified for promotion to that grade.

(3) In either of the circumstances described in paragraphs (1) and (2) of this subsection, the Secretary of War may, in lieu of the procedures there prescribed, furnish to a selection board a list of officers to be considered for promotion to the grade concerned and direct such board to select and recommend from among those listed a specified number for promotion to that grade, the officers to be selected to be the best qualified of those listed for consideration. If this procedure is followed, the Secretary of War shall prescribe the number to be selected but in no event shall that number be less than 80 per centum of those officers listed for consideration.

"Years' service."

Consideration, etc.,
by board on basis of
vacancies.

Prior consideration,
etc.

Restriction.

Procedures.

Permanent recom-
mended list.

(f) The names of officers of any promotion list who are selected and recommended for promotion to any grade under the provisions of this section shall be carried on a permanent recommended list of officers of that promotion list for promotion to that grade. The names of those recommended by any selection board shall be entered on the applicable recommended list with the same precedence standing among themselves as exists on the applicable promotion list. No officer of any recommended list shall be appointed in the grade for which recommended ahead of any other officer whose name appears above his on such recommended list.

"Deferred officer."

(g) The phrase "deferred officer" as used in this section means any officer considered and not recommended by any selection board for the grade of captain, major, or lieutenant colonel under the provisions of this section. Each "deferred officer" shall suffer loss in precedence for promotion purposes to those officers who were recommended by the selection board which failed to recommend him, and shall suffer a reduction in his years of service for promotion purposes, if necessary, so that, one year subsequent to the time he would have been appointed in the next higher grade had he been recommended, he shall not have for promotion purposes more than seven years' service if in grade of first lieutenant, fourteen years' service if in grade of captain, and twenty-one years' service if in grade of major; however such loss in precedence for promotion purposes and such loss in years of service for promotion purposes shall not result in any loss in seniority by such "deferred officer" until his juniors are promoted to the next higher grade.

Second considera-
tion.

(h) Deferred officers in any grade shall be considered a second time by the next selection board designated for consideration of officers of his grade and promotion list and if recommended by such board his name shall be entered on the applicable recommended list with the other officers recommended by such board and with the same precedence among themselves as exists on the applicable promotion list but below the names of officers placed on such recommended list by any earlier board. If an officer fails of selection for any grade but is subsequently recommended and promoted to that grade, his failure in the grade from which promoted shall not in any sense be counted as a failure of selection when he is subsequently considered for further promotion. If a "deferred officer" is not recommended by the next consecutive selection board, he shall, on that date which is one year and thirty days subsequent to the date on which he would have been appointed in the next higher grade had he been recommended by the first of two consecutive selection boards, be eliminated from the active list of the Regular Army and retired or separated, as the case may be (see section 514 of this title): *Provided*, That, if on such date, he is within two years of becoming entitled to retirement under the provisions of section 514 of this title, the date of elimination shall be the date on which he becomes entitled to retirement, rather than that hereinabove prescribed, and he shall be retained on the active list in the permanent grade held until qualified for retirement and then retired, unless sooner retired or separated under some other provision of law.

Elimination from
active list.

Post, p. 902.

Date of appoint-
ment.

(i) For the purpose of administering the provisions of this section, the date on which a deferred officer would have been appointed in the next higher grade, if he had been recommended by the first of such two consecutive selection boards, shall be counted as the date of appointment in such grade of whichever officer, junior to him on the list prior to his loss in seniority, is first to be appointed in such grade, or the date on which, had he not suffered loss in years of service, he would have completed for promotion purposes, seven years' service

if in grade of first lieutenant, fourteen years' service if in grade of captain, and twenty-one years' service if in grade of major, whichever of said two dates is the earlier.

(j) Officers of any promotion list, whose names are carried on any recommended list for promotion to any grade under the provisions of this section, may be promoted and appointed in the grade for which recommended whenever there is a vacancy in the number authorized for that grade in that promotion list. Promotions and appointments to fill vacancies may be made at any time, but it is not mandatory that the authorized numbers in grades in the several promotion lists be maintained.

Promotions, etc., to fill vacancies.

(k) Irrespective of any vacancy in any grade, whenever any officer whose name is carried on any recommended list under the provisions of this section, completes for promotion purposes, seven years' service if in grade of first lieutenant, fourteen years' service if in grade of captain, and twenty-one years' service if in grade of major, the authorized number of officers in the grade of captain, major, and lieutenant colonel, respectively, in the applicable promotion list, shall be temporarily increased, if necessary, to authorize the appointment in that grade of such officer and all officers of his grade and promotion list whose names appear above his on the recommended list, and such officers shall be simultaneously appointed in that grade, retaining among themselves their existing relative seniority.

Temporary increase in numbers.

(l) In addition to the procedures described in subsection (e) of this section, whenever in the Air Corps promotion list there are vacancies in the grade of captain, major, or lieutenant colonel, respectively, and, in the discretion of the Secretary of War, there are or will be an inadequate number of officers in that grade with certain special qualifications required for the Air Corps, he may direct a selection board to select a specified number of Air Corps promotion-list officers having such special qualifications for promotion to that grade. The selection in such instance shall be accomplished under the same rules that apply generally in this section, except that officers not selected shall not be deemed to have been considered for promotion within the meaning of subsections (d) and (g) of this section. Officers selected under this procedure shall be appointed in the grade for which selected only to fill vacancies in the numbers authorized in that grade.

Vacancies in Air Corps promotion list.

Rules of selection.

(m) Promotion of promotion-list officers to grades of captain, major, and lieutenant colonel shall continue to be made under existing law until December 31, 1947; thereafter, promotions to these grades shall be suspended until promotions are made on or about July 1, 1948, to fill initial requirements in these grades under the provisions of section 518 of this title, and thereafter, promotions to these grades shall again be suspended until December 31, 1948.

Continuation of promotions.

Post, p. 910.

REGULAR ARMY OFFICERS—PROMOTION TO GRADE OF COLONEL

SEC. 510. (a) After the date of enactment of this Act, promotion-list officers shall be promoted to and appointed in the permanent grade of colonel in the Regular Army only as hereinafter in this section prescribed, except in those cases governed by the proviso to the first sentence of subsection 507 (d) of this title.

Promotion-list officers.

Ante, p. 893.

