§ 2772. Withholding pay of officers

The pay of an officer of the Army, Navy, Air Force, or Marine Corps may be withheld, under section 82 of title 5, only for an indebtedness to the United States admitted by the officer or shown by the judgment of a court, or upon a special order issued in the discretion of the Secretary of the military department concerned.

Subtitle B—Army

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PART I. ORGANIZATION

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CHAPTER 301.—DEFINITIONS

Sec.
3001. Definitions.

§ 3001. Definitions

In this title, "Army" means the Army or Armies referred to in the Constitution of the United States, less that part established by law as the Air Force.

CHAPTER 303.—DEPARTMENT OF THE ARMY

Sec.
3011. Department of the Army: seal.
3012. Secretary of the Army: powers and duties; delegation by; compensation.
3013. Under Secretary of the Army: Assistant Secretaries of the Army.
3014. Comptroller of the Army: appointment; functions.
3015. Chief of National Guard Bureau: appointment; acting chief.
3016. Administrative Assistant.
3017. Secretary of the Army: successors to duties.

§ 3011. Department of the Army: seal

The Secretary of the Army shall have a seal for the Department of the Army. The design of the seal must be approved by the President. Judicial notice shall be taken of the seal.

§ 3012. Secretary of the Army: powers and duties; delegation by; compensation

(a) There is a Secretary of the Army, who is the head of the Department of the Army.

(b) The Secretary is responsible for and has the authority necessary to conduct all affairs of the Department of the Army, including—

(1) functions necessary or appropriate for the training, operations, administration, logistical support and maintenance, welfare, preparedness, and effectiveness of the Army, including research and development; and

(2) such other activities as may be prescribed by the President or the Secretary of Defense as authorized by law.

He shall perform such other duties relating to Army affairs, and conduct the business of the Department in such manner, as the President or the Secretary of Defense may prescribe.

(c) The Secretary may assign such of his duties as he considers appropriate to the Under Secretary of the Army and to the Assistant Secretaries of the Army. Officers of the Army shall, as directed by the Secretary, report on any matter to the Secretary, the Under Secretary, or an Assistant Secretary.

(d) The Secretary or, as he may prescribe, the Under Secretary or an Assistant Secretary shall supervise all matters relating to—

(1) the procurement activities of the Department of the Army; and

(2) planning for the mobilization of materials and industrial organizations essential to the wartime needs of the Army.

(e) The Secretary, as he considers appropriate, may assign, detail, and prescribe the duties of members of the Army and civilian personnel of the Department of the Army.

(f) The Secretary may change the title of any other officer, or of any activity, of the Department of the Army.

(g) The Secretary may prescribe regulations to carry out his functions, powers, and duties under this title.

(h) The compensation of the Secretary is $18,000 a year.

§ 3013. Under Secretary of the Army; Assistant Secretaries of the Army

(a) There are an Under Secretary of the Army and four Assistant Secretaries of the Army in the Department of the Army. The Under Secretary and the Assistant Secretaries shall be appointed from civilian life by the President, by and with the advice and consent of the Senate. The Secretary of the Army shall designate one Assistant Secretary as Assistant Secretary of the Army for Financial Management. He may also designate that Assistant Secretary as Comptroller of the Army.

(b) The compensation of the Under Secretary and of the Assistant Secretaries is that prescribed by law for assistant secretaries of executive departments.

§ 3014. Comptroller of the Army: appointment; functions

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

(1) Budgeting.

(2) Accounting.

(3) Progress and statistical reporting.

(4) Internal audit.

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

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

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

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

§ 3015. Chief of National Guard Bureau: appointment; acting chief

(a) The President, by and with the advice and consent of the Senate, shall appoint the Chief of the National Guard Bureau from officers of the Army National Guard of the United States or the Air National Guard of the United States who—

(1) have been recommended by their respective governors;

(2) have had at least 10 years of commissioned service in the active National Guard; and

(3) are in a grade above lieutenant colonel.

(b) The Chief of the National Guard Bureau holds office for four years, but may be removed for cause at any time and may not hold that office after he becomes 64 years of age. He is eligible to succeed himself. If he holds a lower reserve grade he shall be appointed as a Reserve in his armed force in the grade of major general for service in the Army National Guard of the United States or the Air National Guard of the United States, as the case may be.

(c) If the Chief of the National Guard Bureau is unable, because of disability, to perform the functions of his office, or if that office is vacant, the senior officer of the Army National Guard of the United States or the Air National Guard of the United States on duty in the Bureau shall act as its chief until the disability ceases or a successor is appointed.

§ 3016. Administrative Assistant

(a) There is an Administrative Assistant in the Department of the Army. The Administrative Assistant shall be appointed by the Secretary of the Army and shall perform duties that the Secretary considers appropriate.

(b) During a vacancy in the office of Secretary, the Administrative Assistant has charge and custody of all records, books, and papers of the Department of the Army.

(c) The Secretary may authorize the Administrative Assistant to sign, during the temporary absence of the Secretary, any paper requiring his signature. In such a case, the Administrative Assistant's signature has the same effect as the Secretary's signature.

§ 3017. Secretary of the Army: successors to duties

(a) If the Secretary of the Army dies, resigns, is removed from office, is absent, or is disabled, the person who is highest on the following list, and who is not absent or disabled, shall perform the duties of the Secretary until the President, under section 6 of title 5, directs another person to perform those duties or until the absence or disability ceases:

(1) The Under Secretary of the Army.

(2) The Assistant Secretaries of the Army in order of their length of service as such.

(3) The Chief of Staff.

(b) Performance of the duties of the Secretary by the Chief of Staff or any officer of the Army designated under section 6 of title 5 shall not be considered as the holding of a civil office within the meaning of section 3544 (b) of this title.

CHAPTER 305.—THE ARMY STAFF

Sec.
3031. Composition: assignment and detail of members of Army and civilians.
3032. General duties.
3033. Reserve components of Army; policies and regulations for government of.
3034. Chief of Staff: appointment; duties.
3035. Vice Chief of Staff, Deputy Chief of Staff, and Assistant Chiefs of Staff: succession to duties of Chief of Staff.
3036. Chiefs of branches: appointments; duties.
3037. Judge Advocate General, Assistant Judge Advocate General, and general officers of Judge Advocate General's Corps: appointment; duties.
3038. Chief of Engineers: additional duties.
3039. Inspector General; Provost Marshal General.
3040. Deputy and assistant chiefs of branches.

§ 3031. Composition: assignment and detail of members of Army and civilians

(a) There is in the executive part of the Department of the Army an Army Staff consisting of—

(1) the Chief of Staff;

(2) the Vice Chief of Staff;

(3) not more than three Deputy Chiefs of Staff, as prescribed by the Secretary of the Army;

(4) not more than five Assistant Chiefs of Staff, as prescribed by the Secretary;

(5) the officers named in sections 3036, 3039, and 3040 of this title;

(6) other members of the Army assigned or detailed to the Army Staff; and

(7) civilians in the Department of the Army assigned or detailed to the Army Staff.

(b) Except as otherwise specifically prescribed by law, the Army Staff shall be organized in such manner, and its members shall perform such duties and have such titles, as the Secretary may prescribe. A part of the Army Staff may be designated as the Army General Staff.

(c) Not more than 3,000 officers of the Army may be assigned or detailed to permanent duty in the executive part of the Department of the Army. Of this number not more than 1,000 may be detailed or assigned to duty on or with the Army General Staff. However, these limitations do not apply in time of war, or of national emergency declared by Congress, or whenever the President finds that it is in the national interest to increase the number of officers in the executive part of the Department or on or with the Army General Staff. The Secretary shall report quarterly to Congress the number of officers in the executive part of the Department of the Army and the number of commissioned officers on or with the Army General Staff, and the justification therefor.

(d) No commissioned officer who is assigned or detailed to duty in the executive part of the Department of the Army may serve for a tour of duty of more than four years. However, the Secretary may extend such a tour of duty if he makes a special finding that the extension is necessary in the public interest. No officer may be assigned or detailed to duty in the executive part of the Department of the Army within two years after relief from that duty, except upon a special finding by the Secretary that the assignment or detail is

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necessary in the public interest. This subsection does not apply in time of war, or of national emergency declared by Congress.

§ 3032. General duties

(a) The Army Staff shall furnish professional assistance to the Secretary, the Under Secretary, and the Assistant Secretaries of the Army.

(b) Under the direction and control of the Secretary, the Army Staff shall—

(1) prepare such plans for the national security, for employment of the Army for that purpose, both separately and in conjunction with the naval and air forces, and for recruiting, organizing, supplying, equipping, training, serving, mobilizing, and demobilizing the Army, as will assist in the execution of any power, duty, or function of the Secretary or the Chief of Staff;

(2) investigate and report upon the efficiency of the Army and its preparation for military operations;

(3) prepare detailed instructions for the execution of approved plans and supervise the execution of those plans and instructions;

(4) act as agent of the Secretary and the Chief of Staff in coordinating the action of all organizations of the Department of the Army; and

(5) perform such other duties, not otherwise assigned by law, as may be prescribed by the Secretary.

§ 3033. Reserve components of Army; policies and regulations for government of

(a) Each policy or regulation affecting the following subjects shall be prepared by a committee of officers of the appropriate division or divisions of the Army General Staff and of an equal number of officers of the Army National Guard of the United States:

(1) The organization or distribution of the Army National Guard of the United States.

(2) The organization, distribution, or training of the Army National Guard.

(b) The members of each committee under subsection (a) who are officers of the Army National Guard of the United States must be selected from lists of officers of that component who are suitable for that duty, submitted by the governors of the States and Territories of whose Army National Guard they are members, respectively, and by the commanding general of the District of Columbia National Guard for the District of Columbia.

(c) Each policy or regulation affecting the organization, distribution, training, appointment, assignment, promotion, or discharge of members of the Army Reserve shall be prepared by a committee of officers of the appropriate divisions of the Army General Staff and of an equal number of officers of the Army Reserve.

(d) Each policy or regulation affecting the Army Reserve and either the Army National Guard of the United States or the Army National Guard shall be prepared by a committee composed of equal numbers of officers of the Regular Army, of the Army National Guard of the United States, and of the Army Reserve.

(e) There shall be not less than 10 officers of the Army National Guard of the United States and the Army Reserve on duty with the Army General Staff, one-half of whom shall be from each of those components. These officers shall be considered as additional members of the Army General Staff while on that duty.

(f) The Chief of Staff shall—

(1) send the statements of policies and regulations prepared under this section to the Secretary of the Army;

(2) advise him with regard thereto; and

(3) after action on those policies and regulations by the Secretary, act as the agent of the Secretary in carrying them into effect.

§ 3034. Chief of Staff: appointment; duties

(a) The Chief of Staff shall be appointed by the President, by and with the advice and consent of the Senate, from the general officers of the Army. He serves during the pleasure of the President, but not for more than four years unless reappointed by the President, by and with the advice and consent of the Senate.

(b) The Chief of Staff, while so serving, has the grade of general without vacating his regular or reserve grade, and is counted as one of the officers authorized to serve in a grade above lieutenant general under section 3066 of this title.

(c) Except as otherwise prescribed by law and subject to section 3012 (c) and (d) of this title, the Chief of Staff performs his duties under the direction of the Secretary of the Army, and is directly responsible to the Secretary for the efficiency of the Army, its preparedness for military operations, and plans therefor.

(d) The Chief of Staff shall—

(1) preside over the Army Staff;

(2) send the plans and recommendations of the Army Staff to the Secretary, and advise him with regard thereto;

(3) after approval of the plans or recommendations of the Army Staff by the Secretary, act as the agent of the Secretary in carrying them into effect;

(4) supervise the members and organizations of the Army;

(5) perform the duties described for him by sections 141 and 171 of this title and other provisions of law; and

(6) perform such other military duties, not otherwise assigned by law, as are assigned to him by the President.

§ 3035. Vice Chief of Staff, Deputy Chiefs of Staff, and Assistant Chiefs of Staff: succession to duties of Chief of Staff

(a) The Vice Chief of Staff, the Deputy Chiefs of Staff, and the Assistant Chiefs of Staff shall be general officers detailed to those positions.

(b) If the Chief of Staff is absent or disabled or if that office is vacant, the officer who is highest on the following list and who is not absent or disabled shall, unless otherwise directed by the President, perform the duties of the Chief of Staff until a successor is appointed or the absence or disability ceases:

(1) The Vice Chief of Staff.

(2) The Deputy Chiefs of Staff in order of seniority.

§ 3036. Chiefs of branches: appointment; duties

(a) There are in the Army the following officers:

(1) Chief of Engineers.
(2) Chief Signal Officer.
(3) Adjutant General.
(4) Quartermaster General.
(5) Chief of Finance.
(6) Chief of Ordnance.
(7) Chief Chemical Officer.
(8) Chief of Transportation.
(9) Surgeon General.
(10) Judge Advocate General.
(11) Chief of Chaplains.

(b) Each officer named in subsection (a), except the Judge Advocate General, shall be appointed by the President, by and with the advice and consent of the Senate, from officers above the grade of major who—

(1) have shown by extensive duty in the branch concerned, or by similar duty, that they are qualified for the appointment; and

(2) have been recommended by a board under subsection (e).

If the officer holds a lower regular grade, he shall be appointed in the regular grade of major general. The Judge Advocate General shall be appointed as prescribed in section 3037 of this title.

(c) An officer appointed under subsection (b) normally holds office for four years. However, the President may terminate or extend the appointment at any time.

(d) Each officer named in subsection (a) shall perform the duties prescribed by the Secretary and by law.

(e) For each office to be filled under subsection (b), the Secretary shall select a board of five general officers, including the incumbent, if any, of the office, and at least two officers, if available, in a grade above major general who have had extensive service in the branch concerned. The Secretary shall give the board a list of the officers to be considered and shall specify the number of officers, not less than three, to be recommended. The list shall include—

(1) the name of each officer of the Regular Army who is appointed in, or assigned to, that branch, and whose regular grade is colonel;

(2) the name of each officer whose regular grade is above colonel, who has shown by extensive duty in that branch, or by similar duty, that he is qualified for the appointment;

(3) to the extent that the Secretary determines advisable, the name of each officer of the Regular Army who is appointed in, or assigned to, that branch, and whose regular grade is lieutenant colonel, in the order in which their names appear on the applicable promotion lists; and

(4) to the extent that the Secretary considers advisable, the name of each regular or reserve officer on active duty in a grade above lieutenant colonel who has shown by extensive duty in that branch, or by similar duty, that he is qualified for the appointment.

From these officers, the board shall recommend by name the number prescribed by the Secretary, and the President may appoint any

officer so recommended. If the President declines to appoint any of the recommended officers, or if the officer nominated cannot be appointed because of advice by the Senate, the Secretary shall convene a board to recommend additional officers. An officer who is recommended but not appointed shall be considered not to have been recommended. This does not affect his eligibility for selection and recommendation for the grade of brigadier general or major general under section 3306 or 3307 of this title.

§ 3037. Judge Advocate General, Assistant Judge Advocate General, and general officers of Judge Advocate General's Corps: appointment; duties

(a) The President, by and with the advice and consent of the Senate, shall appoint the Judge Advocate General, the Assistant Judge Advocate General, and general officers of the Judge Advocate General's Corps, from officers of the Judge Advocate General's Corps who are recommended by the Secretary of the Army. An officer appointed as the Judge Advocate General or Assistant Judge Advocate General who holds a lower regular grade shall be appointed in the regular grade of major general.

(b) The Judge Advocate General shall be appointed from those officers who at the time of appointment are members of the bar of a Federal court or the highest court of a State or Territory, and who have had at least eight years of experience in legal duties as commissioned officers.

(c) The Judge Advocate General, in addition to other duties prescribed by law—

(1) is the legal adviser of the Secretary of the Army and of all officers and agencies of the Department of the Army;

(2) shall direct the members of the Judge Advocate General's Corps in the performance of their duties; and

(3) shall receive, revise, and have recorded the proceedings of courts of inquiry and military commissions.

§ 3038. Chief of Engineers: additional duties

Under the direction of the Secretary of the Army, the Chief of Engineers, in addition to other duties prescribed by law, is responsible for—

(1) the direction of the construction, maintenance, and repair of buildings, structures, and utilities for the Army;

(2) the acquisition of all real estate and the issue of licenses in connection with Government reservations; and

(3) the operation of water, gas, electric, and sewer utilities.

However, any utility pertaining exclusively to a branch of the Army may be operated by that branch.

§ 3039. Inspector General; Provost Marshal General

(a) There is an Inspector General in the Army. When directed by the Secretary of the Army or the Chief of Staff, the Inspector General shall inquire into and report upon the discipline, efficiency, and economy of the Army, and shall perform any other duties prescribed by the Secretary, by the Chief of Staff, or by law.

(b) There is a Provost Marshal General in the Army. The Provost Marshal General shall perform the duties prescribed by the Secretary, by the Chief of Staff, or by law.

(c) The position of Inspector General and that of Provost Marshal General shall each be filled by the detail of a general officer of the Army for a tour of duty of not more than four years. However, the Secretary may extend such a tour of duty if he makes a special finding that the extension is necessary in the public interest.

§ 3040. Deputy and assistant chiefs of branches

(a) Each officer named in sections 3036 and 3039 of this title shall have, in addition to the assistants prescribed by subsections (b) and (c) and by section 3037 of this title, such deputies and assistants as the Secretary of the Army may prescribe. Each such deputy and assistant shall be an officer detailed by the Secretary to that position from the officers of the Army for a tour of duty of not more than four years, under a procedure prescribed by the Secretary similar to that prescribed in section 3036 of this title.

(b) There is an Assistant Surgeon General appointed from the officers of the Dental Corps, as prescribed in section 3036 of this title. An appointee who holds a lower regular grade shall be appointed in the regular grade of major general.

(c) There are two assistants to the Chief of Engineers appointed as prescribed in section 3036 of this title. An appointee who holds a lower regular grade shall be appointed in the regular grade of brigadier general.

CHAPTER 307.—THE ARMY

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§ 3061. Regulations

The President may prescribe regulations for the government of the Army.

§ 3062. Policy; composition; organized peace establishment

(a) It is the intent of Congress to provide an Army that is capable, in conjunction with the other armed forces, of—

(1) preserving the peace and security, and providing for the defense, of the United States, the Territories, Commonwealths, and possessions, and any areas occupied by the United States;

(2) supporting the national policies;

(3) implementing the national objectives; and

(4) overcoming any nations responsible for aggressive acts that imperil the peace and security of the United States.

(b) In general, the Army, within the Department of the Army, includes land combat and service forces and such aviation and water transport as may be organic therein. It shall be organized, trained, and equipped primarily for prompt and sustained combat incident to operations on land. It is responsible for the preparation of land forces necessary for the effective prosecution of war except as otherwise assigned and, in accordance with integrated joint mobilization plans, for the expansion of the peacetime components of the Army to meet the needs of war.

(c) The Army consists of—

(1) the Regular Army, the Army National Guard of the United States, the Army National Guard while in the service of the United States, and the Army Reserve; and

(2) all persons appointed or enlisted in, or conscripted into, the Army without component.

(d) The organized peace establishment of the Army consists of all—

(1) military organizations of the Army with their installations and supporting and auxiliary elements, including combat, training, administrative, and logistic elements; and

(2) members of the Army, including those not assigned to units;

necessary to form the basis for a complete and immediate mobilization for the national defense in the event of a national emergency.

§ 3063. Basic branches

(a) The Secretary of the Army may assign members of the Army to its basic branches. The basic branches are—

(1) Infantry;

(2) Armor;

(3) Artillery;

(4) Corps of Engineers;

(5) Signal Corps;

(6) Adjutant General's Corps;

(7) Quartermaster Corps;

(8) Finance Corps;

(9) Ordnance Corps;

(10) Chemical Corps;

(11) Transportation Corps;

(12) Military Police Corps; and

(13) such other basic branches as the Secretary considers necessary.

(b) The Secretary may discontinue or consolidate basic branches of the Army for the duration of any war, or of any national emergency declared by Congress.

(c) The Secretary may not assign to a basic branch any commissioned officer appointed in a special branch.

§ 3064. Special branches

(a) The special branches of the Army consist of commissioned officers of the Regular Army appointed therein, other members of the Army assigned thereto by the Secretary of the Army, and the sections prescribed in this chapter. The special branches are—

(1) each corps of the Army Medical Service;

(2) the Judge Advocate General's Corps; and

(3) the Chaplains.

(b) The Secretary may not assign any officer of the Regular Army to a special branch.

§ 3065. Assignment and detail: officers assigned or detailed to basic and special branches

(a) Commissioned officers of the Army may be detailed as general staff officers and as inspectors general.

(b) Members of the Army may be detailed to duty in particular fields specified by the Secretary, including intelligence, counter-intelligence, and military government.

(c) Members of the Army appointed in or assigned to one branch may be detailed for duty with any other branch.

(d) Members of the Army while not on active duty may be assigned to any basic or special branch, or to such other branches or groups, and to such organizations, as the Secretary considers appropriate.

(e) No officer of the Army may be assigned to perform technical, scientific, or other professional duties unless he is qualified to perform those duties and meets professional qualifications at least as strict as those in effect on June 28, 1950. If the duties to which an officer is assigned involve professional work that is the same as or is similar to that usually performed in civil life by a member of a learned profession, such as engineering, law, medicine, or theology, the officer must have the qualifications, by education, training, or experience, equal to or similar to those usually required of members of that profession, unless the exigencies of the situation prevent.

§ 3066. Generals and lieutenant generals

(a) The President may designate positions of importance and responsibility in the Army to carry the grade of general or lieutenant general. He may assign to those positions officers of the Army on active duty in any grade above brigadier general. While he holds one of those positions an officer has the grade specified for the position if appointed thereto by and with the advice and consent of the Senate.

(b) The number of positions designated under subsection (a) may not be more than 15 percent of the number of general officers on active duty. Not more than 25 percent of those positions may be designated as positions to be held by officers in the grade of general.

(c) General officers on the active list of the Regular Army who

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are specifically authorized by law to hold any civil office under the United States, or any instrumentality thereof, are in addition to the numbers authorized by this section.

(d) Appointment to the grade of general or lieutenant general under subsection (a) does not vacate the regular or reserve grade held by the officer. When his appointment under that subsection terminates, he is entitled to resume any other grade that he may then be entitled to hold.

§ 3067. Army Medical Service

There is an Army Medical Service in the Army. The Army Medical Service consists of—

(1) the Surgeon General;
(2) the Assistant Surgeons General;
(3) the Medical Corps;
(4) the Dental Corps;
(5) the Veterinary Corps;
(6) the Medical Service Corps;
(7) the Army Nurse Corps; and
(8) the Women's Medical Specialist Corps.

§ 3068. Medical Service Corps: organization; Chief and assistant chiefs

(a) The Medical Service Corps consists of the Chief and assistant chiefs of that corps, officers in grades of second lieutenant through colonel, inclusive, and the following sections—

(1) the Pharmacy, Supply, and Administration Section;
(2) the Medical Allied Sciences Section;
(3) the Sanitary Engineering Section;
(4) the Optometry Section; and
(5) other sections considered necessary by the Secretary of the Army.

(b) The Secretary shall appoint the Chief of the Medical Service Corps from the officers of the Regular Army in that corps whose regular grade is above captain. The Chief serves during the pleasure of the Secretary. If he holds a lower regular grade, he is entitled to the rank, pay, and allowances of a colonel while so serving, without vacating his regular grade, and ranks above all other colonels in that corps.

(c) The Surgeon General shall designate assistant chiefs of the Medical Service Corps from commissioned officers of the Regular Army in that corps. Each assistant chief is chief of a section and is the Surgeon General's consultant on activities relating to that section.

§ 3069. Army Nurse Corps: Chief; appointment

The Army Nurse Corps consists of the Chief of that corps and officers in grades of second lieutenant through lieutenant colonel. The Secretary of the Army shall appoint the Chief from the officers of the Regular Army in that corps whose regular grade is above captain and who are recommended by the Surgeon General. The Chief serves during the pleasure of the Secretary, but not for more than four years. She may not be reappointed. Without vacating her regular grade, she is entitled to the rank, pay, and allowances of a colonel while so serving.

§ 3070. Women's Medical Specialist Corps: organization; Chief and assistant chiefs

(a) The Women's Medical Specialist Corps consists of the Chief and assistant chiefs of that corps, other officers in grades of second lieutenant to major, inclusive, and the following sections—

(1) the Dietitian Section;

(2) the Physical Therapist Section; and

(3) the Occupational Therapist Section.

(b) The Secretary of the Army shall appoint, from the officers of the Regular Army in the Women's Medical Specialist Corps, the Chief and three assistant chiefs of that corps. The Chief and the assistant chiefs serve during the pleasure of the Secretary. Without vacating their respective regular grades, the Chief is entitled to the rank, pay, and allowances of a colonel, and each assistant chief is entitled to the rank, pay, and allowances of a lieutenant colonel while so serving.

§ 3071. Women's Army Corps: Director; Deputy Director; other positions

(a) There is a Women's Army Corps in the Regular Army.

(b) The Secretary of the Army shall appoint, from the commissioned officers of the Regular Army in the Women's Army Corps, a Director and a Deputy Director of that corps, to serve during his pleasure, but normally not for more than four years. The Director is the adviser to the Secretary on Women's Army Corps matters. Without vacating her regular grade, the Director is entitled to the rank, pay, and allowances of a colonel while so serving, and the Deputy Director, if she has a lower regular grade, is entitled to the rank, pay, and allowances of a lieutenant colonel while so serving.

(c) The Secretary shall designate the positions that he finds necessary for the administration and training of the Women's Army Corps. He shall fill those positions from officers of that corps or from female members of the Army Reserve who are on active duty. Each person holding such a position serves during the pleasure of the Secretary. If she has a lower regular or reserve grade, she is entitled, while so serving and without vacating that grade, to the rank, pay, and allowances of a lieutenant colonel or major, as the Secretary determines.

(d) Only officers whose regular grade is lieutenant colonel are eligible for appointment under subsection (b), and only officers whose regular or reserve grade is above captain are eligible for designation under subsection (c).

§ 3072. Judge Advocate General's Corps

There is a Judge Advocate General's Corps in the Army. The Judge Advocate General's Corps consists of—

(1) the Judge Advocate General;

(2) the Assistant Judge Advocate General;

(3) three officers in the grade of brigadier general;

(4) commissioned officers of the Regular Army appointed therein; and

(5) other members of the Army assigned thereto by the Secretary of the Army.

§ 3073. Chaplains

There are chaplains in the Army. The Chaplains include—

(1) the Chief of Chaplains;

(2) commissioned officers of the Regular Army appointed as chaplains; and

(3) other officers of the Army appointed as chaplains in the Army.

§ 3074. Commands: territorial organization; engineer tactical units

(a) Except as otherwise prescribed by law, the Army shall be livided into such commands, forces, and organizations as may be prescribed by the Secretary of the Army.

(b) For Army purposes, the United States, the Territories, Commonwealths, and possessions, and other places in which the Army is stationed or is operating may be divided into such areas as may be directed by the Secretary. Officers of the Army may be assigned to command Army activities, installations, and personnel in those areas. In the discharge of the Army's functions or other functions authorized by law, officers so assigned have the duties and powers prescribed by the Secretary.

(c) Such part of the Corps of Engineers as the President directs shall be formed into tactical units organized as he prescribes.

§ 3075. Regular Army: composition

(a) The Regular Army is the component of the Army that consists of persons whose continuous service on active duty in both peace and war is contemplated by law, and of retired members of the Regular Army.

(b) The Regular Army includes—

(1) the officers and enlisted members of the Regular Army;

(2) the professors and cadets of the United States Military Academy; and

(3) the retired officers and enlisted members of the Regular Army.

§ 3076. Army Reserve: composition

The Army Reserve includes all Reserves of the Army who are not members of the Army National Guard of the United States.

§ 3077. Army National Guard of United States: composition

The Army National Guard of the United States is the reserve component of the Army that consists of—

(1) federally recognized units and organizations of the Army National Guard; and

(2) members of the Army National Guard who are also Reserves of the Army.

§ 3078. Army National Guard: when a component of Army

The Army National Guard while in the service of the United States is a component of the Army.