(b) Based upon the number of vacancies existing and anticipated in any promotion list in the grade of colonel and the number of officers desired in that grade in that promotion list, the Secretary of War shall direct a selection board to select and recommend a prescribed number of officers of that promotion list for promotion to that grade and shall furnish to such board a list of the names of the officers to be considered. The list of names furnished for consideration shall include the name of the senior officer of that promotion list below the

Selection, etc., by board on basis of vacancies.

junior in the permanent grade of colonel whose name is not carried on the recommended list for promotion to the grade of colonel and the names of additional such officers in the order that their names appear next below his on that promotion list, as the Secretary of War may prescribe, and until June 30, 1948, in addition thereto may include the names of any officers in permanent grade below that of colonel who served during the current war in any general officer grade under temporary appointment. From among the officers named for consideration, the designated selection board shall select and recommend the prescribed number. The officers selected and recommended shall be those who, in the opinion of the board, are the best qualified officers of those listed for consideration: *Provided*, That whenever in the opinion of the Secretary of War the number of officers in the permanent grade of colonel in each of the several branches included in the Army promotion list is or may become seriously unbalanced, he may, in his discretion, direct that, of the officers to be selected and recommended for the grade of colonel, specified numbers be selected for service in specified branches: *And provided further*, That whenever in the opinion of the Secretary of War, in the Air Corps promotion list, there is or will be an inadequate number of officers, in the permanent grade of colonel, possessing certain special qualifications required for the Air Corps, he may, in his discretion, direct that, of the officers to be selected and recommended for the grade of colonel, specified numbers possess certain specified qualifications.

Selection for service
in specified branches.

Air Corps.

Permanent recom-
mended list.

(c) The names of officers of any promotion list who are selected and recommended for promotion to the grade of colonel in the Regular Army shall be carried on a permanent recommended list of officers of that promotion list for promotion to that grade. The names of those recommended by any selection board shall be entered on the applicable recommended list at the foot thereof in the same precedence standing among themselves as exists on the applicable promotion list. No officer of any recommended list shall be appointed in the grade of colonel ahead of any other officer whose name appears above his on such recommended list. Officers whose names are carried on any such recommended list may be promoted and appointed in the grade of colonel only when there is a vacancy in the number authorized for that grade in that promotion list. Promotion appointments to fill vacancies in the grade of colonel in the Regular Army may be made at any time, but it is not mandatory that authorized numbers in that grade in the several promotion lists be maintained.

Ratio, etc.

(d) The ratio of the number of officers of any promotion list which the Secretary of War names for consideration by any selection board for promotion to the grade of colonel in the Regular Army, to the number of officers which he directs such selection board to select from among those so named, may be as desired by the Secretary of War but no officer shall be considered or selected by any selection board more than two years prior to the date on which it is anticipated he will, if selected, be appointed in that grade. After June 30, 1949, officers must have completed at least one year's service under permanent appointment in the grade of lieutenant colonel in the Regular Army before being nominated or appointed in the grade of colonel in the Regular Army.

Completion of year's
service before nomina-
tion, etc.

REGULAR ARMY OFFICERS—PROMOTION TO GRADE OF BRIGADIER GENERAL

Promotion-list of
officers.

SEC. 511. (a) After the date of enactment of this Act, promotion-list officers shall be promoted to and appointed in the permanent grade of brigadier general in the Regular Army only as hereinafter in this section prescribed, except in those cases governed by the provisions

of section 513 of this title, and except in those cases governed by the proviso to the first sentence of subsection 507 (d) of this title.

(b) Based upon the number of vacancies existing and anticipated in the grade of brigadier general in the Regular Army and the number of officers desired in that grade, the Secretary of War shall direct a selection board to select and recommend a prescribed number of officers for promotion to that grade, and, in order to insure that the Army will have adequate numbers of officers in the grade of brigadier general with experience qualifying them for service in or with the several branches, arms, and services, he may, in his discretion, direct that, of the number to be selected and recommended, specified numbers have experience qualifying them for service in or with certain specified branches, arms or services. The Secretary of War shall furnish to such board a list of the names of the officers to be considered. The list of names furnished for consideration shall include the names of the senior officers below the junior in the permanent grade of brigadier general whose names are not carried on the recommended list for promotion to the grade of brigadier general and the names of additional such officers in the order that their names appear next below theirs on the applicable promotion lists, as the Secretary of War may prescribe, and, until June 30, 1948, in addition thereto may include the names of any officers in permanent grade below that of brigadier general who served during the current war in any general officer grade under temporary appointment. From among the officers named for consideration, the designated selection board shall select and recommend the prescribed number, including any prescribed numbers whose experience qualifies them for service in or with a designated branch, arm, or service. The officers selected and recommended shall be those who, in the opinion of the board, are the best qualified officers of those listed for consideration.

(c) The names of officers who are selected and recommended for promotion to the grade of brigadier general in the Regular Army shall be carried on a permanent recommended list of officers for promotion to that grade. Upon selection, the names of such officers shall be placed on the recommended list at the foot thereof arranged among themselves according to precedence to be determined by the Secretary of War. The number of officers to be selected and recommended by designated selection boards for promotion to the grade of brigadier general in the Regular Army shall be determined by the Secretary of War. It is not mandatory that the Secretary of War direct the selection and recommendation of numbers sufficient to produce the number authorized for that grade; but officers who are selected and recommended for promotion to that grade by any such selection board, and whose names are not removed from the recommended list by the President, shall be nominated, and by and with the advice and consent of the Senate appointed, in that grade as soon as there is a vacancy in the number authorized for that grade.

(d) The ratio of the number of officers which the Secretary of War names for consideration by any selection board for promotion to the grade of brigadier general in the Regular Army, to the number of officers which he directs such selection board to select from among those so named, may be as desired by the Secretary of War, but no officer shall be considered or selected by any selection board more than one year prior to the date on which it is anticipated he will, if selected, be appointed in that grade. After June 30, 1949, officers must have completed at least one year's service under permanent appointment in the grade of colonel in the Regular Army, before being nominated or appointed in the grade of brigadier general in the Regular Army.

Ante, p. 893.

Selection, etc., by board on basis of vacancies.

Permanent recommended list, recom-

Ratio, etc.

Completion of year's service before nomination, etc.

REGULAR ARMY OFFICERS—PROMOTION TO GRADE OF MAJOR GENERAL

SEC. 512. (a) After the date of enactment of this Act, Regular Army officers shall be promoted to and appointed in the permanent grade of major general in the Regular Army only as hereinafter in this section prescribed, except in those cases governed by the provisions of section 513 of this title and except in those cases governed by the proviso to the first sentence of subsection 507 (d) of this title.

Ante, p. 893.
Selection, etc., by board on basis of vacancies.

(b) Based upon the number of vacancies existing and anticipated in the grade of major general in the Regular Army and the number of officers desired in that grade, the Secretary of War shall direct a selection board to select and recommend a prescribed number of officers for promotion to that grade, and, in order to insure that the Army will have adequate numbers of officers in the grade of major general with experience qualifying them for service in or with the several branches, arms, and services, he may, in his discretion, direct that, of the number to be selected and recommended, specified numbers have experience qualifying them for service in or with certain specified branches, arms, or services. The Secretary of War shall furnish to such board a list of the names of the officers to be considered. The list of names furnished for consideration shall include the name of the senior officer in the permanent grade of brigadier general whose name is not carried on the recommended list for promotion to the grade of major general and the names of additional such officers in the order that their names appear next below his on the general officers' seniority list, as the Secretary of War may prescribe, and, until June 30, 1948, in addition thereto may include the names of any officers in permanent grade below that of major general who served during the current war in any general officer grade under temporary appointment. From among the officers named for consideration, the designated selection board shall select and recommend the prescribed number, including any prescribed numbers whose experience qualifies them for service in or with a designated branch, arm, or service. The officers selected and recommended shall be those who, in the opinion of the board, are the best qualified officers of those listed for consideration.