§ 3079. Army National Guard of United States: status when not in Federal service

When not on active duty, members of the Army National Guard of the United States shall be administered, armed, equipped, and trained in their status as members of the Army National Guard.

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CHAPTER 331.—STRENGTH

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§ 3201. Army: members on active duty

(a) The authorized strength of the Army in members on active duty, exclusive of—

(1) officer candidates;

(2) Reserves on active duty for training;

(3) members paid from appropriations for the Army National Guard or the Army Reserve; and

(4) Reserves ordered to active duty in an emergency;

is 837,000.

(b) The authorized daily average strength of the Army in members on active duty during the fiscal year, exclusive of—

(1) officer candidates;

(2) Reserves on active duty for training purposes only; and

(3) members employed in the Selective Service System;

is 837,000.

§ 3202. Army: officers in certain commissioned grades

(a) The authorized strength of the Army in officers on active duty in each of the following grades on the last day of each fiscal year, exclusive of officers on active duty for training only and officers serving with other departments or agencies on a reimbursable basis, is based on the total number of those officers authorized by the Secretary of the Army in all commissioned grades, as follows:

If the total number authorized is—	The authorized strength in grade is—			
	For general officers	For colonels	For lieutenant colonels	For majors
50,000	350	3,352	6,940	9,350
60,000	400	3,752	8,045	10,950
70,000	425	4,102	9,150	12,500
80,000	450	4,452	10,205	14,050
90,000	475	4,752	11,260	15,600
100,000	495	5,002	12,265	17,060
110,000	510	5,202	13,270	18,370
120,000	520	5,402	14,175	19,680
130,000	530	5,602	15,075	20,890
140,000	540	5,802	15,875	22,095
150,000	550	6,002	16,675	23,300

If the total number authorized by the Secretary is determined to be between two of the figures named in the first column of the table, the corresponding authorized strengths in grade are determined by mathematical interpolation between the respective authorized strengths named in the table. If it is determined to be more than 150,000, the Secretary shall fix the corresponding authorized strengths in grade in general conformity with the table.

(b) Not more than one-half of the general officer strength may be in grades above brigadier general.

(c) A vacancy in any grade may be filled by an appointment in any lower grade.

(d) In time of war, or of national emergency declared after May 5, 1954, by Congress or the President, the President may suspend the operation of any provision of this section.

§ 3203. Regular Army: members on active duty

The authorized strength of the Regular Army in members on active duty, exclusive of officer candidates, is 837,000 less the number of members of the Army on active duty who are neither members of the Regular Army nor members of the Army in the categories listed in section 3201 (a) (1)–(4) of this title.

§ 3204. Regular Army: commissioned officers on active list

The authorized strength of the Regular Army in commissioned officers on the active list is the sum of the numbers authorized by sections 3205, 3206, and 3207 of this title, the number of permanent professors of the United States Military Academy authorized by section 4331 of this title, and the numbers in designated categories specifically authorized by law as additional numbers.

§ 3205. Regular Army: commissioned officers on active list, exclusive of certain categories

The authorized strength of the Regular Army in commissioned officers on the active list, exclusive of—

(1) members of the Army Nurse Corps;

(2) members of the Women's Medical Specialist Corps;

(3) permanent professors of the United States Military Academy; and

(4) members in designated categories specifically authorized by law as additional numbers;

is 30,600.

§ 3206. Regular Army: commissioned officers on active list; Army Nurse Corps

(a) The authorized strength of the Army Nurse Corps in commissioned officers on the active list of the Regular Army is 2,009, or 6/1,000 of the authorized strength prescribed by section 3203 of this title, whichever is greater.

(b) Of the authorized strength of the Army Nurse Corps in commissioned officers on the active list of the Regular Army, not more than 7/1,000 may be in the regular grade of lieutenant colonel, and not more than 16/1,000 may be in the regular grade of major. The Secretary of the Army shall prescribe the authorized strength of the Army Nurse Corps in officers on the active list in the regular grade of captain.

§ 3207. Regular Army: commissioned officers on active list; Women's Medical Specialist Corps

(a) The authorized strength of the Women's Medical Specialist Corps in commissioned officers on the active list of the Regular Army is 356, or 9/10,000 of the authorized strength prescribed by section 3203 of this title, whichever is greater.

(b) Of the authorized strength of the Women's Medical Specialist Corps in commissioned officers on the active list of the Regular Army, not more than 5 percent may be in the regular grade of major. The Secretary of the Army shall prescribe the authorized strength of the Women's Medical Specialist Corps in officers on the active list in the regular grade of captain.

§ 3209. Regular Army: commissioned officers on active list; other branches; Women's Army Corps

(a) Except for the Army Nurse Corps and the Women's Medical Specialist Corps, the authorized strength of each branch in commissioned officers on the active list of the Regular Army is that prescribed by the Secretary of the Army. However, the strength so prescribed—

(1) for the Judge Advocate General's Corps, may not be less than 15/1,000 of the authorized strength of the Regular Army in commissioned officers on the active list; and

(2) for the Corps of Engineers, may not be less than 788.

(b) The authorized strength of the Women's Army Corps in commissioned officers on the active list of the Regular Army is that prescribed by the Secretary. However, the strength so prescribed may not be more than 2 percent of the authorized strength of the Regular Army in commissioned officers on the active list.

§ 3210. Regular Army: strength in grade; general officers

(a) The authorized strength of the Regular Army in general officers on the active list, exclusive of the number authorized for the Army Medical Service and the Chaplains, is 75/10,000 of the authorized strength of the Regular Army in commissioned officers on the active list, exclusive of the number of commissioned officers on the active list authorized for the Army Medical Service and the Chaplains. Of this authorized strength, not more than one-half may be in a regular grade above brigadier general.

(b) The authorized strength of each of the following branches—

(1) the Medical Corps;

(2) the Dental Corps;

(3) the Veterinary Corps; and

(4) the Chaplains;

in general officers on the active list of the Regular Army is 5/1,000 of the authorized strength of the branch concerned in commissioned officers on the active list of the Regular Army. Not more than one-half of the authorized strength in general officers in such a branch may be in a regular grade above brigadier general.

(c) The number of general officers authorized for the active list of the Regular Army by subsections (a) and (b) may not be more than 205. Of this total there may not be more than—

(1) 12 in the Medical Corps, of whom not more than 6 may be in a regular grade above brigadier general;

(2) 3 in the Dental Corps, of whom not more than 2 may be in a regular grade above brigadier general;

(3) 1 in the Veterinary Corps, in the regular grade of brigadier general:

(4) 1 in the Chaplains, in the regular grade of major general or brigadier general; and

(5) 188 on the active list of the Regular Army, exclusive of those authorized under clauses (1)–(4) of this subsection, of whom not more than 94 may be in a regular grade above brigadier general.

(d) When the application of the percentages and ratios specified in this section results in a fraction, a fraction of one-half or more is counted as one, and a fraction of less than one-half is disregarded.

(e) General officers on the active list of the Regular Army who are specifically authorized by law to hold any civil office under the United States, or any instrumentality thereof, are not counted in determining authorized strength under this section.

§ 3211. Regular Army: strength in grade; promotion-list officers

(a) Subject to subsection (b), the authorized strength of the Regular Army in officers in each regular grade on each of the promotion lists set forth in section 3296 of this title shall be as prescribed by the Secretary of the Army. A vacancy in any grade on a promotion list may be filled by an appointment in any lower grade.

(b) Each strength prescribed by the Secretary under subsection (a) shall be stated as a percentage of the strength authorized for the particular list, and the schedule of percentages may be different for each list. No schedule for a list may authorize, with respect to a grade, a percentage that is higher than the sum of (1) the figure fixed for the grade according to the following table, and (2) the amounts, if any, by which the percentages fixed by the Secretary for higher grades are less than the figures fixed according to that table:

Grade	Column 1 Medical Corps, Dental Corps, Veterinary Corps, Chaplains, Judge Advocate General's Corps	Column 2 Women's Army Corps	Column 3 All other promotion lists
	Percent	*Percent*	*Percent*
Colonel	[1] 8	(2)—	[1] 8
Lieutenant colonel	14	10	14
Major	19	[3] 19–31	19
Captain	23	[3] 23–35	23
First lieutenant	36	[3] 18–30	18
Second lieutenant	(2)—	[3] 18–30	18

[1] Colonels whose retirement is deferred under section 3921 (b) of this title are not included within this percentage.
[2] None may be authorized by the Secretary for this category.
[3] As determined by the Secretary, except that the column must total 100 percent.

§ 3212. Regular Army: strength in grade; temporary increases

The authorized strength in any regular grade, as prescribed by or under this chapter, is automatically increased to the minimum extent necessary to give effect to each appointment made in that grade under section 1211 (a), 3036, 3298, 3299, 3304, or 4353 of this title. An authorized strength so increased is increased for no other purpose, and while he holds that grade the officer whose appointment caused the increase is counted for the purpose of determining when other appointments, not under those sections, may be made in that grade.

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§ 3213. Regular Army: warrant officers on active list

The authorized strength of the Regular Army in warrant officers on the active list is 9,000.

§ 3214. Regular Army: enlisted members on active duty

The authorized strength of the Regular Army in enlisted members on active duty, exclusive of officer candidates, is 837,000 less the number of members of the Army on active duty who are neither enlisted members of the Regular Army nor members of the Army in the categories listed in section 3201 (a) (1)–(4) of this title.

§ 3215. Regular Army: Women's Army Corps; warrant officers on active list; enlisted members on active duty

(a) The authorized strength of the Women's Army Corps of the Regular Army in warrant officers on the active list is as prescribed by the Secretary of the Army. However, it may not be more than 2 percent of the authorized strength of the Regular Army in warrant officers on the active list.

(b) The authorized strength of the Women's Army Corps of the Regular Army in enlisted members on active duty is as prescribed by the Secretary. However, it may not be more than 2 percent of the authorized strength prescribed by section 3214 of this title.

§ 3216. Corps of Engineers: enlisted members on active duty

The authorized strength of the Corps of Engineers in enlisted members on active duty is as prescribed by the Secretary of the Army. However, it may not be less than 12,000.

§ 3221. Army Reserve

(a) Whenever the authorized strength of the Army Reserve is not prescribed by law, it shall be prescribed by the President.

(b) Subject to the authorized strength of the Army Reserve, the authorized strength of the Army Reserve in members in each grade is that which the Secretary of the Army determines to be necessary to provide for mobilization requirements. The Secretary shall review these determinations at least once each year and revise them if he considers it necessary. However, no member of the Army Reserve may be reduced in his reserve grade, without his consent, as a result of such a determination.

§ 3222. Army Reserve, exclusive of members on active duty

The authorized strength of the Army Reserve, exclusive of members who are included in the strength of 837,000 authorized in section 3201 (a) of this title for members of the Army on active duty, is 980,000.

§ 3223. Army Reserve: warrant officers

The Secretary of the Army may prescribe the authorized strength of the Army Reserve in warrant officers.

§ 3224. Army National Guard of United States

(a) Whenever the authorized strength of the Army National Guard of the United States is not prescribed by law, it shall be prescribed by the President.

(b) Subject to the authorized strength of the Army National Guard of the United States, the authorized strength of the Army National Guard of the United States in members in each grade is that which the Secretary of the Army determines to be necessary to provide for mobilization requirements. The Secretary shall review those determinations at least once each year and revise them if he considers it necessary. However, no member of the Army National Guard of the United States may be reduced in his reserve grade, without his consent, as a result of such a determination.

§ 3225. Army National Guard and Army National Guard of United States, exclusive of members on active duty

The authorized strength of the Army National Guard and the Army National Guard of the United States, exclusive of members who are included in the strength of 837,000 authorized in section 3201 (a) of this title for members of the Army on active duty, is 600,000. The strength authorized by this section shall be allocated among the States and Territories, Puerto Rico, the Canal Zone, and the District of Columbia.

CHAPTER 333.—ENLISTMENTS

Sec.

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3261. Army National Guard of United States.
3262. Extension of enlistment for members needing medical care or hospitalization.

§ 3251. Definition

In this chapter "enlistment" means original enlistment or reenlistment.

§ 3252. Temporary enlistments

Temporary enlistments may be made only in the Army without specification of component.

§ 3253. Army: persons not qualified

(a) No person who is insane, intoxicated, or a deserter from an armed force, or who has been convicted of a felony, may be enlisted or mustered into the Army. However, the Secretary of the Army may authorize exceptions, in meritorious cases, for the enlistment or muster into the Army of deserters and persons convicted of felonies.

(b) No person whose service during his last term of enlistment was not honest and faithful may be reenlisted in the Army. However, the Secretary may authorize the reenlistment or muster into the Army of such a person if his conduct after that service has been good.

(c) In time of peace, no person may be accepted for original enlistment in the Army unless he is, or has made a legal declaration of intention to become, a citizen of the United States.

§ 3254. Army: during war or emergency

Except as provided in section 3256 of this title and except for enlistments as Reserves of the Army—

(1) temporary enlistments in the Army entered into in time of war or of emergency declared by Congress shall be for the duration of the war or emergency plus six months; and

(2) only persons at least 18 years of age and otherwise qualified under regulations to be prescribed by the Secretary of the Army are eligible for such enlistments.

§ 3255. Regular Army: recruiting campaigns

The Secretary of the Army shall conduct intensive recruiting campaigns to obtain enlistments in the Regular Army.

§ 3256. Regular Army: qualifications, term, grade

(a) Notwithstanding section 3254 (2) of this title, the Secretary of the Army may accept original enlistments in the Regular Army of qualified, effective, and able-bodied persons who are not less than 17 years of age in the case of male persons and not less than 18 years of age in the case of female persons, nor more than 35 years of age, for periods of two, three, four, five, or six years. However, no male person under 18 years of age, or female person under 21 years of age, may be originally enlisted without the written consent of his parent or guardian, if he has a parent or guardian entitled to his custody and control. Female persons may be enlisted in the Regular Army only in the Women's Army Corps.

(b) The Secretary may accept reenlistments in the Regular Army for periods of three, four, five, or six years. However, a person who last served in one of the highest three enlisted grades may be reenlisted for an unspecified period on a career basis. No age limitation applies to reenlistments. No enlisted member is entitled to be reenlisted for a period that would expire before the end of his current enlistment.

(c) An enlistment in the Regular Army in effect at the outbreak of a war or entered into during a war, unless sooner terminated by the President, continues in effect until six months after the termination of that war.

(d) Subject to subsection (e), a person is enlisted in the Regular Army in the grade prescribed by the Secretary.

(e) A person who, upon his discharge from the Regular Army, is recommended for reenlistment is entitled to be reenlisted in the grade held by him when discharged, if he applies therefor within a period to be specified by the Secretary, but not later than three months after his discharge. However, a person who has been discharged from the Regular Army because of the acceptance of his resignation is

not entitled, upon reenlistment, to the grade held by him when discharged.

(f) This section does not deprive a person of any right to be reenlisted in the Regular Army under any other provision of law.

§ 3258. Regular Army: reenlistment after service as an officer

Any former enlisted member of the Regular Army who has served on active duty as a reserve officer of the Army, or who was discharged as an enlisted member to accept a temporary appointment in the Army, is entitled to be reenlisted in the Regular Army in the enlisted grade that he held before his service as an officer, without loss of seniority or credit for service, if his service as an officer terminated honorably, and he applies for reenlistment within six months or such other period as the Secretary of the Army prescribes for exceptional circumstances after the termination of that service, regardless of the existence of a vacancy in his grade or of a physical disability incurred or having its inception in line of duty.

§ 3259. Army Reserve: transfer from Army National Guard of United States

Under such regulations as the Secretary of the Army may prescribe and with the consent of the governor or other appropriate authority of the State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia, whichever is concerned, an enlisted member of the Army National Guard of the United States may be transferred in grade to the Army Reserve. Upon transfer, he is eligible for promotion to the highest regular or reserve grade ever held by him in the Army, if his service has been honorable.

§ 3260. Army Reserve: transfer to upon withdrawal as member of Army National Guard

Unless discharged from his enlistment as a Reserve, an enlisted member of the Army National Guard of the United States who ceases to be a member of the Army National Guard becomes a member of the Army Reserve. An enlisted member who so becomes a member of the Army Reserve ceases to be a member of the Army National Guard of the United States.

§ 3261. Army National Guard of United States

(a) Except as provided in subsection (b), to become an enlisted member of the Army National Guard of the United States, a person must—

(1) be enlisted in the Army National Guard;

(2) subscribe to the oath set forth in section 304 of title 32; and

(3) be a member of a federally recognized unit or organization of the Army National Guard in the grade in which he is to be enlisted as a Reserve.

(b) A member of the Army Reserve who is enlisted in the Army National Guard in his reserve grade, and is a member of a federally recognized unit or organization thereof, becomes a memeber of the Army National Guard of the United States and ceases to be a member of the Army Reserve.

§ 3262. Extension of enlistment for members needing medical care or hospitalization

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

(b) This section does not prevent the retention in service, without his consent, of an enlisted member of the Army under section 3638 of this title.

CHAPTER 335.—APPOINTMENTS IN THE REGULAR ARMY

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§ 3281. Commissioned officer grades

The commissioned grades in the Regular Army are:

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

§ 3282. General officers: title of office

An officer holding an appointment as a general officer in the Regular Army may be called a general officer of the Regular Army. In addition, a general officer of the Regular Army in the Medical Corps, Dental Corps, Veterinary Corps, Judge Advocate General's Corps, or the Chaplains, may be called a general officer of that branch.

§ 3283. Commissioned officers: appointment without specification of branch; transfer between branches

(a) Appointments in commissioned grades in the Regular Army shall be made without specification of branch except in each of the special branches, in the Women's Army Corps, and as professors of the United States Military Academy.

(b) Commissioned officers appointed in the Regular Army without specification of branch shall be assigned, and may be transferred and reassigned, by the Secretary of the Army to branches other than the special branches and the Women's Army Corps, according to their professional qualifications and the needs of the Army.

§ 3284. Commissioned officers: appointment, how made

Appointments in commissioned grades in the Regular Army shall be made by the President, by and with the advice and consent of the Senate.

§ 3285. Commissioned officers: original appointment; qualifications

To be eligible for original appointment in a commissioned grade in the Regular Army, except under section 3294 (a) of this title, a person must—

(1) be a citizen of the United States;
(2) be at least 21 years of age;
(3) be of good moral character;
(4) be physically qualified for active service; and
(5) have such other qualifications as the Secretary of the Army may prescribe.

§ 3286. Commissioned officers: original appointment; age limitations

(a) No person may be originally appointed in a commissioned grade in the Regular Army, except under section 3291 or 3294 (a) of this title, if on the date of his appointment he has already passed his—

(1) thirty-fourth birthday, for a person appointed as a chaplain;

(2) thirty-second birthday, for a person appointed in the Medical Corps, Dental Corps, Veterinary Corps, or Judge Advocate General's Corps;

(3) thirtieth birthday, for a person appointed in the Medical Service Corps; or

(4) twenty-seventh birthday, for all other persons.

(b) The maximum ages specified in subsection (a) are increased by the period of active commissioned service in the Army after December 31, 1947, and performed after the appointee became 21 years of age and before his appointment. However, a maximum age is not so increased by more than five years.

§ 3287. Commissioned officers: original appointment; service credit

(a) For the purpose of determining grade, position on a promotion list, seniority in his grade in the Regular Army, and eligibility for promotion, a person originally appointed in a commissioned grade in the Regular Army, except a person appointed under section 3291 or 3294 (a) of this title, shall be credited at the time of his appointment with the active commissioned service in the Army after December 31, 1947, that he performed after becoming 21 years of age and before his appointment. However, not more than five years of service may be so credited.

(b) A person originally appointed in a commissioned grade in the Regular Army in one of the following branches, except a person appointed under section 3294 (a) of this title, shall be credited at the time of his appointment, in addition to the service with which he is credited under subsection (a), and for the same purposes, with the following service:

(1) Medical Corps—four years.

(2) Dental Corps—three years.

(3) Veterinary Corps—three years.

(4) The Chaplains—three years.

(5) Judge Advocate General's Corps—three years.

(c) Under such regulations as the Secretary of the Army may prescribe, a person who is originally appointed in a commissioned grade in the Regular Army in the Medical Service Corps, and who, at the time of appointment, holds a degree of doctor of philosophy or a comparable degree in a science allied to medicine, so recognized by the Surgeon General, may be credited at the time of his appointment, in addition to the service with which he is credited under subsection (a), and for the same purposes, with three years of service.

(d) Notwithstanding any other provision of law, no person who was a cadet at the United States Military Academy may be originally appointed in a commissioned grade in the Regular Army before the date on which his classmates at the Academy are graduated and appointed as officers. No person who was a cadet at, but did not graduate from, the Academy may be credited, upon appointment as a commissioned officer of the Regular Army, with longer service than that credited to any member of his class at the Academy whose service in the Army has been continuous since graduation.

(e) A graduate of the United States Military Academy who is originally appointed as a second lieutenant in the Regular Army under section 4353 (b) of this title is not entitled to any service credit under this section.

§ 3288. Commissioned officers: original appointment; determination of grade

Except as provided in section 3294 of this title, based upon the service credited under section 3287 of this title, the commissioned grade in which a person is originally appointed in the Regular Army is:

(1) For persons with less than three years of service—second lieutenant.

(2) For persons with at least three, but less than seven, years of service—first lieutenant.

(3) For persons with at least seven years of service—captain.

§ 3289. Commissioned officers; Medical Corps: original appointment; professional examination

No person may be originally appointed as a first lieutenant in the Regular Army in the Medical Corps until he passes an examination of his professional fitness before an examining board composed of at least three officers of the Medical Corps designated by the Secretary of the Army.

§ 3290. Commissioned officers; Medical Service Corps: original appointment; additional qualifications, grade

An original appointment in the Regular Army in the Medical Service Corps may be made only in the grade of second lieutenant, except as provided in section 3287 (c) of this title, and from the following persons:

(1) Members of the Regular Army.

(2) Reserves not in an inactive status.

(3) Graduates of an accredited school of pharmacy or optometry, or of a school or college who hold a degree in a science allied to medicine or any other degree approved by the Surgeon General.

§ 3291. Commissioned officers; Army Nurse Corps and Women's Medical Specialist Corps: original appointment; additional qualifications, grade

(a) An original appointment in the Regular Army in the Army Nurse Corps or the Women's Medical Specialist Corps may be made in the grade of—

(1) second lieutenant, from women who on the date of nomination have not already passed their twenty-seventh birthday, and who are not qualified for appointment in the grade of first lieutenant under clause (2); and

(2) first lieutenant, from women who on the date of nomination have not already passed their thirtieth birthday.

The maximum ages specified in this subsection are increased by the period of active commissioned service in the armed forces after December 31, 1947, but not by more than five years.

(b) To be eligible for appointment in the Army Nurse Corps under this section a woman must be a graduate of a hospital or university training school and a registered nurse.

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§ 3292. Commissioned officers; Judge Advocate General's Corps: original appointment; additional qualifications, grade

Original appointments in commissioned grades in the Regular Army in the Judge Advocate General's Corps may be made from the following:

(1) Officers of the Regular Army in other branches.

(2) Reserve commissioned officers assigned to the Judge Advocate General's Corps.

(3) Qualified civilian graduates of accredited law schools.

Commissioned officers of the Regular Army in other branches may be originally appointed in the Judge Advocate General's Corps in the grades of first lieutenant through colonel.

§ 3293. Commissioned officers; Chaplains: original appointment; examination

No person in civil life may be originally appointed as a chaplain in the Regular Army unless he has passed an examination prescribed by the President as to his moral, mental, and physical qualifications.

§ 3294. Commissioned officers; Medical and Dental Corps: original appointment; additional method authorized as exception to general procedure

(a) Notwithstanding sections 3285, 3286, and 3287 of this title, original appointments in the Regular Army may also be made in grades of captain through colonel in the Medical Corps and the Dental Corps, as the needs of the Army require. These appointments may be made only from qualified civilian doctors of medicine and dentists who are citizens of the United States and who have such other qualifications as the Secretary of the Army may prescribe.

(b) An officer appointed under subsection (a) shall be credited for promotion with the minimum number of years of service required for promotion of officers of the corps to the grade in which he is appointed.

§ 3295. Commissioned officers: original appointment; determination of place on promotion list.

The name of each person originally appointed in a commissioned grade in the Regular Army shall be placed on the applicable promotion list, if any, immediately below the junior officer of the same grade having the same or next longer service.

§ 3296. Promotion lists: promotion-list officer defined; determination of place upon transfer or promotion

(a) The names of all commissioned officers in grades below brigadier general on the active list of the Regular Army, except those of the Army Nurse Corps and the Women's Medical Specialist Corps, those in special categories otherwise excluded under law, and professors of the United States Military Academy, shall be carried on promotion lists in descending order of grade and rank in the Regular Army. These officers may be called "promotion-list officers".

(b) A separate promotion list shall be maintained for commissioned officers of the Regular Army in each of the following:

(1) The Chaplains.

(2) The Women's Army Corps.

(3) Each of the several branches of the Army Medical Service, except the Army Nurse Corps and the Women's Medical Specialist Corps.

(c) The names of all promotion-list officers not on a list maintained under subsection (b) shall be carried on the Army promotion list.

(d) If a promotion-list officer is transferred from one branch to another whose officers are carried on a different promotion list, his name shall be placed upon the promotion list to which he is transferred among the officers of his grade in accordance with seniority as determined under section 3574 (b) of this title.

(e) Unless specifically provided otherwise, upon the promotion of a promotion-list officer, his name shall be placed at the foot of the list of officers of his grade.

§ 3297. Selection boards

(a) Under such regulations as he may prescribe, the Secretary of the Army shall detail selection boards, to meet at times prescribed by him, to recommend promotion-list officers and brigadier generals of the Regular Army for promotion in the Regular Army. Each board shall be composed of at least five officers of the Regular Army who hold a regular or temporary grade above lieutenant colonel, and who are senior in regular grade to, and who outrank, any officer considered by that board. However, a selection board considering promotion-list officers of the Women's Army Corps under section 3300 (a) or (b) of this title may include officers of the Regular Army in that corps whose regular or temporary grades are above major.

(b) No selection board may serve longer than one year and no member may serve on two consecutive boards for promotions to the same grade, if the second board considers any officer considered but not recommended for promotion by the first.

(c) Each member of a selection board must swear that he will perform his duties without prejudice or partiality, having in view the special fitness of officers and the efficiency of the Army.

(d) Except as otherwise provided by law, promotion-list officers and brigadier generals of the Regular Army may be promoted to the regular grades of captain through major general only when recommended by a selection board. A recommendation for promotion must be made by the majority of the total membership of the board.

(e) Not later than 10 days after a board first meets, any officer eligible for consideration by that board is entitled to send a letter, through official channels, calling attention to matters of record in the Department of the Army concerning himself that he considers important. The letter may not contain any reflection upon the character, conduct, or motives of any officer, or criticism of any officer.

§ 3298. Commissioned officers: promotion to first lieutenant; effect of failure of promotion

(a) A promotion-list officer in the grade of second lieutenant shall be promoted to the regular grade of first lieutenant upon completing three years of service with which he is entitled to be credited for promotion. If a promotion-list officer in that grade is found to be not fully qualified, he shall be discharged under section 3814 of this title.

(b) Vacancies in the grade of first lieutenant on a promotion list may be filled by promoting second lieutenants on that list with less than three years of service, in order of seniority, under regulations prescribed by the Secretary of the Army.

§ 3299. Commissioned officers: promotion to captain, major, or lieutenant colonel

(a) Promotion-list officers shall be promoted to the regular grades of captain, major, and, except as provided in subsection (f), lieutenant colonel, under subsections (b) and (c), or eliminated from the active list under section 3303 of this title.

(b) Without regard to vacancies, each promotion-list officer whose regular grade is first lieutenant, captain, or major shall be considered by a selection board for promotion to the next higher regular grade, far enough in advance of the date on which he will complete 7, 14, or 21 years of service with which he is entitled to be credited for promotion, as the case may be, that, if recommended, he may be promoted on the date on which he will complete that service.

(c) Having in view the number of actual and anticipated vacancies on a promotion list in the regular grade of captain, major, or lieutenant colonel, the Secretary of the Army may direct a selection board to consider and recommend officers on that list for promotion to the next higher regular grade without regard to length of service. However, no officer may be considered for promotion under this section more than two years before the date on which it is anticipated that he will be promoted if recommended, and unless the same board considers all officers above him on that list who are not on a recommended list.

(d) The names of promotion-list officers recommended for promotion under this section shall be carried on permanent recommended lists of their grade and promotion list in the same order among themselves as on the applicable promotion list, and they shall be promoted in that order. A promotion may be made whenever there is a vacancy; but it is not mandatory that the authorized numbers be maintained in any grade on any promotion list.

(e) Whenever an officer is promoted under subsection (b), all officers in the same grade and on the same promotion list whose names are on the recommended list above that of the officer who must be promoted because of length of service shall be promoted at the same time and shall retain among themselves their existing seniority.

(f) Promotion-list officers of the Women's Army Corps may be promoted to the regular grade of lieutenant colonel only to fill vacancies in that grade and on that promotion list, and only when recommended by a selection board under regulations to be prescribed by the Secretary.

(g) A promotion-list officer who has been twice considered and not recommended for promotion to any one regular grade may not again be considered for promotion under this section.

§ 3300. Commissioned officers: promotion to captain, major, or lieutenant colonel; selection board procedure

(a) When promotion-list officers in the regular grade of first lieutenant, captain, or major are to be considered, under section 3299 of this title, by a selection board for promotion to the next higher regular

grade to fill existing or anticipated vacancies, the Secretary of the Army may direct the board to—

(1) consider officers in the specified grade in the order of their seniority on the promotion list concerned;

(2) recommend those who are fully qualified for promotion;

(3) pass over those not so qualified; and

(4) continue this procedure until the number of officers specified by him is recommended.

(b) When a promotion-list officer in the regular grade of first lieutenant, captain, or major must be considered under section 3299 of this title for promotion because of length of service, or because he is on a promotion list above an officer who must be considered for that reason, the Secretary may—

(1) furnish the board a list of officers to be considered for promotion to the grade concerned; and

(2) direct the board to recommend the officers on that list whom it considers fully qualified for promotion.

(c) Instead of the procedures set forth in subsection (a) or (b), the Secretary may furnish to the board a list of promotion-list officers to be considered and may direct it to recommend a number specified by him for promotion. The board shall recommend those officers whom it considers to be the best qualified. However, the number prescribed by the Secretary for recommendation must be at least 80 percent of those listed for consideration.

§ 3302. Commissioned officers; Medical, Dental, and Veterinary Corps: promotion to captain, major, or lieutenant colonel; professional examination

(a) No commissioned officer of the Medical Corps or the Veterinary Corps whose regular grade is below lieutenant colonel may be promoted in the Regular Army until he passes an examination of his professional fitness before an examining board composed of at least three commissioned officers of the Regular Army in the Medical Corps selected by the Secretary of the Army. No commissioned officer of the Dental Corps whose regular grade is below lieutenant colonel may be promoted in the Regular Army until he passes an examination of his professional fitness before an examining board composed of one commissioned officer of the Regular Army in the Medical Corps, and two commissioned officers of the Regular Army in the Dental Corps, selected by the Secretary. The examination shall be prescribed by the Secretary and shall be held at such time before the right to promotion accrues as may be in the best interest of the Army.

(b) If an officer of the Medical, Dental, or Veterinary Corps in the regular grade of first lieutenant or captain is found disqualified for promotion by the examining board, the Secretary shall detail a board of review to consider the findings of the examining board.

(c) A board of review shall be composed in the same manner as an examining board, except that its members must be senior in rank to the officer examined, and must not have served on the examining board that examined him.

(d) If the board of review concurs in the findings of the examining board, the officer shall be honorably discharged with one year's pay. If it does not concur in the findings, the officer shall be considered qualified and shall be promoted.

(e) An officer of the Medical, Dental, or Veterinary Corps in the regular grade of major who fails his first examination for promotion shall be suspended from promotion and reexamined as soon as practicable after one year from the date of his first examination. While he is so suspended from promotion, his name shall be removed from the recommended list and the years of service with which he is entitled to be credited for promotion purposes shall be reduced, if necessary, as provided in section 3303 (b) of this title.

(f) If on reexamination such a major is found qualified, his name shall be restored to the recommended list and he is eligible for promotion. If he is found disqualified for promotion, he shall be treated in the manner provided for deferred officers under section 3303 (d) of this title.

(g) While an officer is suspended from promotion under subsection (e), his right to promotion passes successively to the officers below him who are in the same grade and on the same promotion list, and who are or may become eligible for promotion.

(h) If the needs of the Army require that an officer entitled to promotion upon examination under subsection (a) be absent from a place where an examining board can be convened, the officer may be promoted, subject to examination as soon as practicable. However, if he is thereafter examined and found disqualified for that promotion, and if the proceedings are approved by the Secretary, he shall be treated as if he had been examined before promotion and had failed.

(i) If an officer who is found qualified for promotion under this section dies in line of duty after the occurrence of a vacancy that would entitle him to that promotion because of his seniority and before promotion, the President may issue, or have issued, an appropriate commission in the name of that officer. A commission issued under this subsection shall issue as of the date of the vacancy, and the officer's name shall be carried on the records of the Department of the Army as if he had served in the grade and branch in which posthumously commissioned, from the date of the vacancy to the date of his death. No person is entitled to any bonus, gratuity, pay, or allowance because of this subsection.

§ 3303. Commissioned officers: effect of failure of promotion to captain, major, or lieutenant colonel

(a) In this subtitle, "deferred officer" means a promotion-list officer considered for promotion to the grade of captain, major, or lieutenant colonel under section 3299 of this title, but not recommended for promotion.

(b) The years of service with which a deferred officer is entitled to be credited for promotion purposes shall be reduced so that one year after the date on which he would have been promoted had he been recommended by a selection board he will not have more than 7, 14, or 21 years of service, if in the grade of first lieutenant, captain, or major, as the case may be.

(c) A deferred officer shall be considered again by the next selection board considering officers of his grade and promotion list. If recommended by this board, his name shall be placed on the applicable recommended list with the other officers recommended by the board, in the same order among themselves as on the promotion list, but

below officers placed on that list by an earlier board. If a deferred officer is promoted upon the recommendation of the next board considering officers of his grade, his first failure does not count as a failure of selection when he is thereafter considered for promotion to another regular grade.

(d) A deferred officer who is not recommended by the next selection board considering officers of his grade and promotion list shall—

(1) if he is eligible, be retired under section 3913 of this title;

(2) if he is not eligible for retirement under section 3913 of this title, but is eligible for retirement under any other provision of law, be retired under that law on the date when he would have been retired under section 3913 of this title if he were eligible; or

(3) if he is not eligible for retirement under section 3913 of this title or any other provision of law, be honorably discharged on the date he would have been retired under section 3913 of this title if he were eligible, with severance pay computed by multiplying his years of service, but not more than 12, computed under section 3927 (a) of this title, by two months' basic pay of the grade in which he is serving on the date of his discharge.

(e) For the purposes of subsection (d) (3), a part of a year that is six months or more is counted as a whole year, and a part of a year that is less than six months is disregarded.

§ 3304. Commissioned officers; Army Nurse Corps and Women's Medical Specialist Corps: promotion to first lieutenant, captain, major, or lieutenant colonel

(a) Commissioned officers of the Regular Army in the Army Nurse Corps and the Women's Medical Specialist Corps shall be promoted to the regular grade of first lieutenant upon completing the service prescribed for promotion of promotion-list officers to that grade.

(b) Commissioned officers of the Regular Army in the Army Nurse Corps and the Women's Medical Specialist Corps shall be promoted to the regular grade of captain or eliminated from the active list in the manner prescribed for promotion-list officers in sections 3299, 3300, and 3303 of this title.

(c) Under regulations to be prescribed by the Secretary of the Army, commissioned officers of the Regular Army in the Army Nurse Corps and the Women's Medical Specialist Corps shall be promoted to the regular grade of major, by selection, to fill vacancies in that grade.

(d) Under regulations to be prescribed by the Secretary, commissioned officers of the Regular Army in the Army Nurse Corps shall be promoted to the regular grade of lieutenant colonel, by selection, to fill vacancies in that grade.

§ 3305. Commissioned officers: promotion to colonel

(a) Having in view the number of actual and anticipated vacancies in any promotion list in the regular grade of colonel and the number of officers desired in that grade on that promotion list, the Secretary of the Army shall furnish to selection boards lists of officers in the regular grade of lieutenant colonel, in order of seniority in regular grade, to be considered by those boards. The Secretary may not furnish the name of any officer to the board unless he furnishes to it the names of all officers above that officer on that promotion list who are

not on a recommended list. He shall direct the boards to recommend a number prescribed by him for promotion to the grade of colonel. The list furnished may not contain the name of any officer who is on a recommended list for promotion to that grade. The board shall recommend the prescribed number of those officers whom it considers to be the best qualified.

(b) Whenever the Secretary considers that the number of officers in the regular grade of colonel in any of the branches on the Army promotion list is or may become seriously unbalanced, he may direct that, of the officers recommended, prescribed numbers be recommended for service in specified branches.

(c) The names of officers recommended for promotion to the regular grade of colonel shall be entered at the foot of, and carried on, the appropriate permanent recommended list for promotion to that grade in the same order among themselves as on the applicable promotion list. Officers shall be promoted in that order when there is a vacancy in that grade for that list. A vacancy in that grade may be filled at any time. It is not mandatory that the authorized numbers be maintained in the grade of colonel on any promotion list.

(d) The ratio of the number of officers on any promotion list who are named for consideration for promotion to the regular grade of colonel, to the number directed to be recommended, may be prescribed by the Secretary.

(e) No officer may be considered for promotion to the regular grade of colonel more than two years before the date on which it is anticipated that he will be promoted if recommended.

(f) An officer must complete at least one year of service in the regular grade of lieutenant colonel before being nominated for promotion to the regular grade of colonel.

§ 3306. Commissioned officers: promotion to brigadier general

(a) Having in view the number of actual and anticipated vacancies in the regular grade of brigadier general and the number of officers desired in that grade, the Secretary of the Army shall furnish to selection boards lists of officers in the regular grade of colonel, in order of seniority in regular grade, to be considered by those boards. He shall direct the boards to recommend a number prescribed by him for promotion to the grade of brigadier general, but he need not direct the recommendation of a number sufficient to maintain the authorized number for that grade. The list furnished may not contain the name of any officer who is on a recommended list for promotion to that grade. The Secretary may further direct that a specified number of those recommended be officers with experience qualifying them for service in or with specified branches. The board shall recommend the prescribed number of those officers whom it considers to be best qualified.

(b) The names of officers recommended for promotion to the regular grade of brigadier general shall be entered at the foot of, and carried on, the permanent recommended list for promotion to that grade, in the order to be determined by the Secretary.

(c) It an officer is recommended for promotion to the regular grade of brigadier general and is not removed from the list by the

President, he may be nominated and appointed as soon as a vacancy exists in the authorized number for that grade.

(d) The ratio of the number of officers on any promotion list who are named for consideration for promotion to the regular grade of brigadier general, to the number directed to be recommended, may be prescribed by the Secretary.

(e) No officer may be considered for promotion to the regular grade of brigadier general more than one year before the date on which it is anticipated that he will be promoted if recommended.

(f) An officer must complete at least one year of service in the regular grade of colonel before being nominated for promotion to the regular grade of brigadier general.

(g) This section does not apply to the appointment of chiefs or assistant chiefs of branches.

§ 3307. Commissioned officers: promotion to major general

(a) Having in view the number of actual and anticipated vacancies in the regular grade of major general and the number of officers desired in that grade, the Secretary of the Army shall furnish to selection boards lists of officers in the regular grade of brigadier general, in order of seniority in regular grade, to be considered by those boards. He shall direct the boards to recommend a number prescribed by him for promotion to the grade of major general, but he need not direct the recommendation of a number sufficient to maintain the authorized number for that grade. The list furnished may not contain the name of any officer who is on a recommended list for promotion to that grade. The Secretary may further direct that a specified number of those recommended be officers with experience qualifying them for service in or with specified branches. The board shall recommend the prescribed number of those officers whom it considers to be best qualified.

(b) The names of officers recommended for promotion to the regular grade of major general shall be entered at the foot of, and carried on, the permanent recommended list for promotion to that grade, in the order to be determined by the Secretary.

(c) If an officer is recommended for promotion to the regular grade of major general and is not removed from the list by the President, he may be nominated and appointed as soon as a vacancy exists in the authorized number for that grade.

(d) The ratio of the number of officers on any promotion list who are named for consideration for promotion to the regular grade of major general, to the number directed to be recommended, may be prescribed by the Secretary.

(e) No officer may be considered for promotion to the regular grade of major general more than one year before the date on which it is anticipated that he will be promoted if recommended.

(f) An officer must complete at least one year of service in the regular grade of brigadier general before being nominated for promotion to the regular grade of major general.

(g) This section does not apply to the appointment of chiefs or assistant chiefs of branches.

§ 3308. Commissioned officers: effect of removal from recommended list by President or failure of confirmation by Senate

The President may remove from a recommended list for promotion to any grade the name of any promotion-list officer or brigadier general of the Regular Army who in his opinion is not qualified for promotion. If an officer's name is so removed, or if the Senate does not consent to his appointment, he continues to be eligible as if he had not been considered for promotion and may be recommended by the next selection board considering officers of his grade. If he is promoted on the recommendation of that board, he has the same date of rank and place on the promotion list that he would have had if he had been promoted as a result of his original selection. If the second board considers but does not recommend an officer who would be subject to elimination for second failure of selection for promotion to the grade concerned, or if he again fails of promotion because his name is removed from the recommended list by the President or because the Senate does not consent to his appointment, he shall be eliminated from the active list under section 3303 of this title.

§ 3309. Commissioned officers: physical examination for promotion

(a) The President may prescribe a system of physical examination for all commissioned officers of the Regular Army in grades below brigadier general to determine their fitness for promotion in the Regular Army. Each examination shall be given before the right to promotion accrues.

(b) If the needs of the Army require that an officer entitled to promotion upon physical examination under subsection (a) be absent from a place where an examining board can be convened, the officer may be promoted subject to examination as soon as practicable. However, if he is thereafter examined and found physically disqualified for that promotion, and if the proceedings are approved by the Secretary of the Army, he shall be treated as if he had been examined before promotion and had failed.

(c) If a commissioned officer fails to pass the physical examination and is reported unfit for promotion, the officer next below him on a recommended list for promotion who has passed the examination and is otherwise qualified shall be promoted.

§ 3310. Warrant officers: original appointment; qualifications

Original appointments as warrant officers in the Regular Army shall be made from persons who have served on active duty at least one year in the Army.

§ 3311. Officers: female; limitations on appointment

Except for those appointed as commissioned officers in the Medical Corps, Dental Corps, Medical Service Corps, Veterinary Corps, Army Nurse Corps, or Women's Medical Specialist Corps, women may be appointed as officers in the Regular Army only in the Women's Army Corps.

§ 3312. Officers: acceptance of promotion

(a) An officer who is promoted in the Regular Army is considered to have accepted his promotion on the date of the order announcing it, unless he expressly declines the promotion. He is entitled to the pay and allowances of the higher grade from that date, unless entitled to them from an earlier date under another provision of law.

(b) An officer need not take the oath of office upon promotion if his service since last taking it has been continuous.

§ 3313. Suspension of laws for promotion or mandatory retirement or separation during war or emergency

In time of war, or of emergency declared by Congress or the President, the President may suspend the operation of any provision of law relating to promotion, or mandatory retirement or separation, of commissioned officers of the Regular Army.

CHAPTER 337.—APPOINTMENTS AS RESERVE OFFICERS

Sec.
3351. Officers: Army National Guard of United States.
3352. Officers; Army Reserve: transfer from Army National Guard of United States.
3354. Commissioned officers; Army Reserve: appointment of warrant officers and enlisted members of Army National Guard of United States.
3355. Commissioned officers; Army Reserve: appointment; R. O. T. C. graduates.
3357. Female commissioned officers; Army Reserve: for service in Army Nurse Corps or Women's Medical Specialist Corps.
3394. Officers: acceptance of promotion.
3395. During war.

§ 3351. Officers: Army National Guard of United States

(a) Upon being federally recognized, an officer of the Army National Guard shall be appointed as a Reserve for service as a member of the Army National Guard of the United States in the grade that he holds in the Army National Guard. However, an officer of the Army Reserve who is federally recognized as an officer of the Army National Guard becomes an officer of the Army National Guard of the United States and ceases to be an officer of the Army Reserve. The acceptance of an appointment as a Reserve for service as a member of the Army National Guard of the United States by an officer of the Army National Guard does not vacate his office in the Army National Guard.

(b) When an officer of the Army National Guard to whom temporary Federal recognition has been extended is appointed as a Reserve for service as a member of the Army National Guard of the United States, his appointment shall bear the date of the temporary recognition and shall be considered to have been accepted and effective on that date.

(c) When the Army National Guard of the United States is ordered to active duty, any officer of the Army National Guard who is not a Reserve of the Army may be appointed by the President as a Reserve for service as a member of the Army National Guard of the United States in the grade that he holds in the Army National Guard.

§ 3352. Officers; Army Reserve: transfer from Army National Guard of United States

(a) Under such regulations as the Secretary of the Army may prescribe, and with the consent of the governor or other appropriate authority of the State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia, whichever is concerned, an officer of the Army National Guard of the United States may be transferred in grade to the Army Reserve. Upon transfer, he is eligible for promotion to the highest regular or reserve grade ever held by him in the Army, if his service has been honorable.

(b) Unless discharged from his appointment as a Reserve, an officer of the Army National Guard of the United States whose Federal recognition as a member of the Army National Guard is withdrawn becomes a member of the Army Reserve. An officer who so becomes a member of the Army Reserve ceases to be a member of the Army National Guard of the United States.

§ 3354. Commissioned officers; Army Reserve: appointment of warrant officers and enlisted members of Army National Guard of United States

Notwithstanding any other provision of law, a warrant officer or enlisted member of the Army National Guard of the United States may without affecting that status or vacating his warrant or enlisted grade in the Army National Guard, be appointed as a reserve officer of the Army in the grade of first lieutenant or second lieutenant.

§ 3355. Commissioned officers; Army Reserve: appointment; R. O. T. C. graduates

The President alone may appoint any graduate of the junior or senior division of the Reserve Officers' Training Corps as a reserve commissioned officer for service in the Army Reserve, if that graduate—

(1) has satisfactorily completed the courses of military training prescribed for the senior division;

(2) has satisfactorily completed the further training prescribed in section 4385 of this title;

(3) has participated after graduation in the practical instruction prescribed by the Secretary of the Army;

(4) is at least 21 years of age; and

(5) agrees under written oath to serve the United States as a reserve officer for at least five years from the date of his appointment, unless he is sooner discharged.

§ 3357. Female commissioned officers; Army Reserve: for service in Army Nurse Corps or Women's Medical Specialist Corps

To be eligible for an appointment as a reserve officer for service in the Army Reserve in the Army Nurse Corps or the Women's Medical Specialist Corps, a person must be a woman at least 21 years of age.

§ 3394. Officers: acceptance of promotion

(a) An officer of the Army National Guard of the United States or Army Reserve who is promoted as a Reserve is considered to have accepted his promotion on the date of the order announcing it, unless he expressly declines the promotion. He is entitled to the pay and allowances of the higher grade from that date, unless entitled to them from an earlier date under another provision of law.

(b) An officer need not take the oath of office upon promotion if his service since last taking it has been continuous.

§ 3395. During war

In addition to appointments in time of war under chapter 339 of this title, appointments of reserve officers may be made in time of war.

CHAPTER 339.—TEMPORARY APPOINTMENTS

Sec.
3441. General rule.
3442. Commissioned officers; regular and reserve components: appointment in higher grade.
3443. Commissioned officers; Reserves: appointment in higher or lower grade.
3444. Commissioned officers: during war or emergency.
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3446. Retention on active duty.
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3448. Warrant officers: grades; appointment.
3449. Warrant officers: promotion.
3450. Warrant officers: suspension of laws for promotion or mandatory retirement or separation during war or emergency.
3451. Officers: acceptance of appointment in higher grade.

§ 3441. General rule

Temporary appointments may be made only in the Army without specification of component.

§ 3442. Commissioned officers; regular and reserve components: appointment in higher grade

(a) Whenever the number of officers of the Regular Army in any regular grade above second lieutenant is less than the number authorized, the vacancies may be filled by the appointment of qualified officers, as prescribed in subsection (c).

(b) Whenever, under authorization by Congress, the number of commissioned officers of the Regular Army on active duty plus the number of other commissioned officers of the Army ordered to active duty for a period of more than 30 days is more than the authorized strength of the Regular Army in commissioned officers on the active list, the Secretary of the Army shall determine the additional number of officers in each of the commissioned grades based upon the number of officers serving on active duty and the tasks being performed by the Army. Vacancies resulting from that determination may then be filled by the appointment of qualified officers, as prescribed in subsection (c).

(c) Subject to subsections (a) and (b), a regular commissioned officer, or a reserve commissioned officer who is serving on active duty, may be appointed in a temporary grade that is equal to or higher than his regular or reserve grade, without vacating any other grade held by him. Under regulations to be prescribed by the Secretary, appointments made under this subsection shall be made on

a fair and equitable basis. Selections shall be based upon ability and efficiency with regard being given to seniority and age.

§ 3443. Commissioned officers; Reserves: appointment in higher or lower grade

A reserve commissioned officer who is ordered to, or is serving on, active duty may be appointed, with his consent, in a temporary grade that is higher or lower than his reserve grade, without affecting his reserve grade.

§ 3444. Commissioned officers: during war or emergency

(a) In time of emergency declared by Congress or the President, and in time of war, the President may appoint any qualified person, including a person who is not a Regular or Reserve, in any temporary commissioned grade.

(b) An officer appointed under subsection (a) may be ordered to active duty for such period as the President prescribes.

(c) Unless sooner vacated, an appointment under subsection (a) is effective during the war or emergency in which it is made and for six months thereafter.

§ 3445. Officers: additional appointments during war or emergency

(a) In addition to appointments authorized under section 3442 of this title, in time of war or of national emergency declared by the President, a regular officer or a reserve warrant officer may be appointed in a temporary grade that is higher than his regular or reserve grade, without vacating that grade.

(b) In addition to appointments authorized under subsection (a) of this section, and sections 3442, 3443, and 3444 of this title, in time of war a person who holds no commissioned grade in the Regular Army may be appointed in any temporary commissioned grade.

(c) Unless sooner vacated, the appointment of an officer under subsection (b), except a member of the Regular Army, is effective during the war in which it is made and for six months thereafter.

(d) Each officer appointed under subsection (b) shall, unless he is a member of the Regular Army, be relieved from active duty, at his request, within six months after the termination of the war.

§ 3446. Retention on active duty

Notwithstanding any other provision of law, the President shall retain on active duty any disabled officer who has only a temporary appointment until his physical condition is such that he will not be further benefited by retention in a military hospital or in the Army.

§ 3447. Appointments in commissioned grade: how made; how terminated

(a) The appointment of a person under sections 3442, 3443, 3444, and 3445 of this title shall be made without reference to any other appointment that he may hold in the Army.

(b) Temporary appointments of commissioned officers in the Army shall be made by the President alone in grades below brigadier general, and by the President, by and with the advice and consent of the Senate, in general officer grades.

(c) The President may vacate at any time a temporary appointment in a commissioned grade.

§ 3448. Warrant officers: grades; appointment

(a) The temporary warrant officer grades in the Army are those prescribed for regular warrant officers by section 555 (a) of this title.

(b) Whenever, under authorization by Congress, the number of commissioned officers of the Army on active duty is more than the authorized strength of the Regular Army in commissioned officers on the active list, the Secretary of the Army shall determine the additional number needed in each of the warrant officer grades based on the number of warrant officers serving on active duty and the tasks being performed by the Army. The Secretary may appoint, by warrant, qualified persons as warrant officers to fill the vacancies resulting from that determination. Appointments under this subsection continue in effect during the pleasure of the Secretary. While holding such an appointment, a warrant officer may be ordered to active duty with any unit of the Army.

(c) A warrant officer appointed under subsection (b) is entitled—

(1) to count all periods of active duty under the appointment as warrant or enlisted service for all purposes; and

(2) to the benefits of all laws and regulations applicable to the retirement, pensions, and disability of members of the Army on active duty.

(d) If a person appointed under subsection (b) is a member of the Army at the time of his appointment, he may accept the appointment without prejudice to his existing status. Upon termination of his appointment he is entitled to the grade held at the time of that appointment.

§ 3449. Warrant officers: promotion

Temporary promotions in warrant officer grades shall be governed by such regulations as the Secretary of the Army may prescribe.

§ 3450. Warrant officers: suspension of laws for promotion or mandatory retirement or separation during war or emergency

In time of war, or of emergency declared after May 29, 1954, by Congress or the President, the President may suspend the operation of any provision of law relating to promotion, or mandatory retirement or separation, of temporary warrant officers of the Army.

§ 3451. Officers: acceptance of appointment in higher grade

(a) An officer who is promoted to a temporary grade is considered to have accepted his promotion on the date of the order announcing it, unless he expressly declines the promotion. He is entitled to the pay and allowances of the higher grade from that date, unless entitled to them from an earlier date under another provision of law.

(b) An officer need not take the oath of office upon promotion if his service since last taking it has been continuous.

CHAPTER 341.—ACTIVE DUTY

Sec.
3491. Non-regular officers: status.
3492. Members: service extension during war.
3493. Army Reserve: commissioned officers with Corps of Engineers.
3495. Army National Guard of United States: status.
3496. Army National Guard of United States: commissioned officers; duty in National Guard Bureau.
3497. Army National Guard of United States: members; status in which ordered into Federal service.
3498. Army National Guard of United States: mobilization; maintenance of organization.
3499. Army National Guard in Federal service: status.
3500. Army National Guard in Federal service: call.
3501. Army National Guard in Federal service: period of service; apportionment.
3502. Army National Guard in Federal service: physical examination.
3503. Retired commissioned officers: status.
3504. Retired members: limitations; grade.

§ 3491. Non-regular officers: status

A commissioned officer of the Army, other than of the Regular Army, who is on active duty in any commissioned grade has the rights and privileges, and is entitled to the benefits, provided by law for a commissioned officer of the Army Reserve—

(1) whose reserve grade is that in which the officer not of the Regular Army is serving;

(2) who has the same length of service as the officer not of the Regular Army; and

(3) who is on active duty in his reserve grade.

§ 3492. Members: service extension during war

Unless terminated at an earlier date by the President, the period of active service of any member of the Army is extended for the duration of any war in which the United States may be engaged and for six months thereafter.

§ 3493. Army Reserve: commissioned officers with Corps of Engineers

The President may order commissioned officers of the Army Reserve to active duty with the Corps of Engineers in such number and for such time as may be necessary for the performance of the functions of the Corps of Engineers.

§ 3495. Army National Guard of the United States: status

Members of the Army National Guard of the United States are not in active Federal service except when ordered thereto under law.

§ 3496. Army National Guard of United States: commissioned officers; duty in National Guard Bureau

(a) The President may, with their consent, order commissioned officers of the Army National Guard of the United States to active duty in the National Guard Bureau.

(b) The number of officers of the Army National Guard of the United States in any grade below brigadier general who are ordered to active duty in the National Guard Bureau may not be more than 40 percent of the number of officers of the Army in that grade authorized for duty in that Bureau.

§ 3497. Army National Guard of United States: members; status in which ordered into Federal service

Members of the Army National Guard of the United States ordered to active duty shall be ordered to duty as Reserves of the Army.

§ 3498. Army National Guard of United States: mobilization; maintenance of organization

During an initial mobilization, the organization of a unit of the Army National Guard of the United States ordered into active Federal service shall, so far as practicable, be maintained as it existed on the date of the order to duty.

§ 3499. Army National Guard in Federal service: status

Members of the Army National Guard called into Federal service are, from the time when they are required to respond to the call, subject to the laws and regulations governing the Army, except those applicable only to members of the Regular Army.