Permanent recommended list.

(c) The names of officers who are selected and recommended for promotion to the grade of major general in the Regular Army shall be carried on a permanent recommended list of officers for promotion to that grade. Upon selection, the names of such officers shall be placed on the recommended list at the foot thereof arranged among themselves according to precedence to be determined by the Secretary of War. The number of officers to be selected and recommended by designated selection boards for promotion to the grade of major general in the Regular Army shall be determined by the Secretary of War. It is not mandatory that the Secretary of War direct the selection and recommendation of numbers sufficient to produce the number authorized for that grade; but officers who are selected and recommended for promotion to that grade by any such selection board, and whose names are not removed from the recommended list by the President, shall be nominated, and by and with the advice and consent of the Senate appointed, in that grade as soon as there is a vacancy in the number authorized for that grade.

Ratio, etc.

(d) The ratio of the number of officers which the Secretary of War names for consideration by any selection board for promotion to the grade of major general in the Regular Army, to the number of officers which he directs such selection board to select from among those so named, may be as desired by the Secretary of War, but no officer shall be considered or selected by any selection board more than one year prior to the date on which it is anticipated he will, if

selected, be appointed in that grade. After June 30, 1949, officers must have completed at least one year's service under permanent appointment in the grade of brigadier general in the Regular Army, before being nominated or appointed in the grade of major general in the Regular Army.

Completion of year's service before nomination, etc.

GENERAL OFFICERS—CHIEFS AND ASSISTANT CHIEFS OF SERVICES—PROMOTION TO GENERAL OFFICER GRADE WITH A VIEW TO ASSIGNMENT AS CHIEF OR ASSISTANT CHIEF OF SERVICE

SEC. 513. (a) Each of the offices of chiefs of branches, arms, or services, and each of the offices of their assistants as provided by law, respectively, shall be filled by the President appointing, by and with the advice and consent of the Senate, an officer, not below the grade of lieutenant colonel, who has demonstrated by actual and extended duty in such arm, branch, or service or on similar duty that he is qualified for such assignment, and who has been recommended for such office by a board of officers as prescribed in subsection (b) of this section. Upon the appointment of a Regular Army officer to any such office, he shall at the same time, if he does not already hold permanent appointment in the Regular Army in the grade called for by such office, be permanently appointed in grade of major general or brigadier general in the Regular Army, whichever is the rank specified for such office. An officer appointed to any such office shall normally continue in that assignment for a tour of duty of four years but such assignment may be terminated at any time, or such tour may be extended by the President in his discretion. The termination of an officer's assignment as chief or assistant chief of a branch, arm, or service shall have no effect upon the permanent general officer grade held by him. Whenever any Regular Army officer is to be appointed as a chief or an assistant chief of a branch, arm, or service and at the same time in the permanent grade of major general or brigadier general in the Regular Army, whichever is the rank specified for such office, the total authorized number of officers in that grade shall be temporarily increased if necessary to authorize such appointment, but such temporary increase in authorized numbers in such grade shall continue only until a vacancy shall occur in such grade. Officers now serving as chiefs of branches, arms, or services, and their respective assistants, will not be affected by this section. This section shall become effective for each such office on the date that office is vacated by the present incumbent. This section shall not apply to the office of Chief of the National Guard Bureau.

Appointment by President.

Tour of duty.

Termination of assignment.

Temporary increase in numbers.

Nonapplicability.

Procedure for recommendation, etc.

(b) Officers shall be recommended to fill the office of chief of a branch, arm, or service, or the office of an assistant chief of a branch, arm, or service, as follows: The Secretary of War shall appoint a board of five general officers which shall include the then incumbent, if any, of the office to be filled and at least two other officers, if available, of a rank above that of the position for which selections are to be made who have had actual and extended service in the branch concerned. The Secretary of War shall furnish to such board a list of the officers to be considered by it and shall specify the number to be recommended, which number shall not be less than three. The list to be considered shall include all Regular Army officers of the branch concerned in the permanent grade of colonel, all Regular Army officers above the grade of colonel who have demonstrated by actual and extended duty in such arm, branch, or service, or on similar duty, that they are qualified for such assignment, and may in addition thereto and to the extent determined advisable by the Secretary of War, include the names of Regular Army officers of the branch concerned in the permanent grade of lieutenant colonel in the order that their

names appear upon the promotion list concerned, and the names of officers of any component of the Army of the United States serving on extended active duty in grades above lieutenant colonel who have demonstrated by actual and extended duty in the branch, arm, or service concerned, or on similar duty, that they are qualified for such assignment. From among the officers named for consideration the board shall select and recommend the prescribed number. From among those recommended by such board, the President may appoint an officer in the position concerned. If the President declines to appoint any of those so recommended or if those he may nominate cannot be appointed because of advice by the Senate, the Secretary of War shall convene a board to select and recommend additional officers in accordance with the procedure heretofore prescribed. Officers who are recommended and who are not appointed shall be deemed not to have been recommended but this shall in no way prejudice their eligibility for selection and recommendation for the grade of major general or brigadier general under the provisions of sections 511 and 512 of this title.

41 Stat. 762.

Retirement.

(c) Section 4c of the National Defense Act, as amended (10 U. S. C. 8, 482a, 6, 1026, 27, 532, 28, 29, 533, 13, 534), is further amended by deleting therefrom all words except the words: "Any officer who shall have served four years as chief or assistant chief of a branch or as commanding general of the General Headquarters Air Force and who may subsequently be retired, shall be retired with the rank, pay, and allowances authorized by law for the highest grade held by him as such chief, assistant chief, or commanding general: *Provided*, That this provision shall not reduce the rank, pay, or allowances with which such officer would otherwise be entitled to retire."

REGULAR ARMY OFFICERS—ELIMINATION FROM ACTIVE LIST—MANDATORY RETIREMENT OR SEPARATION

Retirement.

SEC. 514. (a) (1) After that date which is six months after the date of enactment of this Act, unless provided otherwise by some provision of law, each commissioned officer of the Regular Army (other than a professor of the United States Military Academy), who is not retired or separated at an earlier date under applicable provisions of law, shall, if in the permanent grade of brigadier general or in any permanent grade below that of brigadier general, be retired on that date upon which he attains the age of sixty years; and, if in the permanent grade of major general, be retired on that date upon which he attains the age of sixty-two years: *Provided*, That officers holding appointments on the date of enactment of this Act as chiefs and assistant chiefs of services shall not by reason of the enactment of this section be retired while so serving until age sixty-four years is reached if serving with the rank of major general or until age sixty-two years is reached if serving with the rank of brigadier general: *Provided further*, That the provisions of this paragraph requiring retirement at age sixty years and sixty-two years shall not become effective for officers of the Medical Corps until one year after date of enactment of this Act.

Officers of Medical Corps.

Professors of U. S. Military Academy.

(2) Each professor of the United States Military Academy, who is not retired or separated at an earlier date under applicable provisions of law, shall be retired on that date upon which he attains the age of sixty-four years.

Retired grade and pay.

(3) Each commissioned officer of the Regular Army who is hereafter retired by reason of reaching the age of sixty years, sixty-two years, or sixty-four years, as the case may be, shall be retired in the permanent grade held at time of retirement and shall receive retired pay computed on the basis provided in subsection (e) (1) of this

section: *Provided*, That, if on the date such officer attains the age of sixty years, sixty-two years, or sixty-four years, as the case may be, he is eligible for retirement under any other provision of law in effect on that date, including any provision of law providing for voluntary retirement on his own application, and the retired grade or amount of retired pay to which he would be entitled under such other provision is greater than the retired grade or amount of retired pay herein provided, he shall be entitled to the greater retired grade and retired pay.

(b) The term "years' service" as used in subsections (c), (d), and (e) of this section means and includes—

(1) for any officer appointed in the Regular Army between December 28, 1945, and December 31, 1947, under the provisions of the Act of December 28, 1945 (Public Law 281, Seventy-ninth Congress, 59 Stat. 663), as amended, the period of service credited to such officer under that law at the time of his appointment, increased by the period of his active commissioned service in the Regular Army subsequent to such appointment;

(2) for any Reserve judge advocate appointed in the Regular Army in the grade of captain in the Judge Advocate General's Department under the applicable provision of section 24e of the National Defense Act, as amended (10 U. S. C. 64), a period of service equal to the number of days, months, and years by which his age at time of such appointment exceeds twenty-five years, or the total period of active Federal service performed by him after attaining the age of twenty-one years as a commissioned officer in the Army of the United States or any component thereof from December 7, 1941, to the date of such appointment, whichever is greater; increased by the period of his active commissioned service in the Regular Army subsequent to such appointment; and

(3) for any other Regular Army officer, the period of his active commissioned service in the Regular Army subsequent to his appointment, increased by the period of active Federal service performed by him prior to his appointment in the Regular Army after attaining the age of twenty-one years as a commissioned officer in the Army of the United States or any component thereof after December 7, 1941, for those appointed in the Regular Army prior to December 31, 1947; and after December 31, 1947, for those appointed in the Regular Army after December 31, 1947.

(c) After the date of enactment of this Act, whenever in the opinion of the Secretary of War there is an excessive number of officers on the active list of the Regular Army in any grade who have completed thirty "years' service", he may convene a board of not less than five general officers of the Regular Army to consider all officers of that grade who have completed thirty "years' service" and recommend for retirement a specified number thereof, and the Secretary of War, in his discretion, is authorized to retire any officer so recommended.

(d) Unless provided otherwise by some provision of law, commissioned officers of the Regular Army hereinafter specified who are not retired or separated at an earlier date under other provisions of law shall be eliminated from the active list and retired or separated, as the case may be, at the times hereinafter prescribed. If on the date of elimination from the active list hereinafter prescribed, any officer is within two years of becoming entitled to retirement under the provisions of subsection (e) of this section, his date of elimination from the active list shall be the date on which he becomes entitled to retirement, rather than that hereinafter prescribed, and he shall be retained on the active list in the permanent grade then held until qualified for retirement and then retired, unless sooner retired or separated under some other provision of law.

"Years' service."

10 U. S. C. §§ 481,
505-505d, 552a, 552c.
Ante, pp. 95, 735, 736.

41 Stat. 774.

Excessive number
who have completed
30 "years' service."

Elimination from
active list.

Major generals.

(1) After that date which is six months after the date of enactment of this Act, unless provided otherwise by some provision of law, each officer heretofore or hereafter appointed in the permanent grade of major general in the Regular Army who is not retired or separated at an earlier date under other provisions of law shall be eliminated from the active list and retired on the fifth anniversary of the date of his appointment in that permanent grade in the Regular Army, or on that date which is thirty days after the date upon which he completes thirty-five "years' service", whichever is later, unless he is permanently appointed in a grade above that of major general before the later of such two dates: *Provided*, That such officers may, in the discretion of the Secretary of War, be retained on the active list until age sixty is reached: *And provided further*, That not to exceed ten such officers, who are either holding temporary appointments in any grade above major general or are serving in positions which carry rank above that of major general may, in the discretion of the Secretary of War, be retained on the active list until age sixty-four is reached.

Retention until age
64.

Brigadier generals.

(2) After that date which is six months after the date of enactment of this Act, unless provided otherwise by some provision of law, each officer heretofore or hereafter appointed in the permanent grade of brigadier general in the Regular Army who is not retired or separated at an earlier date under other provisions of law, shall be eliminated from the active list and retired on the fifth anniversary of the date of his appointment in that permanent grade in the Regular Army, or on that date which is thirty days after the date upon which he completes thirty "years' service", whichever is later, unless he is appointed in the permanent grade of major general in the Regular Army before the later of such two dates: *Provided*, That such officers whose names are carried on the recommended list for appointment in the permanent grade of major general in the Regular Army shall be retained on the active list while their names are so carried; and if appointed in the permanent grade of major general their elimination from the active list shall be governed by the provisions of paragraph (1) of this subsection: *Provided further*, That not to exceed ten such officers who are serving in temporary grades above that of brigadier general, may, in the discretion of the Secretary of War, be retained on the active list until age sixty is reached: *And provided further*, The provisions of this paragraph shall not apply to professors of the United States Military Academy.

Retention until age
60.

Nonapplicability.

Colonels.

(3) After June 30, 1953, unless provided otherwise by some provision of law, each promotion-list officer heretofore or hereafter appointed in the permanent grade of colonel in the Regular Army who is not retired or separated at an earlier date under other provisions of law shall be eliminated from the active list and retired on the fifth anniversary of the date of his appointment in that permanent grade in the Regular Army, or on that date which is thirty days after the date upon which he completes thirty "years' service", whichever is later, unless he is appointed in the permanent grade of brigadier general, or any higher permanent grade, in the Regular Army before the later of such two dates: *Provided*, That such officers whose names are carried on the recommended list for appointment in the permanent grade of brigadier general in the Regular Army shall be retained on the active list while their names are so carried, and if appointed in the permanent grade of brigadier general their elimination from the active list shall be governed by the provisions of paragraph (2) of this subsection: *And provided further*, That of the officers in the permanent grade of colonel in the Regular Army whose names are carried on the Medical Corps, Dental Corps, Veterinary Corps, Medical Service Corps, or chaplains promotion list,

Retention until age
60.

respectively, not more than 10 per centum of the number authorized in that grade for any such promotion list, respectively, may, in the discretion of the Secretary of War, be retained on the active list after the date specified for their retirement and the number of colonels authorized for the promotion list concerned may be exceeded by the number of such officers of that promotion list so retained, but in no event shall any such officer be so retained after reaching the age of sixty years.