§ 3500. Army National Guard in Federal service: call

Whenever—

(1) the United States, or any of the Territories, Commonwealths, or possessions, is invaded or is in danger of invasion by a foreign nation;

(2) there is a rebellion or danger of a rebellion against the authority of the Government of the United States; or

(3) the President is unable with the regular forces to execute the laws of the United States;

the President may call into Federal service members and units of the Army National Guard of any State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia in such numbers as he considers necessary to repel the invasion, suppress the rebellion, or execute those laws. Orders for these purposes shall be issued through the governors of the States, the Territories, Puerto Rico, and the Canal Zone, and, in the District of Columbia, through the commanding general of the National Guard of the District of Columbia.

§ 3501. Army National Guard in Federal service: period of service; apportionment

(a) Whenever the President calls the Army National Guard of a State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia into Federal service, he may specify in the call the period of the service. Members and units called shall serve inside or outside the territory of the United States during the term specified, unless sooner relieved by the President. However, no member of the Army National Guard may be kept in Federal service beyond the term of his commission or enlistment.

(b) When the Army National Guard of a State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia is called into Federal service with the Army National Guard of another of those jurisdictions, the President may apportion the total number called on the basis of the populations of the jurisdictions affected by the call.

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§ 3502. Army National Guard in Federal service: physical examination

(a) Under regulations prescribed by the President, each member of the Army National Guard called into Federal service shall be examined as to physical fitness, without further commission or enlistment.

(b) Immediately before such a member is mustered out of Federal service he shall be examined as to physical fitness. The record of this examination shall be retained by the United States.

§ 3503. Retired commissioned officers: status

A retired commissioned officer of the Army who is on active duty is considered, for all purposes except promotion, to be an officer of the branch or organization to which he is assigned.

§ 3504. Retired members: limitations; grade

(a) The President may order any retired member of the Regular Army to active duty. He may assign a member ordered under this subsection to such duties as he considers necessary in the interests of national defense.

(b) When ordered to active duty, a retired commissioned officer of the Army any part of whose service was in the Corps of Engineers is eligible to fill any position required by law to be filled by a commissioned officer of the Corps of Engineers.

(c) Whenever any of the following persons is ordered to active duty, he shall be ordered in his retired grade:

(1) Any officer who served four years as Chief of the Medical Service Corps.

(2) Any officer who served two and one-half years as Chief of the Army Nurse Corps or as Chief or an assistant chief of the Women's Medical Specialist Corps.

(3) Any officer who served two and one-half years as Director or Deputy Director of the Women's Army Corps.

CHAPTER 343.—SPECIAL APPOINTMENTS, ASSIGNMENTS, DETAILS, AND DUTIES

Sec.
3531. Chief of Staff to President: appointment.
3532. Assistant to Comptroller of Department of Defense: detail, grade.
3533. Corps of Engineers: assignment or transfer of officers to duties involving civil functions.
3534. Engineer Commissioner of the District of Columbia; assistants: detail.
3535. Assistant to Chief of Engineers.
3536. Leader of Army Band: appointment.
3538. Geological Survey: detail of officers of Ordnance Corps.
3539. American National Red Cross: detail of officers of Army Medical Service.
3540. Educational institutions: detail of members of regular or reserve components as professors and instructors in military science and tactics.
3541. National Guard Bureau: assignment of officers of regular or reserve components.
3542. Chief and assistant chief of staff of divisions of Army National Guard in Federal service: detail.
3543. Aides: detail; number authorized.
3544. Duties: regular officers; performance of civil functions restricted.
3545. Duties: officers; superintendence of cooking for enlisted members.
3546. Duties: officers of Medical Corps, contract surgeons; attendance on families of members.
3547. Duties: chaplains; assistance required of commanding officers.
3548. Duties: warrant officers; limitations.

§ 3531. Chief of Staff to President: appointment

The President, by and with the advice and consent of the Senate, may appoint a general officer of the Army as the Chief of Staff to the President. Unless entitled to the rank, pay, and allowances of a grade above lieutenant general under another provision of law, an officer so appointed by and with the advice and consent of the Senate is entitled to the rank, pay, and allowances of a general, and is additional to the numbers otherwise authorized for that grade.

§ 3532. Assistant to Comptroller of Department of Defense: detail, grade

A colonel on the active list of the Regular Army who is detailed as special assistant to the Comptroller of the Department of Defense, has the grade of brigadier general while so serving, unless he is entitled to a higher grade.

§ 3533. Corps of Engineers: assignment or transfer of officers to duties involving civil functions

Officers of the Corps of Engineers may be assigned or transferred to and from duties involving the civil functions of the Corps of Engineers only upon the recommendation of the Chief of Engineers, and with the approval of the Secretary of the Army.

§ 3534. Engineer Commissioner of the District of Columbia; assistants: detail

(a) The President may detail an officer assigned to the Corps of Engineers whose grade is above first lieutenant, and who has served at least 15 years in the Corps of Engineers, to be the Engineer Commissioner of the District of Columbia. An officer so detailed may not be required to perform any other duty.

(b) The President may detail not more than three officers assigned to the Corps of Engineers who are junior to the Engineer Commissioner, to assist that officer in discharging his duties.

§ 3535. Assistant to Chief of Engineers

An officer assigned as Assistant to the Chief of Engineers in charge of civil works, including river and harbor and flood control improvements, is entitled to the rank, pay, and allowances of a brigadier general while so serving.

§ 3536. Leader of Army Band: appointment

(a) The Secretary of the Army may appoint the leader of the Army band from the warrant officers of the Regular Army. The leader serves during the pleasure of the Secretary and may be returned to his former status in the discretion of the Secretary.

(b) The leader of the Army band is entitled to the basic pay and allowances of a captain, and is entitled to be credited for pay purposes with all service that may be credited under section 233 of title 37.

(c) Upon retirement, the leader of the Army band has the grade of warrant officer, with the retired pay to which he would have been entitled had he not been appointed leader.

§ 3538. Geological Survey: detail of officers of Ordnance Corps

The Secretary of the Army may detail not more than two commissioned officers who are assigned to the Ordnance Corps to serve with the Geological Survey, if in his judgment that can be done without injury to the service.

§ 3539. American National Red Cross: detail of officers of Army Medical Service

(a) The President may detail not more than five commissioned officers of the Army Medical Service for duty with the Service to the Armed Forces Division of the American National Red Cross.

(b) The Secretary of the Army may detail a commissioned officer of the Medical Corps to be in charge of the first-aid department of the American National Red Cross.

§ 3540. Educational institutions: detail of members of regular or reserve components as professors and instructors in military science and tactics

(a) The President may detail regular or reserve members of the Army for duty as professors and assistant professors of military science and tactics, and as military instructors, at educational institutions where units of the Reserve Officers' Training Corps are maintained.

(b) The Secretary of the Army may detail regular or reserve members of the Army for duty as professors and assistant professors of military science and tactics, and as military instructors, at schools and colleges, other than those covered by section 4382 of this title, having a course of military training prescribed by him and having not less than 100 physically fit male students who are at least 14 years of age.

§ 3541. National Guard Bureau: assignment of officers of regular or reserve components

Except as provided in section 3496 (b) of this title, the President may assign to duty in the National Guard Bureau as many regular or reserve officers of the Army as he considers necessary.

§ 3542. Chief and assistant chief of staff of divisions of Army National Guard in Federal service: detail

The President may detail a regular or reserve officer of the Army as chief of staff, and a regular or reserve officer or an officer of the Army National Guard as assistant to the chief of staff, of any division of the Army National Guard that is in Federal service as an Army National Guard organization.

§ 3543. Aides: detail; number authorized

(a) Each major general of the Army is entitled to three aides selected by him from commissioned officers of the Army in any grade below major.

(b) Each brigadier general of the Army is entitled to two aides selected by him from commissioned officers of the Army in any grade below captain.

§ 3544. Duties: regular officers; performance of civil functions restricted

(a) No commissioned officer of the Regular Army may be—

(1) employed on civil works or internal improvements;

(2) allowed to be employed by an incorporated company; or

(3) employed as acting paymaster or disbursing agent of the Bureau of Indian Affairs;

if that employment requires him to be separated from his organization or branch, or interferes with the performance of his military duties.

(b) Except as otherwise provided by law, no commissioned officer on the active list of the Regular Army may hold a civil office by election or appointment, whether under the United States, a Territory or possession, or a State. The acceptance of such a civil office or the exercise of its functions by such an officer terminates his appointment in the Army.

§ 3545. Duties: officers; superintendence of cooking for enlisted members

The cooking for enlisted members of the Army shall be superintended by the officers of the organizations to which the members belong.

§ 3546. Duties: officers of Medical Corps, contract surgeons; attendance on families of members

Commissioned officers of the Medical Corps and contract surgeons shall, when practicable, attend the families of members of the Army who are on active duty, retired, or on the temporary disability retired list. Such attendance shall be free of charge.

§ 3547. Duties: chaplains; assistance required of commanding officers

(a) Each chaplain shall, when practicable, hold appropriate religious services at least once on each Sunday for the command to which he is assigned, and shall perform appropriate religious burial services for members of the Army who die while in that command.

(b) Each commanding officer shall furnish facilities, including necessary transportation, to any chaplain assigned to his command, to assist the chaplain in performing his duties.

§ 3548. Duties: warrant officers; limitations

Under regulations prescribed by the President, a warrant officer may be assigned to perform duties that necessarily include those normally performed by a commissioned officer.

CHAPTER 345.—RANK AND COMMAND

Sec.

3571. Rank: commissioned officers on active duty.
3572. Rank: commissioned officers serving under temporary appointments.
3573. Rank: commissioned officers in regular grades of brigadier general and major general; seniority list.
3574. Rank: commissioned officers in regular grades below brigadier general.
3575. Rank: warrant officers.
3576. Command: when different commands of Army and Marine Corps join.
3578. Command: commissioned officers of Army in same grade on duty at same place.

Sec.
3579. Command: commissioned officers of Army Medical Service.
3580. Command: commissioned officers of Women's Army Corps.
3581. Command: chaplains.
3582. Command: retired officers.

§ 3571. Rank: commissioned officers on active duty

(a) Commissioned officers of the Army on active duty in the same grade rank among themselves according to date of rank. The date of rank—

(1) for a regular officer serving in his regular grade, is that stated in his commission or letter of appointment;

(2) for a regular officer serving in a temporary grade, is his date of appointment in that grade, unless adjusted under section 3572 of this title; and

(3) for a reserve officer or an officer of the Army National Guard called into Federal service, is his date of entry on active duty, except that, if he previously served on active duty in the same or any higher grade, his date of rank precedes the date of his entry on active duty by the period of his active duty, and of his service under section 503, 504, or 505 of title 32, performed in the grade in which he was placed on active duty or in any higher grade.

(b) When the dates of rank prescribed by subsection (a) are the same, rank is determined by length of all active commissioned service in the Army and commissioned service under sections 503, 504, and 505 of title 32.

(c) When the dates of rank prescribed by subsection (a) and length of active commissioned service computed under subsection (b) are the same:

(1) Regular officers rank before reserve officers and officers of the Army National Guard.

(2) Regular officers rank among themselves according to sections 3573 and 3574 of this title.

(3) Reserve officers and officers of the Army National Guard rank among themselves according to age.

§ 3572. Rank: commissioned officers serving under temporary appointments

The President may, in accordance with the needs of the Army, adjust dates of rank of commissioned officers of the Army serving in temporary grades.

§ 3573. Rank: commissioned officers in regular grades of brigadier general and major general; seniority list

(a) The date of rank of an officer whose regular grade is brigadier general is the date of his appointment in that regular grade, if at the time of that appointment he held no temporary general officer grade. The date of rank of an officer whose regular grade is major general is the date of rank he held in the regular grade of brigadier general, if he held that grade at the time of his appointment in the regular grade of major general.

(b) If at the time of his appointment in his current regular grade such an officer held only a temporary general officer grade, his date of rank is the date of rank he held in that temporary grade, except that

if he was promoted to that temporary grade from the temporary grade of brigadier general his date of rank is the date of rank he held in the temporary grade of brigadier general.

(c) Notwithstanding subsections (a) and (b), the date of rank of such an officer may not be earlier than that of the junior general officer in the same regular grade who was appointed to that grade before him.

(d) The names of general officers of the Regular Army shall be carried on a seniority list in the order of seniority in both regular grade and date of rank as determined under subsection (a).

§ 3574. Rank: commissioned officers in regular grades below brigadier general

(a) Among commissioned officers of the same grade in the Regular Army who are on the same promotion list, rank in regular grade is determined by the order in which their names appear on that list.

(b) Among commissioned officers of the same grade in the Regular Army who are not on the same promotion list or not on a promotion list, rank in regular grade is determined—

(1) by date of rank;

(2) if the dates of rank are the same, by length of continuous active commissioned service in the Regular Army;

(3) if the dates of rank and length of continuous active commissioned service in the Regular Army are the same, by rank established at the time of original appointment in the Regular Army; and

(4) in other cases, by the Secretary of the Army.

(c) Rank among the graduates of each class at the United States Military Academy who, upon graduation, are appointed in the Regular Army shall be fixed under regulations prescribed by the Secretary.

§ 3575. Rank: warrant officers

Warrant officers rank next below second lieutenants and rank among themselves within each warrant officer grade under regulations to be prescribed by the Secretary of the Army.

§ 3576. Command: when different commands of Army and Marine Corps join

When different commands of the Army and the Marine Corps join or serve together, the officer highest in rank in the Army or the Marine Corps on duty there who is otherwise eligible to command commands all those forces, unless otherwise directed by the President.

§ 3578. Command: commissioned officers of Army in same grade on duty at same place

When two or more commissioned officers of the same grade who are otherwise eligible to command are on duty in the same area, field, command, or organization, the President may assign the command without regard to rank in that grade.

§ 3579. Command: commissioned officers of Army Medical Service

(a) A commissioned officer of the Army Medical Service, other than an officer of the Army Nurse Corps or Women's Medical Specialist Corps, is not entitled to exercise command because of his rank, except within the Army Medical Service.

(b) An officer of the Army Nurse Corps or Women's Medical Specialist Corps may exercise command only within her own branch, or over persons placed under her charge.

§ 3580. Command: commissioned officers of Women's Army Corps

The Secretary of the Army shall prescribe the military authority that commissioned officers of the Women's Army Corps may exercise.

§ 3581. Command: chaplains

A chaplain has rank without command.

§ 3582. Command: retired officers

A retired officer has no right to command except when on active duty.

CHAPTER 347.—THE UNIFORM

Sec.
3611. President may prescribe.
3612. Uniforms: disposition on discharge.

§ 3611. President may prescribe

The President may prescribe the uniform of the Army.

§ 3612. Uniforms: disposition on discharge

(a) Except as provided in subsections (b) and (c), when an enlisted member of the Army is discharged, the exterior articles of uniform in his possession that were issued to him, other than those articles that he may wear from the place of discharge to his home, under section 772 (d) of this title, shall be retained for military use.

(b) When an enlisted member of the Army is discharged for bad conduct, undesirability, unsuitability, inaptitude, or otherwise than honorably, the exterior articles of uniform in his possession shall be retained by the Army for military use. However, when authorized by regulations prescribed by the Secretary of the Army, a suit of civilian outer clothing, and a civilian overcoat if necessary, costing together not more than $30, may be issued to that person.

(c) When an enlisted member of the Army National Guard who has been called into Federal service is released from that service, the exterior articles of uniform in his possession shall be accounted for as property issued to the Army National Guard of the State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia of whose Army National Guard he is a member, as prescribed in section 708 of title 32.

CHAPTER 349.—MISCELLANEOUS PROHIBITIONS AND PENALTIES

Sec.
3631. Dealing in quartermaster supplies prohibited.
3632. Members of Army: forfeiture of pay during absence from duty due to disease from intemperate use of alcohol or drugs.
3633. Commissioned officers: forfeiture of pay when dropped from rolls.
3634. Army band: may not be paid for performance outside Army post.
3635. Enlisted members: restriction on civilian employment.
3636. Enlisted members: pay and allowances not to accrue during suspended sentence of dishonorable discharge.
3637. Enlisted members: forfeiture of right to pension by deserters.
3638. Enlisted members: required to make up time lost.
3639. Enlisted members: officers not to use as servants.

§ 3631. Dealing in quartermaster supplies prohibited

No officer of the Quartermaster Corps and no officer performing the duties of an officer of that branch may—

(1) be directly or indirectly concerned, except on account of the United States, in the purchase or sale of any article procured, supplied, or sold by that branch, or in its custody; or

(2) take or apply to his own use any gain not allowed by law for transacting business connected with the duties of his office.

§ 3632. Members of Army: forfeiture of pay during absence from duty due to disease from intemperate use of alcohol or drugs

A member of the Army on active duty who is absent from his regular duties for a continuous period of more than one day because of disease that is directly caused by and immediately follows his intemperate use of alcoholic liquor or habit-forming drugs is not entitled to pay for the period of that absence. However, each member whose pay is so forfeited for more than one month is entitled to $5 for personal expenses for each full month that his pay is forfeited. Determinations of periods and causes of absence under this section shall be made as prescribed by the Secretary of the Army, and are final and conclusive.

§ 3633. Commissioned officers: forfeiture of pay when dropped from rolls

A commissioned officer of the Army who is dropped from the rolls under section 1161 (b) of this title for absence without authority for three months forfeits all pay due or to become due.

§ 3634. Army band: may not be paid for performance outside Army post

No Army band or member thereof may receive remuneration for furnishing music outside the limits of an Army post in competition with local civilian musicians.

§ 3635. Enlisted members: restriction on civilian employment

No enlisted member of the Army on active duty may be ordered or permitted to leave his post to engage in a civilian pursuit or business, or a performance in civil life, for emolument, hire, or otherwise, if the pursuit, business, or performance interferes with the customary or regular employment of local civilians in their art, trade, or profession.

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§ 3636. Enlisted members: pay and allowances not to accrue during suspended sentence of dishonorable discharge

Pay and allowances do not accrue to an enlisted member of the Army who is in confinement under sentence of dishonorable discharge, while the execution of the sentence to discharge is suspended.

§ 3637. Enlisted members: forfeiture of right to pension by deserters

An enlisted member of the Army who deserts forfeits all right to a pension that he might otherwise have acquired.

§ 3638. Enlisted members: required to make up time lost

An enlisted member of the Army who—

(1) deserts;

(2) is absent from his organization, station, or duty for more than one day without authority;

(3) is confined for more than one day while awaiting trial and disposition of his case, and whose conviction has become final;

(4) is confined for more than one day under a sentence that has become final; or

(5) is unable for more than one day to perform his duties because of intemperate use of drugs or alcoholic liquor, or because of disease or injury resulting from his misconduct;

is liable, after his return to full duty, to serve for a period that, when added to the period that he served before his absence from duty, amounts to the term of his enlistment.

§ 3639. Enlisted members: officers not to use as servants

No officer of the Army may use an enlisted member of the Army as a servant.

CHAPTER 351.—UNITED STATES DISCIPLINARY BARRACKS

Sec.
3661. Organization and administration.
3662. Training of prisoners.
3663. Parole; remission of sentence; restoration to duty.

§ 3661. Organization and administration

(a) Under regulations prescribed by the Secretary of the Army, the officer of the Army designated by him shall govern and control the United States Disciplinary Barracks at Fort Leavenworth, Kansas, and all offenders confined therein. There shall be at the United States Disciplinary Barracks a commandant and such other officers as may be necessary.

(b) The commandant of the United States Disciplinary Barracks—

(1) shall command the Barracks, and has custody of all offenders sent there for confinement;

(2) shall control and employ offenders as he considers best for their health and reformation and with a view to their honorable restoration to duty or reenlistment;

(3) shall make a record of the conduct of offenders; and

(4) may reduce the daily time of hard labor of offenders who by their industry and general good conduct earn the reduction.

(c) The enlisted members of the Army on duty at the United States Disciplinary Barracks shall be organized as infantry, with grades and organizational structure similar to infantry units of comparable size.

(d) The Secretary may designate all or part of any building under the control of the Department of the Army as a branch of the United States Disciplinary Barracks for the confinement of offenders whom it is impracticable to send to the United States Disciplinary Barracks. Branch disciplinary barracks are subject to the laws relating to the United States Disciplinary Barracks.

(e) The Secretary shall have made at the United States Disciplinary Barracks any supplies for the Army and the Air Force that can be economically and properly made there.

§ 3662. Training of prisoners

The Secretary of the Army—

(1) shall provide for the military training of offenders (A) who have been sent to the United States Disciplinary Barracks for confinement, (B) who were at the time of their offenses members of the Army, and (C) whose record and conduct indicate that, upon completing a course of military training, they may be worthy of honorable restoration to duty or of being permitted to reenlist;

(2) may provide for the organization of offenders selected for military training under clause (1) into disciplinary infantry units; and

(3) may provide for equipping those disciplinary units.

§ 3663. Parole; remission of sentence; restoration to duty

(a) The Secretary of the Army may provide a system of parole for offenders who are confined in the United States Disciplinary Barracks, and who were at the time of their offenses—

(1) members of the Army; or

(2) persons subject to chapter 47 of this title because (A) in the custody of, serving with, accompanying, or employed by the Army under section 802 (7)-(11) of this title (article 2 (7)-(11)), or (B) within an area under the control of the Secretary of the Army under section 802 (12) of this title (article 2 (12)).

(b) Whenever the Secretary considers that an offender sent to the Disciplinary Barracks merits that action, the Secretary may remit the unexecuted part of his sentence if he was at the time of his offense—

(1) a member of the Army; or

(2) a person subject to chapter 47 of this title because (A) in the custody of, serving with, accompanying, or employed by the Army under section 802 (7)-(11) of this title (article 2 (7)-(11)), or (B) within an area under the control of the Secretary of the Army under section 802 (12) of this title (article 2 (12)).

If the Secretary remits the unexecuted part of the sentence of an offender in the Disciplinary Barracks who at the time of his offense was an enlisted member of the Army, the Secretary may order his honorable restoration to active duty if he has not been discharged. If he has been discharged, the Secretary may authorize his reenlistment or, upon written application, order his restoration to the Army.

Such an order revives the enlistment contract for a period equal to that not previously served under it. So far as it relates to honorable restoration to active duty, this subsection applies to general prisoners confined elsewhere who were at the time of their offenses enlisted members of the Army.

CHAPTER 353.—MISCELLANEOUS RIGHTS AND BENEFITS

Sec.

3681. Army Register: regular officers; service to be listed.
3682. Service credit: officers; service as cadet not counted.
3683. Service credit: certain service as a nurse, woman medical specialist, or civilian employee of Army Medical Department to be counted.
3684. Service credit: regular enlisted members; service as an officer to be counted as enlisted service.
3685. Regular Army; Army Reserve: female members; definition of "dependents".
3686. Members of Army National Guard of United States: credit for service as members of Army National Guard.
3687. Compensation: members of Army other than of Regular Army; when same as that provided for members of Regular Army.
3688. Death gratuity.
3689. Assignments and allotments of pay.
3690. Exemption from arrest for debt: enlisted members.
3691. Flying officer rating: qualifications.
3692. Pilot rating in time of peace: qualifications.
3693. Replacement of certificate of discharge.

§ 3681. Army Register: regular officers; service to be listed

(a) The official Army Register shall include, with respect to each commissioned officer of the Regular Army—

(1) his lineal rank, listed by branch of the Army;

(2) all service as an officer of the Regular Army, and of the Regular Air Force;

(3) all enlisted service; and

(4) all non-regular service.

(b) The names of retired commissioned officers of the Regular Army shall be carried on the Army Register.

§ 3682. Service credit: officers; service as cadet not counted

In computing length of service for any purpose, no commissioned officer of the Army may be credited with service as a cadet at the United States Military Academy or as a midshipman at the United States Naval Academy, if he was appointed as a cadet or midshipman after August 24, 1912.

§ 3683. Service credit: certain service as a nurse, woman medical specialist, or civilian employee of Army Medical Department to be counted

In computing years of active service, there shall be credited for all purposes, except determination of grade, rank, and right to promotion in the Regular Army, the following service, in addition to any other service that may be credited—

(1) all active service performed in the Army Nurse Corps as it existed at any time before April 16, 1947;

(2) all active service performed in the Navy Nurse Corps as it existed at any time before April 16, 1947;

(3) all active service performed under an appointment under the Act of December 22, 1942, ch. 805, 56 Stat. 1072, or the Act of June 22, 1944, ch. 272, 58 Stat. 324; and

(4) all active full-time service, except as a student or apprentice, with the Medical Department of the Army as a civilian employee—

(A) in the dietetic or physical therapy categories, if the service was performed after April 6, 1917; or

(B) in the occupational therapy category, if the service was performed before appointment in the Army Nurse Corps or the Women's Medical Specialist Corps.

§ 3684. Service credit: regular enlisted members; service as an officer to be counted as enlisted service

An enlisted member of the Regular Army is entitled to count active service as an officer in the Army as enlisted service for all purposes.

§ 3685. Regular Army; Army Reserve: female members; definition of "dependents"

(a) Except as otherwise specifically provided, the husband of a female member of the Regular Army may not be considered a dependent unless he is in fact dependent on his wife for his chief support, and the child of such a member may not be considered a dependent unless his father is dead or he is in fact dependent on his mother for his chief support.

(b) The husband of a female member of the Army Reserve may not be considered a dependent unless he is in fact dependent on his wife for over half of his support, and the child of such a member may not be considered a dependent unless he is in fact dependent on his mother for over half of his support.

§ 3686. Members of Army National Guard of United States: credit for service as members of Army National Guard

For the purposes of laws providing benefits for members of the Army National Guard of the United States and their dependents and beneficiaries—

(1) military training, duty, or other service performed by a member of the Army National Guard of the United States in his status as a member of the Army National Guard for which he is entitled to pay from the United States shall be considered military training, duty, or other service, as the case may be, in Federal service as a Reserve of the Army;

(2) full-time training or other full-time duty performed by a member of the Army National Guard of the United States in his status as a member of the Army National Guard under sections 316 and 503–505 of title 32 for which he is entitled to pay from the United States, or for which he has waived such pay, shall be considered active duty for training in Federal service as a Reserve of the Army; and

(3) inactive-duty training performed by a member of the Army National Guard of the United States in his status as a member of the Army National Guard, in accordance with regulations prescribed under section 502 of title 32 or other express

provision of law, shall be considered inactive-duty training in Federal service as a Reserve of the Army.

§ 3687. Compensation: members of Army other than of Regular Army; when same as that provided for members of Regular Army

A member of the Army, other than of the Regular Army, is entitled to the pay and allowances, pensions, and other compensation provided by law or regulation for a member of the Regular Army of corresponding grade and length of service, whenever—

(1) he is called or ordered to active duty (other than for training) for a period of more than 30 days, and is disabled in line of duty from disease while so employed; or

(2) he is called or ordered to active duty, or to perform inactive-duty training, for any period of time, and is disabled in line of duty from injury while so employed.

§ 3688. Death gratuity

(a) The office or officer designated by the Secretary of the Army shall pay a death gratuity to the survivor named in subsection (b) of—

(1) each member of the Regular Army on active duty who dies from a disability incurred not as a result of his own misconduct; and

(2) each member of the Army, other than of the Regular Army, who dies from a disability or injury not the result of his misconduct incurred—

(A) while on active duty for a period of more than 30 days, if the death is caused by disease; or

(B) while on active duty or inactive duty training for any period, if the death is caused by injury.

The death gratuity shall be equal to six months' pay at the rate to which the member was entitled on the date of his death.

(b) The amount payable under subsection (a) shall be paid, immediately upon receipt of official notification of the death of the member, to the living person highest on the following list:

(1) The surviving spouse.

(2) His child or children, except a married child or an unmarried child over 21 years of age who was not a dependent of the deceased member.

(3) Any other dependent relative designated by the deceased member.

(4) Any dependent grandchild, parent, brother, sister, or grandparent of the deceased member whom the Secretary of the Army determines to have been dependent upon the deceased member.

(c) If a beneficiary dies before he receives the death gratuity, it shall be paid to the living beneficiary next in the order set forth in subsection (b).

(d) The determination of the Secretary as to dependency under subsection (b) (4) is conclusive upon the General Accounting Office.

(e) The Secretary shall, by regulation, require each member of the Army having no wife or eligible child to designate the dependent relative to whom the death gratuity shall be paid upon his death.

(f) Payments under subsection (a) (1) shall be made from funds appropriated for the pay of the Army.