(4) After June 30, 1953, unless provided otherwise by some provision of law, each promotion-list officer heretofore or hereafter appointed in the permanent grade of lieutenant colonel in the Regular Army who is not retired or separated at an earlier date under other provisions of law shall be eliminated from the active list and retired on that date which is thirty days after the date upon which he completes twenty-eight "years' service", unless he is appointed in the permanent grade of colonel, or any higher permanent grade, in the Regular Army before that date: *Provided*, That such officers whose names are carried on the recommended list for appointment in the permanent grade of colonel in the Regular Army shall be retained on the active list while their names are so carried and if appointed in the permanent grade of colonel their elimination from the active list shall be governed by the provisions of paragraph (3) of this subsection: *And provided further*, That any of the officers in the permanent grade of lieutenant colonel in the Regular Army whose names are carried on the Medical Corps, Dental Corps, Veterinary Corps, Medical Service Corps, or Chaplains promotion list, may, in the discretion of the Secretary of War, be retained on the active list after the date specified for their retirement but in no event shall any such officer be so retained after reaching the age of sixty years.

(c) Each officer eliminated from the active list of the Regular Army pursuant to any of the provisions of subsection (h) of section 509 of this title or of subsection (c) or (d) of this section shall—

(1) if on the date of elimination, he has completed twenty "years' service" or more, be retired in the permanent grade held at time of retirement with monthly retired pay equal to $2\frac{1}{2}$ per centum of the monthly base and longevity pay he would receive if serving on active duty in that grade, multiplied by a number equal to the number of years of his "years' service", or, the number of years of service creditable to him under the law in the computation of his active-duty pay, whichever of such two numbers is greater (fractions of a year less than one-half shall be disregarded and one-half or more shall be counted as one year); but in no event shall such retired pay be more than 75 per centum nor less than 50 per centum of the base and longevity pay he would receive if serving on active duty in the grade in which retired: *Provided*, That if on the date of his elimination, he is eligible for retirement under any other provision of law in effect on that date, including any provision of law providing for voluntary retirement on his own application, and the retired grade or amount of retired pay to which he would be entitled under such other provision is greater than the retired grade or amount of retired pay herein provided, he shall be entitled to the greater retired grade and retired pay: *Provided further*, That in the case of any officer whose computation of active-duty pay is not based upon years of service the phrase "the number of years of service creditable to him under the law in the computation of his active-duty pay" as used herein shall be construed to mean the number of years of service which would be creditable to him under the law in the computation of his active-duty pay if he were serving in the grade of colonel;

Lieutenant colonels.

Retention until age 60.

Retired grade and pay.
Ante, p. 896.

(2) if on the date of elimination, he has not completed twenty "years' service" or more, but is eligible for retirement under any provision of law in effect on that date including any provision of law providing for voluntary retirement on his own application, be retired in the grade and with the retired pay to which he would be entitled if retired on that date under that law;

Honorable discharge
with severance pay.

(3) if on the date of elimination, he is not eligible for retirement under any provision of law, be honorably discharged from the Regular Army with severance pay equal to that sum of money computed by multiplying, (a) the number of years of his "years' service" (fractions of a year less than one-half shall be disregarded and one-half or more shall be counted as one year); by (b) the amount of base and longevity pay which he would receive (computed at the rate applicable on the date of his elimination) for two months' active duty in the grade (permanent or temporary) held at the time of elimination: *Provided*, That the total severance pay shall not exceed two years' base and longevity pay so computed.

Suspension of pro-
visions.

(f) In time of emergency declared by the President or by the Congress, and in time of war, the President is authorized, in his discretion, to suspend the operation of all or any part or parts of the several provisions of law prescribing mandatory retirement or separation of Regular Army officers.

Post, p. 912.

(g) Section 5 of the Act of July 31, 1935 (49 Stat. 507), as amended (10 U. S. C. 971b), is further amended as follows:

(1) By deleting therefrom that portion which reads: "*Provided further*, That on June 30, 1942, all brigadier generals of the line who are then sixty-two years of age or over and all promotion-list officers who are then sixty years of age or over shall be retired, and thereafter all brigadier generals of the line shall be retired at the age of sixty-two years and all promotion-list officers shall be retired at the age of sixty years, except that all officers in the grade of general officer whose names are carried on the promotion-list are exempted from the operation of this proviso and in addition thereto the Secretary of War may, in his discretion, exempt from the operation of this proviso such number of colonels as will result in their being on active duty at any time a number of colonels who would otherwise be retired not greater than 5 per centum of the total number of colonels then on the promotion list, but such exemption shall terminate in each case when the officer reaches the age of sixty-two, or sooner in the discretion of the Secretary of War, and colonels so exempted shall be included within the authorized number of promotion-list colonels";

(2) By deleting therefrom that portion which reads: "*Provided further*, That each promotion-list officer shall be assumed to have for retirement purposes, at least the same length of continuous commissioned service in the Regular Army as any officer junior to him on the promotion list: *Provided further*, That the number of years of service to be credited in computing the right to retirement and retirement pay in the case of officers retired by reason of having reached the age of sixty years or over shall include all service heretofore credited for retirement at age sixty-four:".

ARMY OFFICERS—TEMPORARY GRADES—TEMPORARY APPOINTMENT OF OFFICERS IN THE ARMY OF THE UNITED STATES—ACTIVE DUTY OF RESERVE COMPONENT OFFICERS

Number less than
authorized.

SEC. 515. (a) Whenever the number of Regular Army officers holding office under permanent appointments in the grades of major general and brigadier general is less than the number authorized in these grades and whenever the number of Regular Army officers of any promotion list, holding office under permanent appointments in the

grades of colonel, lieutenant colonel, major, captain, and first lieutenant, respectively, is less than the number authorized in these grades in such promotion list, the additional number authorized in these several grades may be filled by the temporary appointment of qualified officers under the provisions of subsection (c) of this section.

(b) Whenever under authorization from time to time made by the Congress the total number of officers serving on active duty (Regular Army officers and all officers of the Army of the United States or any component thereof ordered into active military service for extended Federal service in excess of thirty days) exceeds the authorized active list commissioned officer strength of the Regular Army, the Secretary of War shall determine the requirements in each of the several commissioned grades based upon the total number of officers so serving on active duty and the tasks being performed by the Army and such requirements in each of such grades may be filled by the temporary appointment of qualified officers under the provisions of subsection (c) of this section: *Provided*, That unless a national emergency is declared after the date of this Act and before July 1, 1948, after such date and until a national emergency is thereafter declared, the total number of officers serving on active duty in grades above major general under any provision of law shall not exceed the limitation specifically set forth in section 504 of this title.