§ 3689. Assignments and allotments of pay

(a) Under regulations prescribed by the Secretary of the Army, a commissioned officer of the Army may transfer or assign his pay account, when due and payable.

(b) A contract surgeon or contract dental surgeon, on duty in Alaska, Hawaii, the Philippine Islands, or Puerto Rico, may transfer or assign his pay account, when due and payable, under the regulations prescribed under subsection (a).

(c) No assignment of pay by an enlisted member of the Army is valid.

(d) The Secretary may allow any—

(1) member of the Army;

(2) contract surgeon; or

(3) permanent civilian employee of the Department of the Army on duty outside the United States;

to make allotments from his pay for the support of any of his relatives, or for any other purpose that the Secretary considers proper. If an allotment made under this subsection is paid to the allottee before the disbursing officer receives a notice of discontinuance from the officer required by regulation to furnish the notice, the amount of the allotment shall be credited to the disbursing officer. If an allotment is erroneously paid because the officer required by regulation to so report failed to report the death of the allotter or any other fact that makes the allotment not payable, the amount of the payment not recovered from the allottee shall, if practicable, be collected by the Chief of Finance from the officer who failed to make the report.

§ 3690. Exemption from arrest for debt: enlisted members

No enlisted member of the Army, while on active duty, may be arrested on mesne process or taken or charged in execution for any debt, unless it was contracted before his enlistment and amounted to at least $20 when first contracted.

§ 3691. Flying officer rating: qualifications

Only officers of the Army in the following categories may be rated as flying officers:

(1) Officers who have aeronautical ratings as pilots of service types of aircraft or as aircraft observers.

(2) Flight surgeons.

(3) Officers undergoing flight training.

(4) Officers who are members of combat crews, other than pilots of service types of aircraft, aircraft observers, and observers.

(5) In time of war, officers who have aeronautical ratings as observers.

§ 3692. Pilot rating in time of peace: qualifications

To be eligible to receive a rating as a pilot in time of peace, a member of the Army must pilot a heavier-than-air craft for at least 200 hours, of which 75 are alone, and must successfully complete the prescribed course.

§ 3693. Replacement of certificate of discharge

If satisfactory proof is presented that a person who was discharged honorably or under honorable conditions has lost his certificate of discharge from the Army or that it was destroyed without his procurement or connivance, the Secretary may give that person, or his surviving spouse, a certificate of that discharge, indelibly marked to show that it is a certificate in place of the lost or destroyed certificate. A certificate given under this subsection may not be accepted as a voucher for the payment of a claim against the United States for pay, bounty, or other allowance, or as evidence in any other case.

CHAPTER 355.—HOSPITALIZATION

Sec.
3721. Members of Army, other than of Regular Army.
3722. Members of R. O. T. C. and C. M. T. C.; members of Army not covered by section 3721 of this title.
3723. When Secretary may require.

§ 3721. Members of Army, other than of Regular Army

A member of the Army, other than of the Regular Army, is entitled to the hospital benefits provided by law or regulation for a member of the Regular Army of corresponding grade and length of service, whenever—

(1) he is called or ordered to active duty for a period of more than 30 days, and is disabled in line of duty from disease while so employed; or

(2) he is called or ordered to active duty, or to perform inactive-duty training, for any period of time, and is disabled in line of duty from injury while so employed.

§ 3722. Members of R. O. T. C. and C. M. T. C.; members of Army not covered by section 3721 of this title

(a) Under such regulations as the President may prescribe, the following persons are entitled to the benefits of subsection (b):

(1) Each Reserve of the Army, and each officer who has no regular or reserve appointment and who is injured, or contracts a disease, in line of duty while on active duty in time of peace.

(2) Each member of the Army Reserve who is injured in line of duty while not on active duty and while voluntarily participating in an aerial flight in a Government-owned aircraft under proper authority and as an incident to training.

(3) Each member of the Reserve Officers' Training Corps, or person attending a Citizens' Military Training Camp, who is injured, or contracts a disease, in line of duty while traveling to or from, or while attending, a training camp under section 4385 or 4411 of this title.

(b) So far as any benefit named in this subsection is not provided for him under section 3721 of this title, any person named in subsection (a) is entitled to—

(1) the hospitalization, rehospitalization, and medical and surgical care in a hospital and at his home appropriate for the treatment of his injury or disease until the resulting disability cannot be materially improved by further hospitalization or treatment;

(2) the basic pay and allowances, whether in money or in kind, to which he was entitled at the time when the injury was incurred or the disease contracted, during the period of his hospitalization or rehospitalization, but not for more than a total of six months after the end of his prescribed tour of duty or training;

(3) subsistence during hospitalization or rehospitalization when he is not entitled to basic pay and allowances under clause (2); and

(4) necessary transportation incident to his hospitalization, rehospitalization, and return to his home when he is discharged from the hospital.

§ 3723. When Secretary may require

The Secretary of the Army may order the hospitalization, medical and surgical treatment, and domiciliary care, for as long as necessary, of any member of the Army on active duty, and may incur obligations with respect thereto, whether or not the member was injured, or contracted a disease, in line of duty, except in the case of a member treated in a private hospital, or by a civilian physician, while on leave of absence for more than 24 hours.

CHAPTER 357.—DECORATIONS AND AWARDS

Sec.

3741. Medal of honor: award.
3742. Distinguished-service cross: award.
3743. Distinguished-service medal: award.
3744. Medal of honor; distinguished-service cross; distinguished-service medal: limitations on award.
3745. Medal of honor; distinguished-service cross; distinguished-service medal: delegation of power to award.
3746. Silver star: award.
3747. Medal of honor; distinguished-service cross; distinguished-service medal; silver star: replacement.
3748. Medal of honor; distinguished-service cross; distinguished-service medal; silver star: availability of appropriations.
3749. Distinguished flying cross: award; limitations.
3750. Soldier's Medal: award; limitations.
3751. Service medals: issue; replacement; availability of appropriations.
3752. Medals: posthumous award and presentation.
3753. Civil War battle streamers.

§ 3741. Medal of honor: award

The President may award, and present in the name of Congress, a medal of honor to a person who, while a member of the Army and in action involving actual conflict with an enemy, distinguishes himself conspicuously by gallantry and intrepidity at the risk of his life above and beyond the call of duty.

§ 3742. Distinguished-service cross: award

The President may award a distinguished-service cross of appropriate design and a ribbon, together with a rosette or other device to be worn in place thereof, to a person who, while serving in any capacity with the Army, distinguishes himself by extraordinary heroism in connection with military operations against an armed enemy.

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§ 3743. Distinguished-service medal: award

The President may award a distinguished-service medal of appropriate design and a ribbon, together with a rosette or other device to be worn in place thereof, to a person who, while serving in any capacity with the Army, distinguishes himself by exceptionally meritorious service to the United States in a duty of great responsibility.

§ 3744. Medal of honor; distinguished-service cross; distinguished-service medal: limitations on award

(a) No more than one medal of honor, distinguished-service cross, or distinguished-service medal may be awarded to a person. However, for each succeeding act that would otherwise justify the award of such a medal or cross, the President may award a suitable bar or other device to be worn as he directs.

(b) No medal of honor, distinguished-service cross, distinguished-service medal, or device in place thereof, may be awarded to a person unless—

(1) the award is made within three years after the date of the act justifying the award;

(2) a statement setting forth the distinguished service and recommending official recognition of it was made within two years after the distinguished service; and

(3) it appears from records of the Department of the Army that the person is entitled to the award.

(c) No medal of honor, distinguished-service cross, distinguished-service medal, or device in place thereof, may be awarded or presented to a person whose service after he distinguished himself has not been honorable.

§ 3745. Medal of honor; distinguished-service cross; distinguished-service medal: delegation of power to award

The President may delegate his authority to award the medal of honor, distinguished-service cross, and distinguished-service medal, to a commanding general of a separate army or higher unit in the field.

§ 3746. Silver star: award

The President may award a silver star, three-sixteenths of an inch in diameter, for each citation for gallantry in action that does not warrant a medal of honor or distinguished-service cross, if the person earned the citation while serving in any capacity with the Army and it has been published in orders issued from the headquarters of a force that is the appropriate command of a general officer. The silver star shall be worn as the President directs.

§ 3747. Medal of honor; distinguished-service cross; distinguished-service medal; silver star: replacement

Any medal of honor, distinguished-service cross, distinguished-service medal, or silver star, or any bar, ribbon, rosette, or other device issued for wear with or in place of any of them, that is lost or destroyed, or becomes unfit for use, without fault or neglect of the person to whom it was awarded, shall be replaced without charge.

§ 3748. Medal of honor; distinguished-service cross; distinguished-service medal; silver star: availability of appropriations

The Secretary of the Army may spend, from any appropriation for contingent expenses of the Department of the Army, amounts necessary to provide medals and devices under sections 3741, 3742, 3743, 3744, 3746, 3747, and 3752 of this title.

§ 3749. Distinguished flying cross: award; limitations

(a) The President may award a distinguished flying cross of appropriate design with accompanying ribbon to any person who, while serving in any capacity with the Army, distinguishes himself by heroism or extraordinary achievement while participating in an aerial flight.

(b) Not more than one distinguished flying cross may be awarded to a person. However, for each succeeding act that would otherwise justify the award of such a cross, the President may award a suitable bar or other device to be worn as he directs.

(c) No distinguished flying cross, or device in place thereof, may be awarded or presented to a person whose service after he distinguished himself has not been honorable.

§ 3750. Soldier's Medal: award; limitations

(a) The President may award a decoration called the "Soldier's Medal", of appropriate design with accompanying ribbon, to any person who, while serving in any capacity with the Army, distinguishes himself by heroism not involving actual conflict with an enemy.

(b) Not more than one Soldier's Medal may be awarded to a person. However, for each succeeding act that would otherwise justify the award of such a medal, the President may award a suitable bar or other device to be worn as he directs.

§ 3751. Service medals: issue; replacement; availability of appropriations

(a) The Secretary of the Army shall procure, and issue without charge to any person entitled thereto, any service medal authorized for members of the Army after May 12, 1928, and any ribbon, clasp, star, or similar device prescribed as a part of that medal.

(b) Under such regulations as the Secretary may prescribe, any medal or other device issued under subsection (a) that is lost, destroyed, or becomes unfit for use, without fault or neglect of the owner, may be replaced at cost. However, if the owner is a member of the Army or the Air Force, the medal or device may be replaced without charge.

(c) The Secretary may spend, from any appropriation for the support of the Army, amounts necessary to provide medals and devices under this section.

§ 3752. Medals: posthumous award and presentation

(a) If a person dies before the award of a medal of honor, distinguished-service cross, distinguished-service medal, distinguished flying cross, or device in place thereof, to which he is entitled, the

award may be made and the medal or device presented to his representative, as designated by the President.

(b) If a person dies before an authorized service medal or device prescribed as a part thereof is presented to him under section 3751 of this title, it may be presented to his family.

§ 3753. Civil War battle streamers

If, under regulations prescribed by the Secretary of the Army, it is determined that a regiment or other unit of the Army is entitled to that honor, the regiment or unit may carry any appropriate Civil War battle streamer with its colors or standards.

CHAPTER 359.—SEPARATION FROM REGULAR ARMY FOR FAILURE TO MEET STANDARDS

Sec.
3781. Selection boards: composition; duties.
3782. Boards of inquiry: composition; duties.
3783. Boards of review: composition; duties.
3784. Removal of officer: action by Secretary of the Army upon recommendation.
3785. Rights and procedures.
3786. Officer considered for removal: voluntary retirement or honorable discharge; severance benefits.

§ 3781. Selection boards: composition; duties

The Secretary of the Army shall convene annually a selection board composed of five general officers. The selection board shall review the record of each commissioned officer on the active list of the Regular Army to determine whether he shall be required, because of failure to achieve the standards of performance to be prescribed by the Secretary by regulation, to show cause for his retention on the active list.

§ 3782. Boards of inquiry: composition; duties

(a) Boards of inquiry, each composed of three or more general officers, shall be convened, at such places as the Secretary of the Army may prescribe, to receive evidence and make findings and recommendations as to the fitness of officers to be retained on the active list of the Regular Army.

(b) A fair and impartial hearing before a board of inquiry shall be given to each officer required to show cause for retention under section 3781 of this title.

(c) If a board of inquiry recommends the retention of an officer, his case is closed. However, at any future time he may be again required to show cause for retention under section 3781 of this title.

(d) If a board of inquiry recommends the removal of an officer from the active list of the Regular Army, it shall send the record of its proceedings to a board of review.

§ 3783. Boards of review: composition; duties

(a) Boards of review, each composed of five or more general officers, shall be convened by the Secretary of the Army, at such times as he may prescribe, to review the cases of officers recommended by boards of inquiry for removal from the active list of the Regular Army, and to make recommendations as to the retention of those officers.

(b) If a board of review recommends the retention of an officer, his case is closed. However, at any future time he may be again required to show cause for retention under section 3781 of this title.

(c) If a board of review recommends the removal of an officer from the active list of the Regular Army, it shall send its recommendations to the Secretary for his action.

§ 3784. Removal of officer: action by Secretary of the Army upon recommendation

The Secretary of the Army may remove an officer from the active list of the Regular Army for any cause that he considers sufficient, if removal for that cause is recommended by a board of review under this chapter. The Secretary's action in such a case is final and conclusive.

§ 3785. Rights and procedures

(a) Each officer under consideration for removal from the active list of the Regular Army under this chapter shall be—

(1) notified in writing of the pendency of any proceeding for his removal;

(2) allowed reasonable time to prepare his defense;

(3) allowed to appear in person and by counsel at proceedings before a board of inquiry and a board of review; and

(4) allowed full access to, and furnished copies of, records relevant to his case at all stages of the proceeding.

(b) No person may be a member of more than one board convened under this chapter for the same officer.

§ 3786. Officer considered for removal: voluntary retirement or honorable discharge; severance benefits

(a) At any time during proceedings under this chapter and before the removal of an officer from the active list of the Regular Army, the Secretary of the Army may grant his request—

(1) for voluntary retirement, if he is otherwise qualified therefor; or

(2) for honorable discharge with severance benefits under subsection (b).

(b) Each officer removed from the active list of the Regular Army under this chapter shall—

(1) if on the date of removal he is eligible for voluntary retirement under any law, be retired in the grade and with the pay to which he would be entitled if retired at his request; or

(2) if on that date he is ineligible for voluntary retirement, be honorably discharged in the grade then held with severance pay equal to one month's basic pay at the rate to which he was entitled on the date of discharge, multiplied by the number of years of his active commissioned service, but not more than 12.

(c) For the purposes of subsection (b) (2), a part of a year that is six months or more is counted as a whole year, and a part of a year that is less than six months is disregarded.

CHAPTER 361.—SEPARATION FOR VARIOUS REASONS

Sec.
3811. Army enlisted members: discharge certificate; limitations on discharge.
3812. Army enlisted members: during war or emergency; discharge.
3813. Army enlisted members: dependency discharge.
3814. Regular commissioned officers: discharge during three-year probationary period.
3815. Regular enlisted members: resignation of members enlisted on career basis; limitations.
3816. Regular enlisted members: minority discharge.
3818. Regular female members: termination of appointment or enlistment.
3820. Army National Guard of United States officers: discharge.

§ 3811. Army enlisted members: discharge certificate; limitations on discharge

(a) A discharge certificate shall be given to each lawfully inducted or enlisted member of the Army upon his discharge.

(b) No enlisted member of the Army may be discharged before his term of service expires, except—

(1) as prescribed by the Secretary of the Army;
(2) by sentence of a general or special court-martial; or
(3) as otherwise provided by law.

§ 3812. Army enlisted members: during war or emergency; discharge

A person enlisted under section 3254 of this title may be discharged at any time by the President, or otherwise according to law.

§ 3813. Army enlisted members: dependency discharge

The Secretary of the Army may discharge an enlisted member of the Army, if, after his enlistment or induction, members of his family become dependent upon him for care or support because of the death or disability of a member of that family.

§ 3814. Regular commissioned officers: discharge during three-year probationary period

The Secretary of the Army may discharge a regular commissioned officer who has less than three years of continuous service as a commissioned officer therein. However, such an officer may not be discharged because of his marriage, unless the marriage occurred within one year after the date of his original appointment.

§ 3815. Regular enlisted members: resignation of members enlisted on career basis; limitations

(a) Except as provided in subsection (b), a Regular who serves at least three years of an enlistment for an unspecified period under section 3256 (b) of this title may submit his resignation to the Secretary of the Army and shall be discharged within three months thereafter.

(b) The Secretary is not required to accept a resignation submitted under subsection (a)—

(1) until the member completes two years of service in his current overseas assignment, if the resignation is submitted after the member embarks for such an assignment or while he is stationed overseas;

(2) until two years after the member completes a course of instruction under section 4301 of this title, if he has taken such a course;

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(3) until six months after its submission, if the member is under investigation or in default concerning public property or funds;

(4) while the member is absent without leave or is serving a sentence of a court-martial; or

(5) during a war, or during a national emergency declared by Congress or the President.

§ 3816. Regular enlisted members: minority discharge

Upon the application of the parents or guardian of a regular enlisted member under 18 years of age who enlisted without the written consent of his parents or guardian, the Secretary of the Army shall discharge the member with the pay and form of discharge certificate to which his service entitles him.

§ 3818. Regular female members: termination of appointment or enlistment

(a) The Secretary of the Army may terminate—

(1) the appointment of a female commissioned officer of the Regular Army, under regulations prescribed by the President; or

(2) the appointment of a warrant officer, or the enlistment of an enlisted member, of the Women's Army Corps, Regular Army.

(b) The appointment of a commissioned officer may not be terminated under subsection (a) (1) by dismissal.

(c) An enlisted member of the Women's Army Corps whose enlistment is terminated under subsection (a) (2) shall be discharged from the Army.

§ 3820. Army National Guard of United States officers: discharge

(a) The Secretary may terminate the reserve appointment of an officer of the Army National Guard of the United States and withdraw his Federal recognition as an officer of the Army National Guard, if he has been absent without leave for three months.

(b) An officer of the Army National Guard of the United States whose Federal recognition as an officer of the Army National Guard is withdrawn under section 323 (b) of title 32 shall be discharged from his reserve appointment.

CHAPTER 363.—SEPARATION OR TRANSFER TO RETIRED RESERVE

[No present sections]

CHAPTER 365.—RETIREMENT FOR AGE

Sec.
3881. Age 50: regular commissioned officers below major; Army Nurse Corps and Women's Medical Specialist Corps.
3882. Age 55: regular commissioned officers above captain; Army Nurse Corps and Women's Medical Specialist Corps.
3883. Age 60: regular commissioned officers below major general.
3884. Age 60: regular major generals whose retirement has been deferred.
3885. Age 62: regular major generals.
3886. Age 64: regular major generals whose retirement has been deferred; permanent professors of United States Military Academy.

Sec.
3887. Computation of years of service: discretionary retirement; regular commissioned officers; Army Nurse Corps and Women's Medical Specialist Corps.
3888. Computation of years of service: mandatory retirement; regular commissioned officers.
3889. Computation of retired pay; law applicable.

§ 3881. Age 50: regular commissioned officers below major; Army Nurse Corps and Women's Medical Specialist Corps

The Secretary of the Army may retire a commissioned officer of the Army Nurse Corps or Women's Medical Specialist Corps—

(1) whose regular grade is below major;

(2) who has at least 20 years of service computed under section 3887 of this title; and

(3) who is at least 50 years of age.

§ 3882. Age 55: regular commissioned officers above captain; Army Nurse Corps and Women's Medical Specialist Corps

The Secretary of the Army may retire an officer of the Army Nurse Corps or Women's Medical Specialist Corps—

(1) whose regular grade is above captain;

(2) who has at least 20 years of service computed under section 3887 of this title; and

(3) who is at least 55 years of age.

§ 3883. Age 60: regular commissioned officers below major general

Unless retired or separated at an earlier date, each commissioned officer whose regular grade is below major general, other than a professor of the United States Military Academy, shall be retired when he becomes 60 years of age, except as provided by section 47a of title 5.

§ 3884. Age 60: regular major generals whose retirement has been deferred

Unless retired or separated at an earlier date, each commissioned officer whose regular grade is major general, and whose retirement under section 3923 of this title has been deferred under clause (1) of that section, shall be retired when he becomes 60 years of age, except as provided by section 47a of title 5.

§ 3885. Age 62: regular major generals

Unless retired or separated at an earlier date or unless retained under section 3923 (2) of this title, each commissioned officer whose regular grade is major general shall be retired when he becomes 62 years of age, except as provided by section 47a of title 5.

§ 3886. Age 64: regular major generals whose retirement has been deferred; permanent professors of United States Military Academy

Unless retired or separated at an earlier date, each commissioned officer whose regular grade is major general, and whose retirement under section 3923 of this title has been deferred under clause (2)

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of that section, and each permanent professor of the United States Military Academy, shall be retired when he becomes 64 years of age, except as provided by section 47a of title 5.

§ 3887. Computation of years of service: discretionary retirement; regular commissioned officers; Army Nurse Corps and Women's Medical Specialist Corps

For the purpose of determining whether a commissioned officer of the Army Nurse Corps or the Women's Medical Specialist Corps may be retired under section 3881 or 3882 of this title, and of computing her retired pay under section 3991 of this title, her years of service are computed by adding—

(1) all active service; and

(2) all other service in the Navy or Marine Corps that may be credited in determining the eligibility of an officer of the Navy or Marine Corps for retirement.

§ 3888. Computation of years of service; mandatory retirement; regular commissioned officers

For the purpose of computing the retired pay of a commissioned officer of the Regular Army retired under section 3883, 3884, 3885, or 3886 of this title, his years of service are the greater of—

(1) the years of service credited to him in computing his basic pay; or

(2) his years of service computed under clause (A), (B), (C), (D), or (E), whichever applies:

(A) For an officer appointed in the Regular Army before January 1, 1948, under the Act of December 28, 1945, ch. 601 (59 Stat. 663), the service credited to him under that act at the time of his appointment, plus his years of active commissioned service in the Regular Army after that appointment.

(B) For an officer appointed in the Women's Army Corps, Regular Army, under section 108 of the Women's Armed Services Integration Act of 1948 (62 Stat. 361), the service credited to her under that section at the time of her appointment, plus her years of active commissioned service in the Regular Army after that appointment.

(C) For a reserve judge advocate appointed in the Regular Army in the grade of captain in the Judge Advocate General's Department under section 24e of the National Defense Act as amended (53 Stat. 558)—

(i) his years of active commissioned service in the Army after becoming 21 years of age, after December 7, 1941, and before the date of that appointment; or

(ii) the number of days, months, and years by which his age at the time of that appointment exceeded 25 years;

whichever is greater, plus his years of active commissioned service in the Regular Army after that appointment.

(D) For an officer appointed in the Regular Army before December 31, 1947, other than an officer covered by clause (A) or (C), the sum of—

(i) his years of active commissioned service in the Regular Army after that appointment; and

(ii) his years of active commissioned service in the Army after becoming 21 years of age and after December 7, 1941, under any earlier appointment.

(E) For an officer appointed in the Regular Army after December 31, 1947, other than an officer covered by clause (B), the sum of—

(i) his years of active commissioned service in the Regular Army after that appointment; and

(ii) his years of active commissioned service in the Army after becoming 21 years of age and after December 31, 1947, under an earlier appointment.

§ 3889. Computation of retired pay: law applicable

A member of the Army retired under this chapter is entitled to retired pay computed under chapter 371 of this title.

CHAPTER 367.—RETIREMENT FOR LENGTH OF SERVICE

Sec.
3911. Twenty years or more: regular or reserve commissioned officers.
3912. Twenty years or more: regular commissioned officers; Army Nurse Corps and Women's Medical Specialist Corps.
3913. Twenty years or more: deferred officers not recommended for promotion.
3914. Twenty to thirty years: regular enlisted members.
3915. Twenty-five years: regular majors; Women's Army Corps.
3916. Twenty-eight years: promotion-list lieutenant colonels.
3917. Thirty years or more: regular enlisted members.
3918. Thirty years or more: regular commissioned officers.
3919. Thirty years or more: regular commissioned officers; excessive number.
3920. More than thirty years: permanent professors of United States Military Academy.
3921. Thirty years or five years in grade: promotion-list colonels.
3922. Thirty years or five years in grade: regular brigadier generals.
3923. Thirty-five years or five years in grade: regular major generals.
3924. Forty years or more: Army officers.
3925. Computation of years of service: voluntary retirement; regular enlisted members.
3926. Computation of years of service: voluntary retirement; regular and reserve commissioned officers.
3927. Computation of years of service: mandatory retirement; regular commissioned officers.
3928. Computation of years of service: voluntary retirement; regular commissioned officers; Army Nurse Corps and Women's Medical Specialist Corps.
3929. Computation of retired pay: law applicable.

§ 3911. Twenty years or more: regular or reserve commissioned officers

The Secretary of the Army may, upon the officer's request, retire a regular or reserve commissioned officer of the Army who has at least 20 years of service computed under section 3926 of this title, at least 10 years of which have been active service as a commissioned officer.

§ 3912. Twenty years or more: regular commissioned officers; Army Nurse Corps and Women's Medical Specialist Corps

The Secretary of the Army may, upon the officer's request, retire a commissioned officer of the Regular Army in the Army Nurse Corps or Women's Medical Specialist Corps who has at least 20 years of service computed under section 3928 of this title.

§ 3913. Twenty years or more: deferred officers not recommended for promotion

(a) A deferred officer who is not recommended for promotion under section 3303 (c) of this title, or an officer who is found disqualified for promotion under section 3302 (f) of this title, shall, if he has at least 20 years of service computed under section 3927 (a) of this title, be retired, except as provided by section 47a of title 5, one year and 30 days after the earlier of the following dates:

(1) The date of appointment to the grade concerned of the first officer junior to him on the list considered by the first selection board.

(2) The date on which he would have completed, for promotion purposes, 7, 14, or 21 years of service, if he is in the grade of first lieutenant, captain, or major, as the case may be, had his years of service not been reduced under section 3303 (b) of this title.

(b) Unless sooner retired or separated under another provision of law, a deferred officer who is not recommended for promotion under section 3303 (c) of this title, or an officer found disqualified for promotion under section 3302 (f) of this title, who is not eligible for retirement under subsection (a) of this section or any other provision of law, but is within two years of becoming entitled to retirement under subsection (a) or some other provision of law, shall be retained on the active list in his regular grade until so entitled to retire, and then retired.

§ 3914. Twenty to thirty years: regular enlisted members

Under regulations prescribed by the Secretary of the Army, a regular enlisted member of the Army who has at least 20, but less than 30, years of service computed under section 3925 of this title may, upon his request, be retired. He then becomes a member of the Army Reserve, and shall perform such active duty as may be prescribed under law, until his service computed under section 3925 of this title, plus his inactive service as a member of the Army Reserve, equals 30 years.

§ 3915. Twenty-five years: regular majors; Women's Army Corps

Unless retired or separated at an earlier date, each officer of the Women's Army Corps whose regular grade is major shall be retired, except as provided by section 47a of title 5, on the thirtieth day after she completes 25 years of service computed under section 3927 (a) of this title.

§ 3916. Twenty-eight years: promotion-list lieutenant colonels

(a) Unless retired or separated at an earlier date, each promotion-list officer in the regular grade of lieutenant colonel shall be retired, except as provided by section 47a of title 5, on the thirtieth day after he completes 28 years of service computed under section 3927 (a) of this title. However, if his name is carried on the list of officers recommended for appointment to the regular grade of colonel, he shall be retained on the active list while his name is so carried.

(b) The Secretary of the Army may defer the retirement under this section of—

(1) any promotion-list officer in the regular grade of lieutenant colonel in the Medical Corps, Dental Corps, Veterinary Corps, Medical Service Corps, or the Chaplains, but not later than the date on which he becomes 60 years of age;

(2) any officer in the grade of lieutenant colonel in the Women's Army Corps, Regular Army, until the thirtieth day after she completes 30 years of service computed under section 3927 (a) of this title; and

(3) any officer while serving as Director of the Women's Army Corps.

§ 3917. Thirty years or more: regular enlisted members

A regular enlisted member of the Army who has at least 30 years of service computed under section 3925 of this title shall be retired upon his request.

§ 3918. Thirty years or more: regular commissioned officers

A regular commissioned officer of the Army who has at least 30 years of service computed under section 3926 of this title may be retired upon his request, in the discretion of the President.

§ 3919. Thirty years or more: regular commissioned officers; excessive number

Whenever the Secretary of the Army believes that there are too many commissioned officers on the active list of the Regular Army, in any grade, who have at least 30 years of service computed under section 3927 (a) of this title, he may convene a board of at least five general officers of the Regular Army. The board shall consider all officers on the active list in that grade and with that service, and shall recommend officers by name for retirement, in the number specified by the Secretary. The Secretary may retire an officer so recommended.

§ 3920. More than thirty years: permanent professors of United States Military Academy

The Secretary of the Army may retire any permanent professor of the United States Military Academy who has more than 30 years of service as a commissioned officer.

§ 3921. Thirty years or five years in grade: promotion-list colonels

(a) Unless retired or separated at an earlier date, each promotion-list officer in the regular grade of colonel shall be retired, except as provided by section 47a of title 5, on the fifth anniversary of the date of his appointment in that regular grade, or on the thirtieth day after he completes 30 years of service computed under section 3927 (a) of

this title, whichever is later. However, if his name is carried on the list of officers recommended for appointment to the regular grade of brigadier general, he shall be retained on the active list while his name is so carried.

(b) The Secretary of the Army may defer the retirement under this section of any promotion-list officer in the regular grade of colonel in the Medical Corps, Dental Corps, Veterinary Corps, Medical Service Corps, or the Chaplains, but not later than the date on which he becomes 60 years of age. The number of deferments in effect under this subsection for any one promotion list at any one time may not be more than 10 percent of the number of colonels authorized for that list.

§ 3922. Thirty years or five years in grade: regular brigadier generals

(a) Unless retired or separated at an earlier date, each officer in the regular grade of brigadier general, other than a professor of the United States Military Academy, shall be retired, except as provided by section 47a of title 5, on the fifth anniversary of the date of his appointment in that regular grade, or on the thirtieth day after he completes 30 years of service computed under section 3927 (a) of this title, whichever is later. However, if his name is carried on the list of officers recommended for appointment to the regular grade of major general, he shall be retained on the active list while his name is so carried.

(b) The Secretary of the Army may defer the retirement under this section of any brigadier general who is serving in a higher temporary grade, but not later than the date on which he becomes 60 years of age. Not more than five deferments under this subsection may be in effect at any one time.

§ 3923. Thirty-five years or five years in grade: regular major generals

Unless retired or separated at an earlier date, each officer in the regular grade of major general shall be retired, except as provided by section 47a of title 5, on the fifth anniversary of the date of his appointment in that regular grade, or on the thirtieth day after he completes 35 years of service computed under section 3927 (a) of this title, whichever is later. However, the Secretary of the Army may defer the retirement under this section of—

(1) any such major general, but not later than the date on which he becomes 60 years of age; and

(2) any such major general who is serving in a temporary grade above major general, or who is serving in a position that carries a grade above major general, but not later than the date on which he becomes 64 years of age; and not more than five deferments under this clause may be in effect at any one time.

§ 3924. Forty years or more: Army officers

(a) Except as provided in section 3786 of this title, a commissioned officer of the Army who has at least 40 years of service computed under section 3926 of this title shall be retired upon his request.

(b) Any warrant officer of the Army who has at least 40 years of service computed under section 3926 (a) of this title shall be retired upon his request.

§ 3925. Computation of years of service: voluntary retirement; regular enlisted members

(a) For the purpose of determining whether a regular enlisted member of the Army may be retired under section 3914 or 3917 of this title, and of computing his retired pay under section 3991 of this title, his years of service are computed by adding all active service in the armed forces and service computed under section 3683 of this title.

(b) Time required to be made up under section 3638 of this title may not be counted in determining years of service under subsection (a).

§ 3926. Computation of years of service: voluntary retirement; regular and reserve commissioned officers

(a) For the purpose of determining whether an officer of the Army may be retired under section 3911, 3918, or 3924 of this title, his years of service are computed by adding—

(1) all active service performed as a member of the Army or the Air Force;

(2) all service in the Navy or Marine Corps that may be included in determining the eligibility of an officer of the Navy or Marine Corps for retirement;

(3) all service computed under section 3683 of this title; and

(4) if an officer of the Regular Army, all active service performed as an officer of the Philippine Constabulary.

(b) For the purpose of determining whether a commissioned officer of the Regular Army in the Medical Corps may be retired under section 3911, 3918, or 3924 of this title, his years of service are computed by adding to his service under subsection (a) all service performed as a contract surgeon, acting assistant surgeon, or contract physician, under a contract to serve full time and to take and change station as ordered.

(c) For the purpose of determining whether a commissioned officer of the Regular Army in the Dental Corps may be retired under section 3911, 3918, or 3924 of this title, his years of service are computed by adding to his service under subsection (a) all service as a contract dental surgeon or acting dental surgeon.

§ 3927. Computation of years of service: mandatory retirement; regular commissioned officers

(a) For the purpose of determining whether a regular commissioned officer may be retired under section 3913, 3915, 3916, 3919, 3921, 3922, or 3923 of this title, his years of service are:

(1) For a commissioned officer appointed in the Regular Army before January 1, 1948, under the Act of December 28, 1945, ch. 601 (59 Stat. 663), the service credited to him under that act at the time of his appointment, plus his years of active commissioned service in the Regular Army after that appointment.

(2) For a commissioned officer appointed in the Women's Army Corps, Regular Army, under section 108 of the Women's Armed

Services Integration Act of 1948 (62 Stat. 361), the service credited to her under that section at the time of her appointment, plus her years of active commissioned service in the Regular Army after that appointment.

(3) For a reserve judge advocate appointed in the regular grade of captain in the Judge Advocate General's Department under section 24e of the National Defense Act, as amended (53 Stat. 558)—

(A) his years of active commissioned service in the Army after becoming 21 years of age, after December 7, 1941, and before the date of that appointment; or

(B) the number of days, months, and years by which his age at the time of that appointment exceeded 25 years;

whichever is greater, plus his years of active commissioned service in the Regular Army after that appointment.

(4) For a commissioned officer appointed in the Regular Army before December 31, 1947, other than an officer covered by clause (1) or (3), the sum of—

(A) his years of active commissioned service in the Regular Army after that appointment; and

(B) his years of active commissioned service in the Army after becoming 21 years of age and after December 7, 1941, under any earlier appointment.

(5) For a commissioned officer appointed in the Regular Army after December 31, 1947, other than an officer covered by clause (2), the sum of—

(A) his years of active commissioned service in the Regular Army after that appointment; and

(B) his years of active commissioned service in the Army after becoming 21 years of age and after December 31, 1947, under any earlier appointment.

(b) For the purpose of computing the retired pay of a commissioned officer of the Regular Army retired under section 3913, 3915, 3916, 3919, 3921, 3922, or 3923 of this title, his years of service are the greater of—

(1) the years of service credited to him in computing his basic pay; or

(2) his years of service computed under clause (1), (2), (3), (4), or (5) of subsection (a), whichever is applicable.

§ 3928. Computation of years of service: voluntary retirement; regular commissioned officers; Army Nurse Corps and Women's Medical Specialist Corps

For the purpose of determining whether a commissioned officer of the Army Nurse Corps or the Women's Medical Specialist Corps may be retired under section 3912 of this title, and of computing her retired pay under section 3991 of this title, her years of service are computed by adding—

(1) all active service; and

(2) all service in the Navy or Marine Corps that may be credited in determining the eligibility of an officer of the Navy or Marine Corps for retirement.

§ 3929. Computation of retired pay: law applicable

A member of the Army retired under this chapter is entitled to retired pay computed under chapter 371 of this title.

CHAPTER 369.—RETIRED GRADE

Sec.

3961. General rule.
3962. Higher grade for service in special positions: regular commissioned officers.
3963. Higher grade for service during certain periods: regular and reserve commissioned officers.
3964. Higher grade after 30 years of service: Army warrant officers; regular enlisted members.
3965. Restoration to former grade: regular warrant officers and enlisted members.
3966. Retired lists.

§ 3961. General rule

Unless entitled to a higher retired grade under some other provision of law, a Regular or Reserve of the Army who retires other than for physical disability retires in the regular or reserve grade that he holds on the date of his retirement.

§ 3962. Higher grade for service in special positions: regular commissioned officers

(a) Upon retirement, a commissioned officer of the Regular Army who has served (1) as Chief of Staff to the President, (2) as Chief of Staff of the Army, (3) as a senior member of the Military Staff Committee of the United Nations, or (4) in a position of importance and responsibility designated by the President to carry the grade of general or lieutenant general under section 3066 of this title may, in the discretion of the President, be retired, by and with the advice and consent of the Senate, in the highest grade held by him at any time on the active list.

(b) Upon retirement, a commissioned officer of the Regular Army who has served at least four years as chief or assistant chief of a branch is entitled to retire in the highest grade, prescribed for such an office, that he held while so serving.

(c) Upon retirement, a commissioned officer of the Regular Army who has served at least two and one-half years as Director or Deputy Director of the Women's Army Corps, Chief of the Army Nurse Corps, or Chief or an assistant chief of the Women's Medical Specialist Corps may, in the discretion of the President, be retired in the highest grade held by her while so serving, unless she is entitled to a higher retired grade under some other provision of law.

(d) Upon retirement, any permanent professor of the United States Military Academy whose grade is below brigadier general, and whose service as such a professor has been long and distinguished, may, in the discretion of the President, be retired in the grade of brigadier general.

§ 3963. Higher grade for service during certain periods: regular and reserve commissioned officers

(a) A regular commissioned officer who is retired, or a reserve commissioned officer who is retired or to whom retired pay is granted,

is entitled to a retired grade equal to the highest temporary grade in the Army in which he served on active duty satisfactorily, as determined by the Secretary of the Army, for not less than six months, after September 8, 1940, and before July 1, 1946.

(b) Upon retirement, a member of the Regular Army in the Army Nurse Corps or Women's Medical Specialist Corps who was (1) a member of the Army Nurse Corps established by the Act of July 9, 1918, ch. 143 (40 Stat. 879), (2) a female dietition or physical therapist appointed under the Act of December 22, 1942, ch. 805 (56 Stat. 1072), or (3) a female officer appointed under the Act of June 22, 1944, ch. 272 (58 Stat. 324), is entitled to a retired grade equal to the highest grade or relative rank in which she served on active duty satisfactorily, as determined by the Secretary, after September 8, 1940, and before July 1, 1946.

§ 3964. Higher grade after 30 years of service: Army warrant officers; regular enlisted members

Each warrant officer of the Army, and each enlisted member of the Regular Army, who is retired before or after this title is enacted is entitled, when his active service plus his service on the retired list totals 30 years, to be advanced on the retired list to the highest temporary grade in which he served on active duty satisfactorily, as determined by the Secretary of the Army, after September 8, 1940, and before July 1, 1946.

§ 3965. Restoration to former grade: regular warrant officers and enlisted members

Each retired warrant officer or enlisted member of the Regular Army who has been advanced on the retired list to a higher commissioned grade under section 3964 of this title, and who applies to the Secretary of the Army within three months after his advancement, shall, if the Secretary approves, be restored on the retired list to his former warrant-officer or enlisted status, as the case may be.

§ 3966. Retired lists

(a) The Secretary of the Army shall maintain a retired list, to be published annually in the official Army Register, containing the name of each retired commissioned officer of the Regular Army.

(b) The Secretary shall maintain a retired list, to be published annually in the official Army Register, containing the name of—

(1) each person entitled to retired pay under any law providing retired pay for commissioned officers of the Army, other than of the Regular Army; and

(2) each retired warrant officer or enlisted member of the Regular Army who is advanced to a commissioned grade.

(c) The Secretary shall maintain a retired list containing the name of each retired warrant officer of the Army.

(d) The Secretary shall maintain a retired list containing the name of each retired enlisted member of the Regular Army.

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CHAPTER 371.—COMPUTATION OF RETIRED PAY

Sec.
3991. Computation of retired pay.
3992. Recomputation of retired pay to reflect advancement on retired list.

§ 3991. Computation of retired pay

The monthly retired pay of a person entitled thereto under this subtitle is computed according to the following table. For each case covered by a section of this title named in the column headed "For sections", retired pay is computed by taking, in order, the steps prescribed opposite it in columns 1, 2, 3, and 4, as modified by the applicable footnotes. However, if a person would otherwise be entitled to retired pay computed under more than one pay formula of this table or the table in section 1401 of this title, he is entitled to be paid under the applicable formula that is most favorable to him. Section references below are to sections of this title.

Formula	For sections	Column 1 Take	Column 2 Multiply by	Column 3 Add	Column 4 Subtract
A	3881 3882 3912	Monthly basic pay to which member would be entitled if she were on active duty in her retired grade.	2½% of years of service credited to her under section 3887 or 3928, whichever is applicable.[4]		Excess over 75% of pay upon which computation is based.
B	3883 3884 3885 3886 3913 3915 3916 3919 3921 3922 3923	Monthly basic pay to which member would be entitled if he were on active duty in his retired grade.[1]	2½% of years of service credited to him under section 3888 or 3927 (b), whichever is applicable.[4]	Amount necessary to increase product of columns 1 and 2 to 50% of pay upon which computation is based.	Excess over 75% of pay upon which computation is based.
C	3911 3918 3920 3924	Monthly basic pay[2] of member's retired grade.[1]	2½% of years of service credited to him in determining basic pay.[4]		Excess over 75% of pay upon which computation is based.
D	3914	Monthly basic pay to which member was entitled on date when he applied for retirement.	2½% of years of service credited to him under section 3925.[4]	10% of product of columns 1 and 2 for extraordinary heroism in line of duty.[5]	Excess over 75% of pay upon which computation is based.
E	3917	Monthly basic pay[3] of member's retired grade.	2½% of years of service credited to him under section 3925.[4]		Excess over 75% of pay upon which computation is based.

[1] For the purposes of this subtitle, determine member's retired grade as if neither section 3962 (a) nor 3962 (d) applied.

[2] Compute at rates applicable on date of retirement and adjust to reflect later changes in applicable permanent rates. However, if member's retired grade is determined under section 3962 (c), 3963 (a), or 3963 (b), or if member has served four years as Chief of the Medical Service Corps, use pay to which member would be entitled if he were on active duty in his retired grade.

[3] Compute at rates applicable on date of retirement.

[4] Before applying percentage factor, credit a part of a year that is six months or more as a whole year, and disregard a part of a year that is less than six months.

[5] The Secretary of the Army's determination as to extraordinary heroism is conclusive for all purposes.

§ 3992. Recomputation of retired pay to reflect advancement on retired list

A member of the Army who is advanced on the retired list under section 3964 of this title is entitled to recompute his retired pay as follows:

Column 1 Take	Column 2 Multiply by	Column 3 Add	Column 4 Subtract
Monthly basic pay or base and longevity pay, as the case may be,[1] of grade to which member is advanced on retired list.	2½% of years of service credited to him under section 3925 of this title.[2]		Excess over 75% pay upon which computation is based.

[1] Compute at rates applicable on date of retirement.
[2] Before applying percentage factor, credit a part of a year that is six months or more as a whole year, and disregard a part of a year that is less than six months.

CHAPTER 373.—CIVILIAN EMPLOYEES

Sec.
4021. Appointment: professional and scientific services.
4022. Contract surgeons.
4023. Service club and library services.
4024. Expert accountant for Inspector General.
4025. Production of supplies and munitions: hours and pay of laborers and mechanics.

§ 4021. Appointment: professional and scientific services

(a) The Secretary of the Army may establish within the Department of the Army not more than 13 civilian positions to carry out research and development relating to the national defense, military medicine, and other activities of the Department of Defense that require the services of specially qualified scientific or professional personnel.

(b) Subject to the Civil Service Commission's approval as to rates, the Secretary may fix the compensation for positions established under subsection (a). However, the compensation may not be less than $10,000 or more than $15,000 a year.

(c) Positions established under subsection (a) are in the classified civil service of the United States. However, if the Civil Service Commission or a person designated by it approves a proposed appointee's qualifications, no competitive examination may be required.

§ 4022. Contract surgeons

(a) In an emergency the Surgeon General, with the approval of the Secretary of the Army, may employ as many contract surgeons as may be necessary.

(b) When a contract surgeon is in charge of an Army hospital, he has the same authority as a commissioned officer of the Medical Corps.

§ 4023. Service club and library services

Without regard to civil-service rules and regulations, the Secretary of the Army may employ in the service club and library services those civilians whose salaries are paid from appropriations for welfare and morale activities.

§ 4024. Expert accountant for Inspector General

The Secretary of the Army shall appoint an expert accountant to perform duties under the Inspector General.

§ 4025. Production of supplies and munitions: hours and pay of laborers and mechanics

During a national emergency declared by the President, the regular working hours of laborers and mechanics of the Department of the Army producing military supplies or munitions are 8 hours a day or 40 hours a week. However, under regulations prescribed by the Secretary of the Army these hours may be exceeded. Each laborer or mechanic who works more than 40 hours in a workweek shall be paid at a rate not less than one and one-half times the regular hourly rate for each hour in excess of 40.

PART III. TRAINING

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CHAPTER 401.—TRAINING GENERALLY

Sec.

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4302. Enlisted members of Army: schools.
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4310. Rifle instruction: detail of members of Army.
4311. Rifle instruction: issue of rifles and ammunition.
4312. National rifle and pistol matches: small-arms firing school.
4313. National rifle matches and small-arms school: expenses.

§ 4301. Members of Army: detail as students, observers, and investigators at educational institutions, industrial plants, and hospitals

(a) The Secretary of the Army may detail members of the Army as students at such technical, professional, and other civilian educational institutions, or as students, observers, or investigators at such industrial plants, hospitals, and other places, as are best suited to enable them to acquire knowledge or experience in the specialties in which it is considered necessary that they perfect themselves.

(b) An officer, other than one of the Regular Army on the active list, who is detailed under subsection (a) shall be ordered to additional active duty immediately upon termination of the detail, for a period at least as long as the detail but not longer than four years. However, if the detail is for 90 days or less, the officer may be ordered to that additional duty only with his consent and in the discretion of the Secretary.

(c) No Reserve of the Army may be detailed as a student, observer, or investigator, or ordered to active duty under this section, without his consent and, if a member of the Army National Guard of the United States, without the approval of the governor or other appro-

priate authority of the State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia of whose Army National Guard he is a member.

(d) The Secretary may require, as a condition of a detail under subsection (a), that an enlisted member accept a discharge and be reenlisted in his component for at least three years.

(e) The total length of details of an enlisted member of the Army under subsection (a) during one enlistment may not exceed 50 percent of that enlistment.

(f) At no time may more than 8 percent of the authorized strength in commissioned officers, 8 percent of the authorized strength in warrant officers, or 2 percent of the authorized strength in enlisted members, of the Regular Army, or more than 8 percent of the actual strength in commissioned officers, 8 percent of the actual strength in warrant officers, or 2 percent of the actual strength in enlisted members, of the total of reserve components of the Army, be detailed as students under subsection (a). For the purposes of this subsection, the actual strength of each category of Reserves includes both members on active duty and those not on active duty.

(g) Expenses incident to the detail of members under this section shall be paid from any funds appropriated for the Department of the Army.

§ 4302. Enlisted members of Army: schools

(a) So far as consistent with the requirements of military training and service, and under regulations to be prescribed by the Secretary of the Army with the approval of the President, enlisted members of the Army shall be permitted to study and receive instruction to increase their military efficiency and to enable them to return to civilian life better equipped for industrial, commercial, and business occupations. Part of this instruction may be vocational education in agriculture or the mechanic arts. Civilian teachers may be employed to aid Army officers in this instruction.

(b) Schools for the instruction of enlisted members of the Army in the common branches of education, including United States history, shall be maintained at all posts at which members of the Army are stationed. The Secretary may detail members of the Army to carry out this subsection. The commander of each post where schools are maintained under this subsection shall provide a suitable room or building for school and religious purposes.

§ 4306. Service schools: leaves of absence for instructors

The officer in charge of an Army service school may grant a leave of absence for the period of the suspension of the ordinary academic studies, without reduction of pay or allowances, to any officer on duty exclusively as an instructor at the school.

§ 4307. Director of civilian markmanship: detail

The President may detail a commissioned officer of the Army or of the Marine Corps as director of civilian marksmanship, to serve under the direction of the Secretary of the Army.

§ 4308. Civilian rifle ranges: establishment; instruction

(a) The Secretary of the Army, under regulations approved by him upon the recommendation of the National Board for the Promotion of Rifle Practice, shall provide for—

(1) the construction, equipment, maintenance, and operation of indoor and outdoor rifle ranges and their accessories and appliances;

(2) the instruction of able-bodied citizens of the United States in marksmanship, and the employment of necessary instructors for that purpose;

(3) the promotion of practice in the use of rifled arms, the maintenance and management of matches or competitions in the use of those arms, and the issue of the arms, ammunition, targets, and other supplies and appliances, necessary for those purposes;

(4) the award to competitors of trophies, prizes, badges, and other insignia;

(5) the sale to members of the National Rifle Association, at cost, and the issue to clubs organized for practice with rifled arms, under the direction of the National Board for the Promotion of Rifle Practice, of the arms, ammunition, targets, and other supplies and appliances necessary for target practice;

(6) the maintenance of the National Board for the Promotion of Rifle Practice, including provision for its necessary expenses and those of its members;

(7) the procurement of necessary supplies, appliances, trophies, prizes, badges and other insignia, clerical and other services, and labor; and

(8) the transportation of employees, instructors, and civilians to give or receive instruction or to assist or engage in practice in the use of rifled arms, and the transportation and subsistence, or an allowance instead of subsistence, of members of teams authorized by the Secretary to participate in matches or competitions in the use of rifled arms.

(b) There is authorized to be appropriated annually the sum of $7,500 for the incidental expenses of the National Board for the Promotion of Rifle Practice, including books, pamphlets, badges, trophies, prizes, and medals.

§ 4309. Rifle ranges: recommendations to Congress; regulations

(a) The Secretary of the Army shall submit annually to Congress recommendations and estimates for the establishment and maintenance of indoor and outdoor rifle ranges under a plan to provide facilities for rifle practice in all sections of the country.

(b) All rifle ranges established under subsection (a) and all rifle ranges already constructed, in whole or in part with funds provided by the United States, may be used by members of the armed forces and by all able-bodied males capable of bearing arms, under regulations prescribed by the authorities controlling those ranges and approved by the Secretary.

§ 4310. Rifle instruction: detail of members of Army

(a) The President may detail regular or reserve officers and noncommissioned officers of the Army to duty as instructors at rifle ranges for training civilians in the use of military arms.

(b) The Secretary of the Army may detail enlisted members of the Army as temporary instructors in the use of the rifle to organized rifle clubs requesting that instruction.

§ 4311. Rifle instruction: issue of rifles and ammunition

The Secretary of the Army may provide for the issue of a reasonable number of standard military rifles, and such quantities of ammunition as are available, for use in conducting rifle practice at rifle ranges established under section 4309 of this title at which instructors have been detailed under section 4310 of this title.

§ 4312. National rifle and pistol matches: small-arms firing school

(a) An annual competition called the "National Matches" and consisting of rifle and pistol matches for a national trophy, medals, and other prizes shall be held as prescribed by the Secretary of the Army.

(b) The National Matches are open to members of the armed forces, National Guard, Reserve Officers' Training Corps, Air Force Reserve Officers' Training Corps, Citizens' Military Training Camps, Citizens' Air Training Camps, and rifle clubs, and to civilians.

(c) A small-arms firing school shall be held in connection with the National Matches.

(d) Competitions for which trophies and medals are provided by the National Rifle Association of America shall be held in connection with the National Matches.

§ 4313. National rifle matches and small-arms school: expenses

(a) Competitors at the National Matches under section 4312 of this title may draw not more than $1.50 a day as a subsistence allowance. If meals are furnished, a sum not to exceed $1.50 per man per day may be spent for that purpose while the contest is in progress.

(b) A travel allowance of five cents a mile may be paid to a civilian competitor instead of traveling expenses and subsistence while traveling, and the allowance for the return trip may be paid in advance.

CHAPTER 403.—UNITED STATES MILITARY ACADEMY

Sec.

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§ 4331. Superintendent; faculty; adjutant; chaplain

(a) There shall be at the United States Military Academy, at West Point, New York, in this chapter called the "Academy", the following—

(1) a Superintendent;

(2) a Dean of the Academic Board, who is a permanent professor;

(3) a Commandant of Cadets;

(4) two permanent professors of each of the following subjects—

(A) Electricity;
(B) English;
(C) Foreign Languages;
(D) Mathematics;
(E) Mechanics;
(F) Military Art and Engineering;
(G) Military Topography and Graphics;
(H) Physics and Chemistry; and
(I) Social Sciences;

(5) one permanent professor of each of the following subjects—

(A) Law; and
(B) Ordnance;

(6) a professor of Military Hygiene;

(7) an adjutant;

(8) a chaplain; and

(9) a director of music.

(b) Upon becoming the senior commissioned officer of the Medical Corps on duty at the Academy, an officer thereby becomes the professor of Military Hygiene.

§ 4332. Departments and professors: titles

(a) The Secretary of the Army may prescribe the titles of each of the departments of instruction and the professors of the Academy. However, the change of the title of a department or officer does not affect the status, rank, or eligibility for promotion or retirement of, or otherwise prejudice, a professor at the Academy.

(b) Upon becoming the senior professor in a department, a permanent professor thereby becomes the head of that department.

§ 4333. Superintendent; faculty: appointment and detail

(a) The Superintendent and the Commandant of Cadets of the Academy shall be detailed to those positions by the President from any branch of the Army. Other officers on duty at the Academy, except the permanent professors, may be detailed from any branch of the Army.

(b) The permanent professors of the Academy shall be appointed by the President, by and with the advice and consent of the Senate.

(c) No graduate of the Academy may be appointed or detailed to serve at the Academy as a professor or instructor, or as an assistant to a professor or instructor, within two years after his graduation.

§ 4334. Command and supervision

(a) The supervision and charge of the Academy is in the Department of the Army, under officers of the Army detailed to that duty by the Secretary of the Army.

(b) The immediate government of the Academy is under the Superintendent, who is also the commanding officer of the Academy and of the military post at West Point.

(c) The Commandant of Cadets is the immediate commander of the Corps of Cadets, and is in charge of the instruction of the Corps in tactics.

(d) The permanent professors exercise command only in the academic department of the Academy.

§ 4335. Dean of Academic Board

(a) The Dean of the Academic Board shall be appointed as an additional permanent professor from the permanent professors who have served as heads of departments of instruction at the Academy.

(b) The Dean of the Academic Board shall perform such duties as the Superintendent of the Academy may prescribe with the approval of the Secretary of the Army. The Dean has the regular grade of brigadier general while serving as such, with the benefits authorized for regular brigadier generals of the Army, except that his retirement age is that of a permanent professor of the Academy.

§ 4336. Permanent professors

A permanent professor of the Academy, other than the Dean of the Academic Board, who is the head of a department of instruction, or who has served as such a professor for more than six years, has the regular grade of colonel. However, a permanent professor appointed from the Regular Army has the regular grade of colonel after the date when he completes six years of service as a professor, or after the date when a promotion-list officer, junior to him on the promotion list on which his name was carried before his appointment as a professor, is promoted to the regular grade of colonel, whichever is earlier. All other permanent professors have the regular grade of lieutenant colonel.

§ 4337. Chaplain

There shall be a chaplain at the Academy, who must be a clergyman, appointed by the President for a term of four years. The chaplain is entitled to a salary of $5,482.80 a year, and to the same allowances for public quarters as are allowed to a captain, and to fuel and light for quarters in kind. The chaplain may be reappointed and, if reappointed, he is entitled to a salary of $6,714 a year and those allowances.

§ 4338. Director of music

(a) The director of music, who is also the leader of the Military Academy Band, has the rank prescribed by the Secretary of the Army and is entitled to the pay and allowances of a commissioned officer

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whose grade corresponds to that rank. In the computation of his pay, all his active service in the Army, including service as teacher or director of music, is counted as if it were commissioned service.