(c) Within the limitations specified in subsections (a) and (b) of this section, any commissioned officer of the Regular Army, or of any of the Reserve components of the Army of the United States serving on active Federal duty, may be appointed in any temporary grade equal to or higher than his permanent grade without vacating his permanent appointment or any temporary appointment held by him under this or any other provision of law, and any such officer now holding an appointment in any temporary grade equal to or higher than his permanent grade may be continued therein as though he had been appointed thereto under the provisions of this section. Action under this subsection shall be taken on a fair and equitable basis, regard being given to seniority, age, and selection based upon ability and efficiency under regulations prescribed by the Secretary of War. The President may, in his discretion, from time to time, in accordance with the needs of the service, adjust dates of rank in temporary grades.

(d) To the extent provided from time to time by appropriations for this purpose, any officer of any Reserve component of the Army of the United States may, with his own consent, be ordered to active Federal duty for such length of time as the President may prescribe and in time of a national emergency expressly declared by Congress may be so ordered without his consent. The President may at any time relieve from active duty any Reserve officer who is serving on active duty. Any officer of any Reserve component ordered into or serving on active duty may, with his own consent, be temporarily appointed in a grade in the Army of the United States, either higher or lower than the grade held by him in such Reserve component, and such temporary appointment shall not affect the appointment and grade held by him in his Reserve component.

(e) In time of emergency declared by the President, or by the Congress, and in time of war, the President is authorized to appoint qualified persons (including persons who hold no Regular Army or Reserve status) as temporary officers in the Army of the United States in any of the several commissioned officer grades, and persons so appointed may be ordered into the active military service of the United States to serve therein for such periods of time as the President may prescribe. The appointment of a temporary officer, if not sooner vacated, shall continue during the emergency or war in which the appointment was made and for six months thereafter.

Number exceeding authorized strength.

Ante, p. 886.

Appointment in temporary grade.

Adjustment of dates of rank.

Reserve components. Federal duty, etc.

Appointment of temporary officers.

- (f) All temporary appointments herein mentioned (officers of the Regular Army, the National Guard of the United States, and the Officers' Reserve Corps temporarily appointed in grades different from those held in their respective components, and, persons holding no Regular Army or Reserve commissions appointed as temporary officers) shall be made in the Army of the United States, and such appointments shall not contain any reference to any other appointment held or not held in any component of the Army of the United States. All temporary appointments herein mentioned may be vacated at any time by the President. Temporary appointments in grades below that of brigadier general shall be made by the President alone, and in general officer grades by and with the advice and consent of the Senate.
- Grade below brigadier general.
General officer grades.
Pay and allowances.
- (g) All officers temporarily appointed in any grade in the Army of the United States shall, while serving in such grade on active duty in the service of the United States, receive the same pay and allowances as authorized for persons of corresponding grade and length of service holding permanent appointments in that grade in the Regular Army.
- Rights, benefits, etc.
- (h) Each temporary officer and each Reserve officer of any Reserve component, serving on active Federal duty in any commissioned grade, permanent or temporary (herein referred to as "active-duty grade"), shall be entitled, while so serving, to the same rights, privileges, and benefits as now or hereafter provided by law for an officer of the Officers' Reserve Corps of the same length of service holding appointment in the Officers' Reserve Corps in a grade the same as such "active-duty grade" and serving on active duty in the grade held in the Officers' Reserve Corps.
- "Permanent grade."
- (i) DEFINITIONS.—(1) As used in this title the phrase "permanent grade" means the grade in which an officer holds appointment in the Regular Army, or in the National Guard of the United States, or in the Officers' Reserve Corps, as the case may be. The phrase "permanent appointment" means appointment in the Regular Army, or in the National Guard of the United States, or in the Officers' Reserve Corps, as the case may be.
- "Permanent appointment."
- (2) As used in this title, the phrase "temporary grade" means the grade in which an officer holds temporary appointment in the Army of the United States (as distinguished from "permanent grade").
- "Temporary grade."
- (3) As used in this title, the phrase "temporary officer" means a person who has no Regular Army or reserve commissioned status but who temporarily holds appointment as an officer of the Army of the United States.
- "Temporary officer."
- (j) This section becomes effective the date of enactment of this Act. Effective the date of enactment of this Act, section 4 of the Act of June 16, 1936 (49 Stat. 1525; 10 U. S. C., 292a-1), is hereby repealed.
- Effective date.
Repeal.

RELATIVE RANK OF GENERAL OFFICERS OF THE ARMY WITH FLAG OFFICERS OF THE NAVY

SEC. 516. Officers holding commissions in the grade of major general in the Regular Army and officers holding commissions in the grade of rear admiral in the Navy who are entitled to the pay of the upper half of that grade shall take rank among themselves according to their respective dates of rank in such grades. Officers holding commissions in the grade of brigadier general in the Regular Army and officers holding commissions in the grade of rear admiral in the Navy who are entitled to the pay of the lower half of that grade shall take rank among themselves according to their respective dates of rank in such grades. All officers in the Army of the United States, including all components thereof, senior in relative rank to any Regular Army officer, shall also be senior to all Navy officers junior in relative rank to such Regular Army officer.

REGULAR ARMY OFFICERS—SERVICE CREDIT TO CERTAIN OFFICERS WHO WERE IN THE REGULAR ARMY PRIOR TO DECEMBER 28, 1945

SEC. 517. (a) PROMOTION-LIST OFFICERS.—Each person who was appointed a second lieutenant between December 7, 1941, and December 28, 1945, in any arm or service of the Regular Army, the officers of which are carried on the promotion list as constituted prior to enactment of this Act, and who has had continuous active commissioned service in the Regular Army since such appointment, and who on the date of enactment of this Act holds active commissioned office in an arm or service of the Regular Army, the officers of which are carried on the promotion list as constituted prior to enactment of this Act, shall be credited with service equivalent to the total period of active Federal commissioned service performed by him after attaining the age of twenty-one years as a commissioned officer in the Army of the United States or any component thereof from December 7, 1941, to the date of such appointment: *Provided*, That persons who were promoted and appointed second lieutenants in the Regular Army upon graduation from the United States Military Academy shall not be credited with any such service. The service herein credited shall be counted for the same purposes as, and construed similar to, service credited to persons upon appointment in the Regular Army under the provisions of the Act of December 28, 1945 (Public Law 281, Seventy-ninth Congress, 59 Stat. 663). The names of such officers shall be placed on the promotion list as constituted immediately prior to the date of enactment of this Act in the places they would be had such officers been credited with the service herein credited at the time of their appointment in the Regular Army and had their names been entered on the promotion list at the time of their appointment immediately below those officers of the same grade having the same or next greater period of service. Officers credited with an equal amount of service by virtue of their service in the Regular Army and the additional service herein credited shall be placed on the promotion list as aforesaid without alteration among themselves of their former precedence and seniority standing.