(b) At such time as the President may direct, the director of music shall be retired in the grade equal to the highest rank in which he served on active duty satisfactorily, as determined by the Secretary, for at least six months, and with the retired pay of an officer of the Army with the same grade and length of service counted under subsection (a). His dependents are entitled to the pensions, death gratuity, and other benefits provided for the dependents of an officer of the Regular Army with corresponding grade and length of service.

§ 4339. Organist and choirmaster; civilian instructors in departments of foreign languages and tactics: quarters, fuel, and light

(a) The organist and choirmaster of the Academy is entitled to public quarters when they are available, and to fuel and light when he occupies public quarters.

(b) The civilian instructors in the departments of foreign languages and tactics are entitled to public quarters and fuel and light therefor.

§ 4340. Quartermaster

The Secretary of the Army shall detail a commissioned officer of the Army as quartermaster for the Corps of Cadets. The quartermaster shall—

(1) buy and issue all supplies for the cadets;

(2) buy and issue all provisions for the mess; and

(3) supervise the mess.

§ 4341. Faculty and other officers: leaves of absence

The Superintendent of the Academy may grant a leave of absence for the period of the suspension of the ordinary academic studies, without deduction of pay or allowances, to a professor, assistant professor, instructor, or other officer of the Academy.

§ 4342. Cadets: appointment; numbers, territorial distribution

(a) The authorized strength of the Corps of Cadets of the Academy is as follows—

(1) eight cadets from each State, four nominated by each Senator from the State;

(2) four cadets from each congressional district, nominated by the Representative from the district;

(3) four cadets from each Territory, nominated by the Delegate in Congress from the Territory;

(4) four cadets from Puerto Rico, nominated by its Resident Commissioner;

(5) six cadets from the District of Columbia, nominated by its Commissioners;

(6) two cadets nominated by the Governor of the Canal Zone;

(7) 172 cadets from the United States at large, selected or nominated under subsection (e);

(8) 180 cadets from enlisted members of the Army and the Air Force, appointed under subsection (g); and

(9) in addition to the cadets authorized in clauses (1)–(8), any cadets appointed under subsection (h).

(b) All cadets are appointed by the President. An appointment is conditional until the cadet is admitted.

(c) No person may be nominated under clauses (1)–(5) of subsection (a), unless he is domiciled in the State or Territory, or in the congressional district from which he is nominated, or in the District of Columbia or Puerto Rico, if nominated from one of those places.

(d) To be eligible for nomination by the Governor of the Canal Zone, a person must be the son of a civilian residing in the Canal Zone, or of a civilian officer or employee of the United States or the Panama Canal Company residing in the Republic of Panama.

(e) Of the 172 cadets authorized to be appointed from the United States at large—

(1) 89 may be personally selected by the President;

(2) 3 may be nominated by the Vice President;

(3) 40 shall be nominated, under regulations prescribed by the Secretary of the Army, from honor graduates of the schools designated by the Department of the Army as honor military schools or by the Department of the Navy as honor naval schools; and

(4) 40, otherwise qualified for admission, may be selected in order of merit as established by competitive examination, from the sons of members of the armed forces who were killed in action or died of wounds or injuries received or diseases contracted in, or preexisting injury or disease aggravated by, active service (A) during World War I or World War II, as defined by laws providing service-connected compensation or pension benefits for veterans of those wars and their dependents or (B) after June 26, 1950, and before February 1, 1955.

(f) For the purposes of subsection (e) (4), a determination by the Veterans' Administration whether a death is service-connected is binding upon the Secretary of the Army.

(g) Of the 180 cadets authorized to be appointed from the enlisted members of the Army and the Air Force, 90 may be appointed from the Regular Army and the Regular Air Force, and 90 from the reserve components of the Army and the Air Force. For each vacancy to be filled from one of those categories, there may be selected to compete at an annual examination three candidates from that category who have served at least one year on active duty or in an active-duty training status, including training performed under sections 502, 503, 504, and 505 of title 32. Appointments to fill vacancies from those categories shall be made from candidates, in the order of their merit, making the highest grades on the examination. The Secretary of the Army and the Secretary of the Air Force shall prescribe regulations for the selection of candidates from their respective services.

(h) If he is otherwise qualified for admission the son of a person to whom the Medal of Honor has been awarded for an act performed while in the armed forces may be appointed a cadet from the United States at large.

§ 4343. Cadets: appointment; to bring Corps to full strength

If it is determined that, upon the admission of a new class to the Academy, the number of cadets at the Academy will be below the authorized number, the Secretary of the Army may nominate as many qualified alternates and other qualified candidates who competed for nomination and are recommended and found qualified by the Academic Board as are necessary to meet the needs of the Army and the Air Force, but not more than the authorized strength of the Corps of Cadets. At least two-thirds of those nominated under this section shall be selected from qualified alternates nominated by the persons named in clauses (1)–(6) of section 4342 (a), and clause (2) of section 4342 (e), of this title, and the remainder from qualified candidates holding competitive nominations under any other provision of law. An appointment under this section is an additional appointment and is not in place of an appointment otherwise authorized by law.

§ 4344. Selection of persons from Canada and American Republics

(a) Upon designation by the President, the Secretary of the Army may permit not more than 20 persons at any one time from Canada and the American Republics, other than the United States, to receive instruction at the Academy. However, not more than three persons from any one of those republics or from Canada may receive instruction under this section at any one time.

(b) A person receiving instruction under this section is entitled to the pay, allowances, and emoluments of a cadet appointed from the United States, and from the same appropriations. However, the mileage allowance payable to that person for travel to the Academy for initial admission is not limited to mileage for travel within the United States.

(c) Except as the Secretary determines, a person receiving instruction under this section is subject to the same regulations governing admission, attendance, discipline, resignation, discharge, dismissal, and graduation as a cadet at the Academy appointed from the United States. However, a person receiving instruction under this section is not entitled to an appointment in the United States Army by reason of his graduation from the Academy.

(d) A person receiving instruction under this section is not subject to section 4346 (d) of this title.

§ 4345. Selection of Filipinos

(a) The Secretary of the Army may permit not more than four Filipinos at any one time to receive instruction at the Academy. Of these, one may be designated by the President of the Republic of the Philippines for each entering class.

(b) A Filipino receiving instruction under this section is entitled to the pay, allowances, and emoluments of a cadet appointed from the United States, and from the same appropriations.

§ 4346. Cadets: requirements for admission

(a) To be eligible for admission to the Academy a candidate must be at least 17 years of age and must not have passed his twenty-second birthday on July 1 of the year in which he enters the Academy.

(b) To be admitted to the Academy, an appointee must show, by an examination held under regulations prescribed by the Secretary of the Army, that he is qualified in the subjects prescribed by the Secretary.

(c) A candidate designated as a principal or an alternate for appointment as a cadet shall appear for physical examination at a time and place designated by the Secretary.

(d) To be admitted to the Academy, an appointee must take and subscribe to the following oath—

"I, _____, do solemnly swear that I will support the Constitution of the United States, and bear true allegiance to the National Government; that I will maintain and defend the sovereignty of the United States, paramount to any and all allegiance, sovereignty, or fealty I may owe to any State or country whatsoever; and that I will at all times obey the legal orders of my superior officers, and the Uniform Code of Military Justice."

If a candidate for admission refuses to take this oath, his appointment is terminated.

§ 4347. Cadets; nominees: effect of redistricting of States

If as a result of redistricting a State the domicile of a cadet, or a nominee, nominated by a Representative falls within a congressional district other than that from which he was nominated, he is charged to the district in which his domicile so falls. For this purpose, the number of cadets otherwise authorized for that district is increased to include him. However, the number as so increased is reduced by one if he fails to become a cadet or when he is finally separated from the Academy.

§ 4348. Cadets: agreement to serve as officer

Each cadet who is a citizen or national of the United States shall sign an agreement that, unless sooner separated, he will—

(1) complete the course of instruction at the Academy;

(2) accept an appointment and serve as a commissioned officer of the Regular Army or the Regular Air Force for at least the three years immediately after graduation; and

(3) accept an appointment as a commissioned officer as a Reserve for service in the Army Reserve or the Air Force Reserve and remain therein until the sixth anniversary of his graduation, if an appointment in the regular component of that armed force is not tendered to him, or if he is permitted to resign as a commissioned officer of that component before that anniversary.

If the cadet is a minor and has parents or a guardian, he may sign the agreement only with the consent of the parents or guardian.

§ 4349. Cadets: organization of Corps; service; instruction

(a) The Corps of Cadets shall be divided into companies, as directed by the Superintendent, for the purpose of military instruction. Each company shall be commanded by a commissioned officer of the Army.

(b) A cadet shall perform duties at such places and of such type as the President may direct.

(c) The course of instruction at the Academy is four years.

(d) The Secretary of the Army shall so arrange the course of studies at the Academy that cadets are not required to pursue their studies on Sunday.

(e) The Corps of Cadets shall be trained in the duties of members of the Army, shall be encamped at least three months in each year, and shall be trained in all duties incident to a camp.

§ 4350. Cadets: clothing and equipment

(a) The Secretary of the Army may prescribe the amount to be credited to a cadet, upon original admission to the Academy, for the cost of his initial issue of clothing and equipment. That amount shall be deducted from his pay. If a cadet is discharged before graduation while owing the United States for pay advanced for the purchase of required clothing and equipment, he shall turn in so much of his clothing and equipment of a distinctive military nature as is necessary to repay the amount advanced. If the value of the clothing and equipment turned in does not cover the amount owed, the indebtedness shall be canceled.

(b) Under such regulations as the Secretary may prescribe, uniforms and equipment shall be furnished to a cadet at the Academy upon his request.

§ 4351. Cadets: deficiencies in conduct or studies; effect of failure on successor

(a) A cadet who is reported as deficient in conduct or studies and recommended to be discharged from the Academy may not, unless recommended by the Academic Board, be returned or reappointed to the Academy.

(b) Any cadet who fails to pass a required examination because he is deficient in any one subject of instruction is entitled to a reexamination of equal scope and difficulty in that subject, if he applies in writing to the Academic Board within 10 days after he is officially notified of his failure. The reexamination shall be held within 60 days after the date of his application. If the cadet passes the reexamination and is otherwise qualified, he shall be readmitted to the Academy. If he fails, he may not have another examination.

(c) The failure of a member of a graduating class to complete the course with his class does not delay the admission of his successor.

§ 4352. Cadets: hazing

(a) Subject to the approval of the Secretary of the Army, the Superintendent of the Academy shall issue regulations—

(1) defining hazing;

(2) designed to prevent that practice; and

(3) prescribing dismissal, suspension, or other adequate punishment for violations.

(b) If a cadet who is charged with violating a regulation issued under subsection (a), the penalty for which is or may be dismissal from the Academy, requests in writing a trial by a general court-martial, he may not be dismissed for that offense except under sentence of such a court.

(c) A cadet dismissed from the Academy for hazing may not be reappointed to the Corps of Cadets, and is ineligible for appointment

as a commissioned officer in a regular component of the Army, Navy, Air Force, or Marine Corps, until two years after the graduation of his class.

§ 4353. Cadets: degree and commission on graduation

(a) Under such conditions as the Secretary of the Army may prescribe, the Superintendent of the Academy may confer the degree of bachelor of science upon graduates of the Academy.

(b) Notwithstanding any other provision of law except section 541 of this title, a cadet who completes the prescribed course of instruction may, upon graduation, be appointed a second lieutenant in the Regular Army.

§ 4354. Buildings and grounds: memorial hall; buildings for religious worship

(a) The memorial hall at the Academy is a repository for statues, busts, mural tablets, portraits of distinguished and deceased officers and graduates of the Academy, paintings of battle scenes, trophies of war, and other objects that may tend to elevate the military profession. No object may be placed in this hall without the approval of two-thirds of the members of the Academic Board of the Academy by a recorded vote taken by ayes and nays.

(b) The Secretary of the Army may authorize any denomination, sect, or religious body to erect a building for religious worship on the West Point Military Reservation, if its erection will not interfere with the use of the reservation for military purposes and will be without expense to the United States. Such a building shall be removed, or its location changed, without compensation for it and without other expense to the United States, by the denomination, sect, or religious body that erected it, whenever in the opinion of the Secretary public or military necessity so requires.

§ 4355. Board of Visitors

(a) A Board of Visitors to the Academy is constituted annually of—

(1) the chairman of the Committee on Armed Services of the Senate, or his designee;

(2) three other members of the Senate designated by the Vice President or the President pro tempore of the Senate, two of whom are members of the Committee on Appropriations of the Senate;

(3) the chairman of the Committee on Armed Services of the House of Representatives, or his designee;

(4) four other members of the House of Representatives designated by the Speaker of the House of Representatives, two of whom are members of the Committee on Appropriations of the House of Representatives; and

(5) six persons designated by the President.

(b) The persons designated by the President serve for three years. Two persons shall be designated by him each year to succeed the members whose terms expire that year.

(c) If a member of the Board dies or resigns, a successor shall be designated for the unexpired portion of the term by the official who designated the member.

(d) The Board shall visit the Academy annually. With the approval of the Secretary of the Army, the Board or its members may make other visits to the Academy in connection with the duties of the Board or to consult with the Superintendent of the Academy.

(e) The Board shall inquire into the morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, academic methods, and other matters relating to the Academy that the Board decides to consider.

(f) Within 60 days after its annual visit, the Board shall submit a written report to the President of its action, and of its views and recommendations pertaining to the Academy. Any report of a visit, other than the annual visit, shall, if approved by a majority of the members of the Board, be submitted to the President within 60 days after the approval.

(g) Upon approval by the Secretary, the Board may call in advisers for consultation.

(h) While performing his duties, each member of the Board and each adviser is entitled to not more than $5 a day and shall be reimbursed under Government travel regulations for his travel expenses.

CHAPTER 405.—RESERVE OFFICERS' TRAINING CORPS

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4382. Establishment and composition.
4383. Medical, dental, pharmacy, and veterinary students: admission.
4384. Courses of training.
4385. Training camps.
4386. Supplies and uniforms.
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§ 4381. Advanced training: definition

In this chapter, "advanced training" means the training and instruction in military science and tactics offered in the senior division of the Reserve Officers' Training Corps to students who complete the two years' elective or compulsory course in that subject or are credited with equivalent training under section 4387 of this title.

§ 4382. Establishment and composition

(a) The President may establish and maintain in civil educational institutions a Reserve Officers' Training Corps having—

(1) a senior division at universities and colleges granting degrees, and at schools essentially military that do not confer academic degrees and that are designated as qualified by the Secretary of the Army; and

(2) a junior division at other public or private educational institutions.

(b) Each division shall consist of one or more units of the several branches of the Army in the strengths prescribed by the President.

(c) No unit may be established or maintained at an institution, unless—

(1) a commissioned officer of the Regular Army is detailed to it as professor of military science and tactics;

(2) the institution maintains under military instruction at least 100 physically fit male students for each infantry, armor, or

artillery unit, or at least 50 such students for each other unit, except that an infantry unit may be established and maintained at the University of Alaska if it maintains at least 50 such students under military instruction; and

(3) the authorities of the institution, other than a State university or a State institution required to provide military instruction under section 304 of title 7, agree to establish and maintain a two years' elective or compulsory course of military training as a minimum for its physically fit male students the completion of which is a prerequisite for the graduation of any student beginning the course unless he is relieved of this obligation under regulations prescribed by the Secretary.

(d) Only a person who is a citizen of the United States, who is at least 14 years of age, who is a student at an institution where a unit of the Corps is established, and whose condition shows that he is physically able to perform military duty or that he will be so on becoming of military age, is eligible to be a member of the Reserve Officers' Training Corps.

§ 4383. Medical, dental, pharmacy, and veterinary students: admission

(a) A medical, dental, pharmacy, or veterinary student may be admitted to a Medical, Dental, Medical Service, or Veterinary Corps unit of the Reserve Officers' Training Corps for a course of training consisting of 90 hours of instruction a year for four academic years.

(b) Under such conditions as the Secretary of the Army may prescribe, a medical, dental, pharmacy, or veterinary student who is a commissioned officer of a reserve component of the Army may be admitted to and trained in a Medical, Dental, Medical Service, or Veterinary Corps unit of the Reserve Officers' Training Corps.

§ 4384. Courses of training

The Secretary of the Army may prescribe standard courses of theoretical and practical military training for units of the Reserve Officers' Training Corps. No unit may be established or maintained at an institution unless it provides the course of military training prescribed by the Secretary, and unless its students who are taking that training devote to it an average of at least three hours a week during an academic year, except as prescribed under section 4383 of this title.

§ 4385. Training camps

(a) The Secretary of the Army may—

(1) maintain camps for the further practical instruction of members of the Reserve Officers' Training Corps;

(2) transport members of the Corps to and from the camps and furnish them subsistence while traveling to and from the camps or, instead of transportation and subsistence, pay them a travel allowance of five cents a mile by the shortest usually traveled route from the places from which they are authorized to proceed to the camp and return, and pay the allowance for the return trip in advance;

(3) furnish subsistence to members of the Corps while in camps;

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(4) furnish medical attendance and supplies to members of the Corps, and admit them to military hospitals at the camps;

(5) use members of the Regular Army, and such property of the United States as he considers necessary, for the training of the members of the Corps at the camps; and

(6) provide for the government of the camps.

(b) Except in time of actual or threatened hostilities, no camp may be maintained under subsection (a) (1) for more than six weeks in any one year.

(c) A member of the Reserve Officers' Training Corps, and any other person authorized by the Secretary to attend a camp authorized under subsection (a) (1) for students taking advanced training, is entitled, while attending that camp, to pay at the rate prescribed for enlisted members of the Army in pay grade E-1 (under 4 months).

§ 4386. Supplies and uniforms

(a) Under such conditions as he may prescribe, the Secretary of the Army may issue to institutions at which units of the Reserve Officers' Training Corps are maintained—

(1) public animals and forage for them;

(2) means of transportation, arms, ammunition, supplies, and tentage; and

(3) uniforms, except that he may pay commutation at a rate fixed by him annually instead of uniforms.

(b) The Secretary may authorize such expenditures as he considers necessary for the efficient maintenance of the Corps.

(c) The Secretary shall require, from each institution to which property is issued under subsection (a), a bond or other indemnity in such amount as he considers adequate, but not less than $5,000, for the care and safekeeping of all property so issued except uniforms, expendable articles, and supplies expended in operation, maintenance, and instruction. The Secretary may accept a bond without surety if the institution to which the property is issued furnishes to him satisfactory evidence of its financial responsibility.

§ 4387. Advanced training: compensation

(a) A member of the senior division of the Reserve Officers' Training Corps, including a member of a Medical, Dental, Medical Service, or Veterinary unit, is eligible for advanced training, and is entitled to an allowance for subsistence at such rate, not exceeding the cost of the garrison ration of the Army, as may be fixed by the Secretary of the Army, during the remainder of his service in the Reserve Officers' Training Corps, but not for more than two years, if he—

(1) has completed two academic years of training in the senior division or equivalent training under subsection (b);

(2) has been selected for advanced training by the head of the institution and the professor of military science and tactics;

(3) agrees in writing to continue in the Reserve Officers' Training Corps for the remainder of his course at the institution;

(4) agrees in writing to devote five hours a week to the military training prescribed by the Secretary or, if a member of a Medical, Dental, Medical Service, or Veterinary unit, to continue in training for the remainder of the course prescribed by section 4383 of this title; and

(5) agrees in writing to take a course, prescribed by the Secretary, at a training camp.

(b) Under such regulations as the Secretary may prescribe, in the determination of a member's eligibility for advanced training and entitlement to an allowance for subsistence under subsection (a), he may be credited with any military training that is substantially equivalent to that prescribed for admission to the advanced course and is received while he is—

(1) in the junior division of the Reserve Officers' Training Corps, or at an educational institution, and under—

(A) an officer of the Army detailed as a professor of military science and tactics; or

(B) a retired or reserve officer of the Army not on active duty who is employed by that institution, with the approval of the Secretary of the Army, as an instructor of military science and tactics;

(2) taking a course of instruction in the Air Force Reserve Officers' Training Corps;

(3) taking a course of instruction in the Naval Reserve Officers' Training Corps; or

(4) on active duty in the armed forces.

(c) A person selected for advanced training under this section may be allowed to delay the start of that training and to interrupt it, if, under the rules of the institution, there will be time enough after any delay or interruption and before graduation to complete the advanced training.

CHAPTER 407.—SCHOOLS AND CAMPS

Sec.

4411. Establishment: purpose.
4412. Operation.
4413. Transportation and subsistence during travel.
4414. Quartermaster and ordnance property: sales.

§ 4411. Establishment: purpose

The Secretary of the Army may maintain schools and camps for the military instruction and training of persons selected, upon their application, from warrant officers and enlisted members of the Army and civilians, to qualify them for appointment as reserve officers, or enlistment as reserve noncommissioned officers, for service in the Army Reserve.

§ 4412. Operation

In maintaining schools and camps established under section 4411 of this title, the Secretary of the Army may—

(1) prescribe the periods during which they will be operated;

(2) prescribe regulations for their administration;

(3) prescribe the courses to be taught;

(4) detail members of the Regular Army to designated duties relating to the camps;

(5) use necessary supplies and transportation;

(6) furnish uniforms, subsistence, and medical attendance and supplies to persons attending the camps; and

(7) authorize necessary expenditures from proper Army funds for—

(A) water;

(B) fuel;

(C) light;

(D) temporary structures, except barracks and officers' quarters;

(E) screening;

(F) damages resulting from field exercises;

(G) expenses incident to theoretical winter instruction of trainees; and

(H) other expenses incident to maintaining the camps.

§ 4413. Transportation and subsistence during travel

(a) There may be furnished to a person attending a school or camp established under section 4411 of this title, for travel to and from that school or camp—

(1) transportation and subsistence;

(2) transportation in kind and a subsistence allowance of one cent a mile; or

(3) a travel allowance of five cents a mile.

(b) The travel allowance for the return trip may be paid in advance.

(c) For the purposes of this section, distance is computed by the shortest usually traveled route, within such territorial limits as the Secretary of the Army may prescribe, from the authorized starting point to the school or camp and return.

§ 4414. Quartermaster and ordnance property: sales

The Secretary of the Army may sell to a person attending a school or camp established under section 4411 of this title quartermaster and ordnance property necessary for his proper equipment. Sales under this section shall be for cash.

PART IV. SERVICE, SUPPLY, AND PROCUREMENT

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CHAPTER 431.—INDUSTRIAL MOBILIZATION, RESEARCH, AND DEVELOPMENT

Sec.
4501. Industrial mobilization: orders; priorities; possession of manufacturing plants; violations.
4502. Industrial mobilization: plants; lists; Board on Mobilization of Industries Essential for Military Preparedness.
4503. Research and development programs.
4504. Procurement for experimental purposes.
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4506. Sale, loan, or gift of samples, drawings, and information to contractors.
4507. Sale of ordnance and ordnance stores to designers.
4508. Tests of iron, steel, and other materials.

§ 4501. Industrial mobilization: orders; priorities; possession of manufacturing plants; violations

(a) In time of war or when war is imminent, the President, through the head of any department, may order from any person or organized manufacturing industry necessary products or materials of the type usually produced or capable of being produced by that person or industry.

(b) A person or industry with whom an order is placed under subsection (a), or the responsible head thereof, shall comply with that order and give it precedence over all orders not placed under that subsection.

(c) In time of war or when war is imminent, the President, through the head of any department, may take immediate possession of any plant that is equipped to manufacture, or that in the opinion of the Secretary of the Army is capable of being readily transformed into a plant for manufacturing, arms or ammunition, parts thereof, or necessary supplies for the Army, if the person or industry owning or operating the plant, or the responsible head thereof, refuses—

(1) to give precedence to the order as prescribed in subsection (b);

(2) to manufacture the kind, quantity, or quality of arms or ammunition, parts thereof, or necessary supplies, as ordered by the Secretary; or

(3) to furnish them at a reasonable price as determined by the Secretary.

(d) The President, through the Ordnance Corps, may manufacture products that are needed in time of war or when war is imminent, in any plant that is seized under subsection (c).

(e) Each person or industry from whom products or materials are ordered under subsection (a) is entitled to fair and just compensation. Each person or industry whose plant is seized under subsection (c) is entitled to a fair and just rental.

(f) Whoever fails to comply with this section shall be imprisoned for not more than three years and fined not more than $50,000.

§ 4502. Industrial mobilization: plants; lists; Board on Mobilization of Industries Essential for Military Preparedness

(a) The Secretary of the Army shall maintain a list of all privately owned plants in the United States, and the Territories, Commonwealths, and possessions, that are equipped to manufacture for the Army arms or ammunition, or parts thereof, and shall obtain complete information of the kinds of those products manufactured or capable of being manufactured by each of those plants, and of the equipment and capacity of each of those plants.

(b) The Secretary shall maintain a list of privately owned plants in the United States, and the Territories, Commonwealths, and possessions, that are capable of being readily transformed into factories for the manufacture of ammunition for the Army, and that have a capacity sufficient to warrant conversion into ammunition plants in time of war or when war is imminent, and shall obtain complete information as to the equipment of each of those plants.

(c) The Secretary shall prepare comprehensive plans for converting each plant listed pursuant to subsection (b) into a factory for the manufacture of ammunition or parts thereof.

(d) The President may appoint a nonpartisan Board on Mobilization of Industries Essential for Military Preparedness, and may provide necessary clerical assistance to organize and coordinate operations under this section and section 4501 of this title.

§ 4503. Research and development programs

The Secretary of the Army may conduct and participate in research and development programs relating to the Army, and may procure or contract for the use of facilities, supplies, and services that are needed for those programs. This section does not authorize the design or development of any prototype aircraft intended primarily for commercial use.

§ 4504. Procurement for experimental purposes

The Secretary of the Army may buy ordnance, signal, and chemical warfare supplies, including parts and accessories, and designs thereof, that he considers necessary for experimental or test purposes in the development of the best supplies that are needed for the national defense. Purchases under this section may be made inside or outside the United States, with or without competitive bidding, and by contract or otherwise. Chapter 137 of this title applies when such purchases are made in quantity.

§ 4505. Procurement of production equipment

The Secretary of the Army may make or procure gauges, dies, jigs, tools, fixtures, and other special aids and appliances, and specifications and drawings, necessary for the immediate manufacture of arms, ammunition, or special equipment that are necessary to equip the Army and are likely to be needed in time of war. Whenever he considers it in the best interest of the United States, the Secretary may procure any of those items without regard to laws prescribing competition in the procurement of supplies.

§ 4506. Sale, loan, or gift of samples, drawings, and information to contractors

The Secretary of the Army, under regulations to be prescribed by him, may sell, lend, or give such samples, drawings, and manufacturing or other information as he considers best for the national defense—

(1) to any contractor for Army supplies under approved production plans; and

(2) to any person likely to manufacture or supply Army supplies under such plans.

§ 4507. Sale of ordnance and ordnance stores to designers

The Secretary of the Army may sell to designers who are nationals of the United States serviceable ordnance and ordnance stores necessary in the development of designs for the armed forces.

§ 4508. Tests of iron, steel, and other materials

(a) The Secretary of the Army may authorize the use of the Army's machine for testing iron, steel, and other materials for industrial purposes, by any person upon payment of a suitable fee. The officer in charge of the test—

(1) shall require payment of fees for the tests authorized by this section in accordance with a table of fees approved by the Secretary;

(2) may require payment in advance;

(3) may spend the fees so received in making such tests; and

(4) shall fully report the tests and the expenditure of the fees to the Chief of Ordnance.

The table of fees shall be adjusted from time to time so as to defray the cost of the tests as fully as possible.

(b) The Chief of Ordnance shall consider any program of tests submitted by the American Society of Civil Engineers, and a record of the tests shall be furnished the Society for publication at its expense.

CHAPTER 433.—PROCUREMENT

Sec.
4531. Authorization.
4532. Factories and arsenals: manufacture at; abolition of.
4533. Army ration.
4534. Subsistence supplies: contract stipulations; place of delivery on inspection.
4535. Exceptional subsistence supplies: purchase without advertising.
4536. Equipment: post bakeries, schools, kitchens, and mess halls.
4537. Military surveys and maps: assistance of United States mapping agencies.
4538. Unserviceable ammunition: exchange and reclamation.
4539. Horses and mules.
4540. Architectural and engineering services.