(b) NON-PROMOTION-LIST OFFICERS.—Each person holding active commissioned office as a chaplain in the Regular Army or in the Medical Corps, Dental Corps, or Veterinary Corps of the Regular Army on the date of enactment of this Act, who was originally so appointed and commissioned in the Regular Army between June 27, 1926, and December 28, 1945, and has had continuous commissioned service in the Regular Army since such appointment, shall be credited, respectively, with additional years of service for promotion purposes as follows: Chaplains, six and eight-twelfths years; Medical Corps officers, three and five-twelfths years; Dental Corps officers, three and one-twelfth years; Veterinary Corps officers, one and four-twelfths years: *Provided*, That due to such additional service so creditable for promotion purposes no person shall have his existing service creditable for promotion purposes increased to an amount greater than the service he would possess for promotion purposes solely by virtue of continuous active commissioned service in the Regular Army from June 27, 1926. Such officers shall be given precedence for promotion purposes in accordance with the precedence they would have, had such years of service been credited to such officers on December 28, 1945, and had those who would have become entitled to promotion in permanent grade in the Regular Army by virtue thereof been so promoted. No action under this subsection shall change the relative precedence for promotion purposes of any officer who held a commission as chaplain or in any of these corps on December 28, 1945, with respect to

Service credit.
Second lieutenants.

Restriction.

10 U. S. C. §§ 481,
505-505d, 552a, 552c.
Ante, pp. 95, 735, 736.

Chaplains.

Precedence.

any other officer who held a commission on that date as chaplain or in the same corps, respectively.

Adjustment of
dates of rank.

(c) Dates of rank in permanent grades of officers credited with additional service pursuant to this section shall be adjusted to accord to their new positions on the promotion list or, in the case of "non-promotion-list" officers, to their new precedence for promotion purposes, as the case may be.

Back pay, etc.

(d) No back pay or allowances shall accrue to any person by reason of the enactment of this section.

REGULAR ARMY OFFICERS—PROMOTIONS TO BE MADE ON JULY 1, 1948, TO FILL INITIAL REQUIREMENTS IN GRADES OF CAPTAIN, MAJOR, AND LIEUTENANT COLONEL

SEC. 518. (a) (1) Promotions to the grades of captain, major, and lieutenant colonel shall continue to be made under existing law until December 31, 1947. During the period January 1, 1948, to June 30, 1948, there shall be no permanent grade promotion appointments of Regular Army promotion-list officers to the grade of captain, major, or lieutenant colonel. On July 1, 1948, or at the earliest practicable time thereafter, the Regular Army officers specified in subsection (b) of this section and those recommended for promotion by selection boards as provided in subsection (c) of this section shall be promoted to and appointed in the Regular Army in the grades of captain, major, and lieutenant colonel.

(2) Officers appointed in the same grade under the provisions of this section shall have their names entered on the applicable promotion list immediately below that of the junior of the list holding office in that grade without change among themselves in their relative permanent grades seniority standing existing prior to such appointments.

(3) The numbers to be selected and recommended for each of the several grades for each of the several promotion lists under the provisions of this section may be less, but shall not be more, than numbers which will produce the total numbers authorized in each of such grades in each promotion list.

(4) Officers named for consideration for any grade but not selected for that grade by a selection board under the provisions of this section shall not for any purpose be deemed to have failed of selection.

Removal of name
from recommended
list.

(5) The name of any officer recommended for promotion to any grade by a selection board under the provisions of this section may be removed from the recommended list for that grade by the President, and entered by him on the recommended list for any lower grade above that in which the officer is holding appointment, or he may remove it entirely.

(6) The procedure prescribed in this section shall be taken separately for each of the several promotion lists.

"Years' service."

(7) The phrase "years' service" as used in this section means and includes all service creditable for promotion purposes under the law prior to enactment of this Act and the service credited under section 517 of this title.

Appointments in-
cluded.

(b) The appointments referred to in subsection (a) of this section shall include appointments in permanent grades of captain, major, and lieutenant colonel, respectively, of all promotion-list officers (not appointed in higher permanent grades under the provisions of subsection (c) of this section) in permanent grades of first lieutenant, captain, and major who on June 30, 1948, will have completed seven, fourteen, and twenty-one or more years' service, respectively. Each selection board considering officers for promotion under the provisions

Report of names by
board.

of subsection (c) of this section, which has among the names furnished to it for consideration the names of any officers who on June 30, 1948, will have completed the years' service specified in this subsection for promotion to the grade for which selections are being made by such board, shall report the names of such officers for promotion to that grade and the number which the board is instructed to select and recommend for that grade shall be reduced accordingly.

(c) For the purpose of initially filling permanent grade requirements in each of the several promotion lists in grades of lieutenant colonel, major, and captain (appointments to be made on July 1, 1948, or at the earliest practicable time thereafter), based upon the number of vacancies in any promotion list in these grades, the Secretary of War, in his discretion, may either (1) direct a selection board to consider officers in the grades of major, captain, and first lieutenant, respectively, in the order of their seniority as their names appear on the promotion list concerned, recommend those who are fully qualified for promotion to the grade of lieutenant colonel, major, or captain, respectively, pass over those who are not fully qualified for promotion to these grades, and continue such procedure until a specified number of recommended officers is obtained for each such grade; or, (2) furnish to a selection board a list of the officers to be considered for promotion to the grade concerned and direct such board to select and recommend from among those listed a specified number for promotion to that grade, the officers to be selected to be the best qualified of those listed for consideration. The names of officers who are recommended for promotion to the grades of lieutenant colonel, major, and captain, respectively, shall be entered on a recommended list (a separate list for each grade in each promotion list). The officers recommended for promotion shall be appointed in the grades for which recommended on July 1, 1948, or at the earliest practicable date thereafter.

Consideration, etc.,
by board on basis of
vacancies.

Recommended list.

(d) If the Secretary of War, in his discretion, follows the second procedure described in subsection (c) of this section for any grade in any promotion list, the names furnished to the applicable selection board shall be those of the officers hereinafter specified:

Names of officers
furnished to board.

(1) For the grade of lieutenant colonel, the names furnished to the selection board concerned shall include the name of the senior officer of that promotion list in permanent grade below lieutenant colonel, and the names of such additional officers in the order that their names appear next below his on that promotion list, as the Secretary of War may prescribe, and in addition thereto, may include the names of any officers of that promotion list who served during the current war in any general officer grade under temporary appointment.

(2) For the grade of major, the names furnished for consideration to the selection board concerned shall include the names of all officers of the designated promotion list in permanent grades below that of major named for consideration but not selected for the grade of lieutenant colonel and the names of such additional officers in the order that their names appear next on that promotion list, as the Secretary of War may prescribe, and in addition thereto may include the names of any officers of that promotion list who served during the current war in any general officer grade under temporary appointment.

(3) For the grade of captain, the names furnished for consideration under the provisions of this section shall include the names of all officers of the designated promotion list in permanent grades below that of captain named for consideration but not selected for the grades of major or lieutenant colonel, and the names of such additional officers in the order that their names appear next on that promotion list, as the Secretary of War may prescribe.

AMENDMENTS TO NATIONAL DEFENSE ACT TO PROVIDE INCREASED RANK FOR
CHIEF OF CHAPLAINS AND ASSISTANTS TO THE SURGEON GENERAL

39 Stat. 176. SEC. 519. (a) CHAPLAINS.—So much of section 15 of the National Defense Act, as amended (10 U. S. C. 234), as reads "One chaplain of rank not below that of major may be appointed by the President, by and with the advice and consent of the Senate, to be Chief of Chaplains. He shall serve as such for four years, and shall have the rank, pay, and allowances of colonel while so serving" is hereby amended to read: "There is authorized a Chief of Chaplains with the rank of major general."

39 Stat. 171. (b) MEDICAL DEPARTMENT.—So much of section 10 of the National Defense Act, as amended (10 U. S. C. 81), as reads "The Medical Department shall consist of one Surgeon General with the rank of major general, four assistants with the rank of brigadier general, one of whom shall be an officer in the Dental Corps," is hereby amended to read "The Medical Department shall consist of one Surgeon General with the rank of major general, one assistant with the rank of major general who shall be an officer in the Dental Corps, three assistants with the rank of major general or brigadier general, as determined by the Secretary of War, and".

PROFESSORS OF THE UNITED STATES MILITARY ACADEMY

Rank, pay, etc. SEC. 520. (a) Hereafter each of the permanent professors of the United States Military Academy, other than the dean of the Academic Board, who is the head of a department of instruction or whose service as such professor exceeds six years, shall have the rank, pay, and allowances of a colonel; and all other permanent professors shall have the rank, pay, and allowances of a lieutenant colonel: *Provided*, That the permanent professors who have been or may hereafter be appointed by the President from the commissioned officers of the Regular Army shall have the rank, pay, and allowances of a colonel from the date herein provided or from the date on which any promotion-list officer junior to such professor (on the promotion list on which such professor's name was carried prior to his appointment as a professor) is promoted to and appointed in the permanent grade of colonel, whichever date is earlier: *Provided further*, That no back pay or allowances shall accrue hereunder.

Retirement in grade of brigadier general. (b) When any permanent professor of the United States Military Academy, whose service as such has been long and distinguished, is retired, he may, in the discretion of the President, be placed upon the retired list in the grade of brigadier general: *Provided*, That no increase in pay or allowances is authorized hereby.

Retirement at age 64. (c) Hereafter the permanent professors of the United States Military Academy shall, unless sooner retired, be retired at the age of sixty-four years: *Provided*, That the Secretary of War may direct the retirement of any such professor having over thirty years' commissioned service.

AMENDMENT TO RETIREMENT LAWS

Ante, p. 906. Retirement in grade of colonel, etc. 41 Stat. 773. 10 U. S. C. § 571. SEC. 521. (a) Section 5 of the Act of July 31, 1935 (49 Stat. 507), as amended (10 U. S. C. 971b), is further amended by deleting therefrom that portion which reads: "*Provided further*, That any promotion-list officer retired for any reason except by operation of section 24b, National Defense Act, or wholly retired, who has completed twenty-eight or more years of continuous commissioned service in the Regular Army and who has failed to reach the grade of colonel by reason of the limitation on the number of promotion-list officers in the grade of colonel or by reason of the restriction of years

of service in grade of major or lieutenant colonel shall be retired in the grade of colonel with retired pay computed as otherwise provided by law for a colonel with the same length of service including all service now or hereafter credited for active-duty pay purposes, and any such officer who has completed more than twenty-three but less than twenty-eight years of continuous commissioned service in the Regular Army and who has failed to reach the grade of lieutenant colonel by reason of the restriction of years of service in grade of major shall be retired in the grade of lieutenant colonel with retired pay computed as otherwise provided by law for a lieutenant colonel with the same length of service including all service now or hereafter credited for active-duty pay purposes."

(b) The Act of July 31, 1935 (49 Stat. 507), as amended (10 U. S. C. 971b), is further amended by adding between sections 5 and 6 thereof an additional section as follows:

Ante, pp. 906, 912.

"SEC. 5a. Any officer in the permanent grade of lieutenant colonel retired after January 1, 1946, upon his own application, or for physical disability, or mandatorily by reason of reaching a prescribed age, or by reason of having completed a prescribed length of service, shall, if at time of retirement he has completed twenty-eight years or more of active Federal commissioned service and has served in any capacity as a member of the military or naval forces of the United States prior to November 12, 1918, unless entitled to be retired in a higher grade under some other provision of law, be retired in the grade of colonel with retired pay computed as otherwise provided by law for a colonel with the same length of service including all service now or hereafter credited for active duty pay purposes."

AMENDMENT TO ARTICLE OF WAR 119

SEC. 522. Article of war 119 (41 Stat. 811; 10 U. S. C. 1591) is amended by deleting therefrom the words: "in time of war or public danger,".

SAVING CLAUSE

SEC. 523. Nothing contained in this title shall operated to reduce the retired grade or retired pay of any officer heretofore retired.

Approved August 7, 1947.

[CHAPTER 513]

AN ACT

To promote the mining of coal, phosphate, sodium, potassium, oil, oil shale, gas, and sulfur on lands acquired by the United States.

August 7, 1947
[H. R. 3022]
[Public Law 382]

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 "Mineral Leasing Act for Acquired Lands".

Short title.

SEC. 2. As used in this Act "United States" includes Alaska. "Acquired lands" or "lands acquired by the United States" include all lands heretofore or hereafter acquired by the United States to which the "mineral leasing laws" have not been extended, including such lands acquired under the provisions of the Act of March 1, 1911 (36 Stat. 961, 16 U. S. C., sec. 552). "Secretary" means the Secretary of the Interior. "Mineral leasing laws" shall mean the Act of October 20, 1914 (38 Stat. 741, 48 U. S. C., sec. 432); the Act of February 25, 1920 (41 Stat. 437, 30 U. S. C., sec. 181); the Act of April 17, 1926 (44 Stat. 301, 30 U. S. C., sec. 271); the Act of February 7, 1927 (44 Stat. 1057, 30 U. S. C., sec. 281), and all Acts heretofore or hereafter enacted which are amendatory of or supplementary to any of the fore-

"United States."
"Acquired lands";
"lands acquired by the
United States."

"Secretary."
"Mineral leasing
laws."