§ 4531. Authorization

The Secretary of the Army may procure materials and facilities necessary to maintain and support the Army, its military organizations, and their installations and supporting and auxiliary elements, including—

(1) guided missiles;

(2) modern standard items of equipment;

(3) equipment to replace obsolete or unserviceable equipment;

(4) necessary spare equipment, materials, and parts; and

(5) such reserve of supplies as is needed to enable the Army to perform its mission.

This section does not authorize the design or development of any prototype aircraft intended primarily for commercial use.

§ 4532. Factories and arsenals: manufacture at; abolition of

(a) The Secretary of the Army shall have supplies needed for the Department of the Army made in factories or arsenals owned by the United States, so far as those factories or arsenals can make those supplies on an economical basis.

(b) The Secretary may abolish any United States arsenal that he considers unnecessary.

§ 4533. Army ration

Under the direction of the Secretary of the Army, any branch, office, or officer designated by him shall buy the components of the Army ration and items directed by the President to be issued in place thereof.

§ 4534. Subsistence supplies; contract stipulations; place of delivery on inspection

Each contract for subsistence supplies for the Army that is made on public notice must provide for complete delivery, on inspection, at a specified place.

§ 4535. Exceptional subsistence supplies: purchase without advertising

Exceptional articles of subsistence supplies that are for members of the Army, and for which they are to pay regardless of condition upon arrival, may, under regulations to be prescribed by the Secretary of the Army, be bought on the open market without advertising.

§ 4536. Equipment: post bakeries, schools, kitchens, and mess halls

Money necessary for the following items for the use of enlisted members of the Army may be spent from appropriations for regular supplies:

(1) Equipment for post bakeries.

(2) Furniture, textbooks, paper, and equipment for post schools.

(3) Tableware and mess furniture for kitchens and mess halls.

§ 4537. Military surveys and maps: assistance of United States mapping agencies

The Secretary of the Army may obtain the assistance of the United States Geological Survey, the Coast and Geodetic Survey, and other mapping agencies of the United States in—

(1) making topographic and other surveys;

(2) obtaining extra topographic data;

(3) making maps needed for military purposes;

(4) research and development of surveying by aerial photography; and

(5) developing methods of field reproduction.

§ 4538. Unserviceable ammunition: exchange and reclamation

(a) The Secretary of the Army may, by contract or otherwise, reclaim deteriorated and unserviceable ammunition and components, not suitable for exchange, by conversion to usable form as complete rounds or serviceable components, and pay all or part of the costs thereof through the exchange of deteriorated and unserviceable components.

(b) Subject to applicable regulations under section 486 of title 40, the Secretary may exchange deteriorated and unserviceable ammunition and components thereof for serviceable ammunition or components.

§ 4539. Horses and mules

If practicable, when horses and mules are needed they shall be bought in the open market at Army posts or stations, within maximum prices prescribed by the Secretary of the Army. No horse may be bought that does not meet the standards prescribed by Army regulations for cavalry or artillery horses, except when bought for remount purposes or as specifically authorized by another provision of law.

§ 4540. Architectural and engineering services

(a) Whenever he considers that it is advantageous to the national defense and that existing facilities of the Department of the Army are inadequate, the Secretary of the Army may, by contract or otherwise, employ the architectural or engineering services of any person outside that Department for producing and delivering designs, plans, drawings, and specifications needed for any public works or utilities project of the Department.

(b) The fee for any service under this section may not be more than 6 percent of the estimated cost, as determined by the Secretary, of the project to which it applies.

(c) Sections 1071–1153 of title 5 do not apply to employment under this section.

CHAPTER 435.—ISSUE OF SERVICEABLE MATERIAL TO ARMED FORCES

Sec.
4561. Rations.
4562. Clothing.
4563. Clothing: replacement when destroyed to prevent contagion.
4564. Navy and Marine Corps: camp equipment and transportation; when on shore duty with Army.
4565. Colors, standards, and guidons of demobilized organizations: disposition.

§ 4561. Rations

(a) The President may prescribe the components, and the quantities thereof, of the Army ration. He may direct the issue of equivalent articles in place of the prescribed components whenever, in his opinion, economy and the health and comfort of the members of the Army so require.

(b) Under the direction of the Secretary of the Army, the branch, office, or officer designated by him shall issue the components of the Army ration.

(c) An enlisted member of the Army on active duty is entitled to one ration daily. The emergency ration, when issued, is in addition to the regular ration.

(d) Fresh or preserved fruits, milk, butter, and eggs necessary for the proper diet of the sick in hospitals shall be provided under regulations prescribed by the Surgeon General and approved by the Secretary.

§ 4562. Clothing

The President may prescribe the quantity and kind of clothing to be issued annually to members of the Army.

§ 4563. Clothing: replacement when destroyed to prevent contagion

Upon the recommendation of the Surgeon General, the Secretary of the Army may order a gratuitous issue of clothing to any enlisted member of the Army who has had a contagious disease, and to any hospital attendant who attended him while he had that disease, to replace clothing destroyed by order of an officer of the Medical Corps to prevent contagion.

§ 4564. Navy and Marine Corps: camp equipment and transportation; when on shore duty with Army

While any detachment of the Navy or Marine Corps is on shore duty in cooperation with troops of the Army, the officer of the Army designated by the Secretary of the Army shall, upon the requisition of the officer of the Navy or Marine Corps in command of the detachment, issue rations and camp equipment, and furnish transportation, to that detachment.

§ 4565. Colors, standards, and guidons of demobilized organizations: disposition

(a) The Secretary of the Army may dispose of colors, standards, and guidons of demobilized organizations of the Army, as follows:

(1) Those brought into Federal service by the Army National Guard of a State may be returned to that State upon the request of its governor.

(2) Those that cannot be returned under clause (1) may, upon the request of its governor, be sent to the State that, as determined by the Secretary, furnished the majority of members of the organization when it was formed.

Those that cannot be returned or sent under clause (1) or (2) of this subsection shall be delivered to the Quartermaster General for such national use as the Secretary may direct.

(b) Title to colors, standards, and guidons of demobilized organizations of the Army remains in the United States.

(c) No color, standard, or guidon may be disposed of under this section unless provision satisfactory to the Secretary has been made for its preservation and care.

CHAPTER 437.—UTILITIES AND SERVICES

Sec.

4591. Utilities: proceeds from overseas operations.
4592. Radiograms and telegrams: forwarding charges due connecting commercial facilities.
4593. Quarters: heat and light.

§ 4591. Utilities: proceeds from overseas operations

During actual or threatened hostilities, proceeds from operating a public utility in connection with operations of the Corps of Engineers in the field overseas are available for that utility until the close of the fiscal year following that in which they are received.

§ 4592. Radiograms and telegrams: forwarding charges due connecting commercial facilities

In the operation of telegraph lines, cables, or radio stations, members of the Signal Corps may, in the discretion of the Secretary of the Army, collect forwarding charges due connecting commercial telegraph or radio companies for sending radiograms or telegrams over their lines. Under such regulations as the Secretary may prescribe, they may present a voucher to a disbursing officer for payment, or may file a claim with the General Accounting Office for the forwarding charge.

§ 4593. Quarters: heat and light

The heat and light necessary for the authorized quarters of members of the Army shall be furnished at the expense of the United States.

CHAPTER 439.—SALE OF SERVICEABLE MATERIAL

Sec.

4621. Quartermaster supplies: members of armed forces; veterans; executive or military departments and employees; prices.
4622. Rations: commissioned officers in field.
4623. Tobacco: enlisted members of Army.
4624. Medical supplies: civilian employees of Army; American National Red Cross; Soldiers' Home.
4625. Ordnance property: officers of armed forces; civilian employees of Army; American National Red Cross; educational institutions; homes for veterans' orphans.
4626. Aircraft supplies and services: foreign military or air attaché.
4627. Supplies: educational institutions.
4628. Airplane parts and accessories: civilian flying schools.
4629. Proceeds: disposition.

§ 4621. Quartermaster supplies: members of armed forces; veterans; executive or military departments and employees; prices

(a) The branch, office, or officer designated by the Secretary of the Army shall procure and sell, for cash or credit—

(1) articles specified by the Secretary of the Army or a person designated by him, to members of the Army; and

(2) items of individual clothing and equipment, to officers of the Army, under such restrictions as the Secretary may proscribe.

An account of sales on credit shall be kept and the amount due reported to any branch, office, or officer designated by the Secretary. Except for articles and items acquired through the use of working capital funds under sections 172–172j of title 5, sales of articles shall be at cost, and sales of individual clothing and equipment shall be at average current prices, including overhead, as determined by the Secretary.

(b) Subsistence supplies may be sold to members of the Army. The selling price of each article sold under this subsection is the invoice price of the last lot of that article that the officer making the sale received before the first day of the month in which the sale is made. Activities conducted under this subsection shall be consistent with sections 172–172j of title 5.

(c) The branch, office, or officer designated by the Secretary shall sell subsistence supplies to members of other armed forces at the prices at which like property is sold to members of the Army.

(d) The branch, office, or officer designated by the Secretary may sell serviceable quartermaster property, other than subsistence supplies, to an officer of another armed force for his use in the service, in the same manner as these articles are sold to an officer of the Army.

(e) A person who has been discharged honorably or under honorable conditions from the Army, Navy, Air Force, or Marine Corps and who is receiving care and medical treatment from the Public Health Service or the Veterans' Administration may buy subsistence supplies and other supplies, except articles of uniform, at the prices at which like property is sold to a member of the Army.

(f) Under such conditions as the Secretary may prescribe, exterior articles of uniform may be sold to a person who has been discharged from the Army honorably or under honorable conditions, at the prices at which like articles are sold to members of the Army. This subsection does not modify section 772, 773, or 3612 of this title.

(g) Whenever, under regulations to be prescribed by the Secretary, subsistence supplies are furnished to any branch of the Army or sold to employees of any executive department other than the Department of Defense, payment shall be made in cash.

(h) The Secretary may, by regulation, provide for the procurement and sale of stores designated by him to such civilian officers and employees of the United States, and such other persons, as he considers proper—

(1) at military installations outside the United States; and

(2) at military installations inside the United States where he determines that it is impracticable for those civilian officers, employees, and persons to obtain those stores from private agencies without impairing the efficient operation of military activities.

However, sales to officers and employees inside the United States may be made only to those residing within military installations.

(i) Appropriations for subsistence of the Army may be applied to the purchase of subsistence supplies for sale to members of the Army on active duty for the use of themselves and their families.

§ 4622. Rations: commissioned officers in field

Commissioned officers of the Army serving in the field may buy rations for their own use, on credit, from any officer designated by the Secretary of the Army. Amounts due for these purchases shall be reported monthly to the officer of the Army designated by the Secretary.

§ 4623. Tobacco: enlisted members of Army

The Quartermaster Corps shall sell not more than 16 ounces of tobacco a month to an enlisted member of the Army on active duty who requests it.

§ 4624. Medical supplies: civilian employees of Army; American National Red Cross; Soldiers' Home

(a) Under regulations to be prescribed by the Secretary of the Army, a civilian employee of the Department of the Army who is stationed at an Army post may buy necessary medical supplies from the Army when they are prescribed by an officer of the Medical Corps on active duty.

(b) With the approval of the Secretary, the Army Medical Service may sell medical supplies to the American National Red Cross for cash.

(c) Any branch, office, or officer designated by the Secretary may sell medical and hospital supplies to the Soldiers' Home.

§ 4625. Ordnance property: officers of armed forces; civilian employees of Army; American National Red Cross; educational institutions; homes for veterans' orphans

(a) Any branch, office, or officer designated by the Secretary of the Army may sell articles of ordnance property to officers of other armed forces for their use in the service, in the same manner as those articles are sold to officers of the Army.

(b) Under such regulations as the Secretary may prescribe, ordnance stores may be sold to civilian employees of the Army and to the American National Red Cross.

(c) Articles of ordnance property may be sold to educational institutions and to State soldiers' and sailors' orphans' homes for maintaining the ordnance and ordnance stores issued to those institutions and homes.

§ 4626. Aircraft supplies and services: foreign military or air attaché

Under such conditions as he may prescribe, the Secretary of the Army may provide for the sale of fuel, oil, and other supplies for use in aircraft operated by a foreign military or air attaché accredited to the United States, and for the furnishing of mechanical service and other assistance to such aircraft. Shelter may be furnished to such aircraft, but only without charge.

§ 4627. Supplies: educational institutions

Under such regulations as the Secretary of the Army may prescribe, supplies and military publications procured for the Army may be sold to any educational institution to which an officer of the Army is detailed as professor of military science and tactics, for the use of its military students. Sales under this section shall be for cash.

§ 4628. Airplane parts and accessories: civilian flying schools

The Secretary of the Army may sell, to civilian flying schools at which personnel of the Department of the Army or the Department of the Air Force are receiving flight training under contracts requiring these schools to maintain and repair airplanes of the Army furnished to them for flight training, the spare parts and accessories needed for those repairs.

§ 4629. Proceeds: disposition

The proceeds of sales of the following shall be paid into the Treasury to the credit of the appropriation out of which they were purchased, and are available for the purposes of that appropriation:

(1) Exterior articles of uniform sold under section 4621 of this title.

(2) Supplies and military publications sold to educational institutions under section 4627 of this title.

(3) Fuel, oil, other supplies, and services for aircraft of a foreign military or air attaché sold under section 4626 of this title.

CHAPTER 441.—ISSUE OF SERVICEABLE MATERIAL OTHER THAN TO ARMED FORCES

Sec.
4651. Arms, tentage, and equipment: educational institutions not maintaining units of R. O. T. C.
4652. Rifles and ammunition for target practice: educational institutions having corps of cadets.
4653. Ordnance and ordnance stores: District of Columbia high schools.
4654. Quartermaster supplies: military instruction camps.
4655. Arms and ammunition: agencies and departments of the United States.
4656. Aircraft and equipment: civilian aviation schools.

§ 4651. Arms, tentage, and equipment: educational institutions not maintaining units of R. O. T. C.

Under such conditions as he may prescribe, the Secretary of the Army may issue arms, tentage, and equipment that he considers necessary for proper military training, to any educational institution at which no unit of the Reserve Officers' Training Corps is maintained, but which has a course in military training prescribed by the Secretary and which has at least 100 physically fit male students over 14 years of age.

§ 4652. Rifles and ammunition for target practice: educational institutions having corps of cadets

(a) The Secretary of the Army may lend, without expense to the United States, magazine rifles and appendages that are not of the existing service models in use at the time and that are not necessary for a proper reserve supply, to any educational institution having a uniformed corps of cadets of sufficient number for target practice. He may also issue 40 rounds of ball cartridges for each cadet for each range at which target practice is held, but not more than 120 rounds each year for each cadet participating in target practice.

(b) The institutions to which property is lent under subsection (a) shall use it for target practice, take proper care of it, and return it when required.

(c) The Secretary shall prescribe regulations to carry out this section, containing such other requirements as he considers necessary to safeguard the interests of the United States.

§ 4653. Ordnance and ordnance stores: District of Columbia high schools

The Secretary of the Army, under regulations to be prescribed by him, may issue to the high schools of the District of Columbia ordnance and ordnance stores required for military instruction and practice. The Secretary shall require a bond in double the value of the property issued under this section, for the care and safekeeping of that property and, except for property properly expended, for its return when required.

§ 4654. Quartermaster supplies: military instruction camps

Under such conditions as he may prescribe, the Secretary of the Army may issue, to any educational institution at which an Army officer is detailed as professor of military science and tactics, such quartermaster supplies as are necessary to establish and maintain a camp for the military instruction of its students. The Secretary shall require a bond in the value of the property issued under this section, for the care and safekeeping of that property and, except for property properly expended, for its return when required.

§ 4655. Arms and ammunition: agencies and departments of the United States

(a) Whenever required for the protection of public money and property, the Secretary of the Army may lend arms and their accouterments, and issue ammunition, to a department or independent agency of the United States, upon request of its head. Property lent or issued under this subsection may be delivered to an officer of the department or agency designated by the head thereof, and that officer shall account for the property to the Secretary of the Army. Property lent or issued under this subsection and not properly expended shall be returned when it is no longer needed.

(b) The department or agency to which property is lent or issued under subsection (a) shall transfer funds to the credit of the Department of the Army to cover the costs of—

(1) ammunition issued;

(2) replacing arms and accouterments that have been lost or destroyed, or cannot be repaired;

(3) repairing arms and accouterments returned to the Department of the Army; and

(4) making and receiving shipments by the Department of the Army.

§ 4656. Aircraft and equipment: civilian aviation schools

The Secretary of the Army, under regulations to be prescribed by him, may lend aircraft, aircraft parts, and aeronautical equipment and accessories that are required for instruction, training, and maintenance, to accredited civilian aviation schools at which personnel of the Department of the Army or the Department of the Air Force are pursuing a course of instruction and training under detail by competent orders, and at least one of which is designated by the Civil Aeronautics Authority for the training of Negro air pilots.

CHAPTER 443.—DISPOSAL OF OBSOLETE OR SURPLUS MATERIAL

Sec.
4681. Surplus war material: sale to States and foreign governments.
4682. Obsolete or excess material: sale to National Council of Boy Scouts of America.
4683. Obsolete or condemned rifles: loan to local units of recognized veterans' organizations.
4684. Surplus obsolete ordnance: sale to patriotic organizations.
4685. Obsolete ordnance: loan to educational institutions and State soldiers and sailors' orphans' homes.
4686. Obsolete ordnance: gift to State homes for soldiers and sailors.

§ 4681. Surplus war material: sale to States and foreign governments

Subject to regulations under section 486 of title 40, the Secretary of the Army may sell surplus war material and supplies, except food, of the Department of the Army, for which there is no adequate domestic market, to any State or to any foreign government with which the United States was at peace on June 5, 1920. Sales under this section shall be made upon terms that the Secretary considers expedient.

§ 4682. Obsolete or excess material: sale to National Council of Boy Scouts of America

Subject to regulations under section 486 of title 40, the Secretary of the Army, under such conditions as he may prescribe, may sell obsolete or excess material to the National Council of the Boy Scouts of America. Sales under this section shall be at fair value to the Department of the Army, including packing, handling, and transportation.

§ 4683. Obsolete or condemned rifles: loan to local units of recognized veterans' organizations

(a) The Secretary of the Army, under regulations to be prescribed by him, may—

(1) lend obsolete or condemned rifles (not more than 10), slings, and cartridge belts to any local unit of any national veterans' organization recognized by the Veterans' Administration, for use by that unit for funeral ceremonies of a member or former member of the armed forces, and for other ceremonial purposes; and

(2) issue and deliver to those units blank ammunition for those rifles—

(A) without charge, if it is to be used for ceremonies at national cemeteries; and

(B) without charge, except for packing, handling, and transportation, if it is to be used for other ceremonies.

(b) The Secretary may relieve a unit to which materials are lent under subsection (a), and the surety on its bond, from liability for loss or destruction of the material lent, if there is conclusive evidence that the loss or destruction did not result from negligence.

§ 4684. Surplus obsolete ordnance: sale to patriotic organizations

Subject to regulations under section 486 of title 40, any branch, office, or officer designated by the Secretary of the Army may sell, without advertisement and at prices that he considers reasonable—

(1) surplus obsolete small arms and ammunition and equipment for them, to any patriotic organization for military purposes; and

(2) surplus obsolete brass or bronze cannons, carriages, and cannon balls, for public parks, public buildings, and soldiers' monuments.

§ 4685. Obsolete ordnance: loan to educational institutions and State soldiers and sailors' orphans' homes

(a) Upon the recommendation of the governor of the State or Territory concerned, the Secretary of the Army, under regulations to be prescribed by him and without cost to the United States for transportation, may lend obsolete ordnance and ordnance stores to State and Territorial educational institutions and to State soldiers and sailors' orphans' homes, for drill and instruction. However, no loan may be made under this subsection to an institution to which ordnance or ordnance stores may be issued under any law that was in effect on June 30, 1906, and is still in effect.

(b) The Secretary shall require a bond from each institution or home to which property is lent under subsection (a), in double the value of the property lent, for the care and safekeeping of that property and, except for property properly expended, for its return when required.

§ 4686. Obsolete ordnance: gift to State homes for soldiers and sailors

Subject to regulations under section 486 of title 40, the Secretary of the Army may give not more than two obsolete bronze or iron cannons suitable for firing salutes to any home for soldiers or sailors established and maintained under State authority.

CHAPTER 445.—INQUESTS; DISPOSITION OF EFFECTS OF DECEASED PERSONS; CAPTURED FLAGS

Sec.
4711. Inquests.
4712. Disposition of effects of deceased persons by summary court-martial.
4713. Disposition of effects of deceased persons by Soldiers' Home.
4714. Collection of captured flags, standards, and colors.

§ 4711. Inquests

(a) When a person is found dead under circumstances that require investigation, at a place garrisoned by the Army and under the exclusive jurisdiction of the United States, the commanding officer shall direct a summary court-martial to investigate the circumstances of the death.

(b) In conducting an investigation under subsection (a), the summary court-martial may summon witnesses and examine them upon oath.

(c) The summary court-martial shall promptly submit to the commanding officer a report of the investigation and findings as to the cause of death.

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§ 4712. Disposition of effects of deceased persons by summary court-martial

(a) Upon the death of—

(1) a person subject to the court-martial jurisdiction of the Army or the Air Force at a place or command under the jurisdiction of the Army; or

(2) an inmate of the Soldiers' Home who dies in an Army hospital outside the District of Columbia when sent from the Home to that hospital for treatment;

the commanding officer of the place or command shall permit the legal representative or the surviving spouse of the deceased, if present, to take possession of the effects of the deceased that are then in camp or quarters.

(b) If there is no legal representative or surviving spouse present, the commanding officer shall direct a summary court-martial to collect the effects of the deceased that are then in camp or quarters.

(c) The summary court-martial may collect debts due the decedent's estate by local debtors, pay undisputed local creditors of the deceased to the extent permitted by money of the deceased in the court's possession, and shall take receipts for those payments, to be filed with the court's final report to the Department of the Army.

(d) As soon as practicable after the collection of the effects and money of the deceased, the summary court-martial shall send them at the expense of the United States to the living person highest on the following list who can be found by the court:

(1) Surviving spouse or legal representative.
(2) Son.
(3) Daughter.
(4) Father, if he has not abandoned the support of his family.
(5) Mother.
(6) Brother.
(7) Sister.
(8) Next of kin.
(9) Beneficiary named in the will of the deceased.

(e) If the summary court-martial cannot dispose of the effects under subsection (d) because there are no persons in those categories or because the court finds that the addresses of the persons are not known or readily ascertainable, the court may convert the effects of the deceased, except sabers, insignia, decorations, medals, watches, trinkets, manuscripts, and other articles valuable chiefly as keepsakes, into cash, by public or private sale, but not until 30 days after the date of death of the deceased.

(f) As soon as practicable after the effects have been converted into cash under subsection (e), the summary court-martial shall deposit all cash in the court's possession and belonging to the estate with the officer designated in regulations, and shall send a receipt therefor, together with any will or other papers of value, an inventory of the effects, and articles not permitted to be sold, to the executive part of the Department of the Army for transmission to the Soldiers' Home.

(g) The summary court-martial shall make a full report of the transactions under this section, with respect to the deceased, to the Department of the Army for transmission to the General Accounting

Office for action authorized in the settlement of accounts of deceased members of the Army.

§ 4713. Disposition of effects of deceased persons by Soldiers' Home

(a) The effects of a deceased person that the Department of the Army receives under section 4712 (f) of this title shall be delivered to the Soldiers' Home. The Home shall dispose of the effects as follows:

(1) A will or other paper involving property rights shall be promptly delivered to the proper court of record.

(2) If the heirs or legal representative of the deceased cannot sooner be ascertained, the Home shall retain the remaining effects until three years after the death of the deceased, and then, upon establishment of a right thereto to the satisfaction of the Home, it shall deliver them to the living person highest on the following list who can be found:

(A) Surviving spouse or legal representative.

(B) Son.

(C) Daughter.

(D) Father, if he has not abandoned the support of his family.

(E) Mother.

(F) Brother.

(G) Sister.

(H) Next of kin.

(I) Beneficiary named in the will of the deceased.

(b) After three years from the date of death, the Home may sell the effects to which a right has not been established by the heirs or legal representative, except decorations, medals, and citations, by public or private sale, as it considers most advantageous.

(c) After five years from the date of death, the Home shall dispose of effects that are not sold under subsection (b) and to which a right has not been established by the heirs or legal representative of the deceased, including decorations, medals, and citations, in the manner that it considers most appropriate in the public interest. It may retain them; deliver them to the Veterans' Administration, a State or other military home, a museum, or other appropriate institution; or destroy them if the Board of Commissioners of the Home determines that they are valueless.

(d) The net proceeds received by the Home from the sale of the deceased's effects shall be covered into the Treasury to the credit of the fund called the "Soldiers' Home permanent fund (trust fund)", and the principal of the fund so increased shall draw interest at 3 percent a year, payable quarterly to the treasurer of the Home.

(e) A claim for the net proceeds of the sale of the deceased's effects may be filed with the General Accounting Office at any time within six years after the date of his death, for action under section 2771 of this title. If not so filed, such a claim may not be considered by a court or the General Accounting Office.

(f) A claim allowed by the General Accounting Office under subsection (e) shall be certified to the treasurer of the Home for payment from the Soldiers' Home permanent fund (trust fund) in the amount

found due, including accrued interest. No claim may be allowed or paid in excess of the net proceeds, including accrued interest, of the estate covered into the Treasury under subsection (d).

§ 4714. Collection of captured flags, standards, and colors

The Secretary of the Army shall have sent to him all flags, standards, and colors taken by the Army from enemies of the United States.

CHAPTER 447.—TRANSPORTATION

Sec.
4741. Control and supervision.
4742. Control of transportation systems in time of war.
4743. Officers: use of transportation.
4744. Persons and supplies: sea transportation.
4745. Civilian passengers and commercial cargoes: transports in trans-Atlantic service.
4746. Civilian personnel in Alaska.
4747. Passengers and merchandise to Guam: sea transport.
4748. Motor vehicles: for members on permanent change of station.
4749. Property: for United States surveys.

§ 4741. Control and supervision

The transportation of members, munitions of war, equipment, military property, and stores of the Army throughout the United States shall be under the immediate control and supervision of the Secretary of the Army and agents appointed or designated by him.

§ 4742. Control of transportation systems in time of war

In time of war, the President, through the Secretary of the Army, may take possession and assume control of all or part of any system of transportation to transport troops, war material, and equipment, or for other purposes related to the emergency. So far as necessary, he may use the system to the exclusion of other traffic.

§ 4743. Officers: use of transportation

Under such conditions as the Secretary of the Army may prescribe, officers of the Army may, in the performance of their duties, use means of transportation provided for the Army and its supplies.

§ 4744. Persons and supplies: sea transportation

Whenever the Secretary of the Army considers that space is available, the following persons and supplies may be transported on vessels operated by Army transport agencies or, within bulk space allocations made to the Department of the Army, on vessels operated by any military transport agency of the Department of Defense:

(1) Members of the Navy, Marine Corps, or Coast Guard.

(2) Officers and employees of the Department of the Army, the Department of the Navy, the Department of the Air Force, or the Coast Guard.

(3) Supplies of the Department of the Navy.

(4) Members of Congress.

(5) Other officers of the United States traveling on official business.

(6) Officers and employees of the Territory of Hawaii.

(7) Secretaries and supplies of the Armed Services Department of the Young Men's Christian Association.

(8) Officers and employees of the Commonwealth of Puerto Rico on official business.

(9) The families of persons described in clauses (1), (2), (4), (5), (6), and (8).

However, a person described in clause (8) or (9) may be so transported only if the transportation is without expense to the United States.

§ 4745. Civilian passengers and commercial cargoes: transports in trans-Atlantic service

(a) Whenever space is unavailable on commercial lines and is available (1) on vessels operated by Army transport agencies, or (2) within bulk space allocations made to the Department of the Army on vessels operated by any transport agency of the Department of Defense, civilian passengers and commercial cargo may, in the discretion of the Secretary of the Army and the chairman of the Federal Maritime Board, be transported on those vessels. Rates for transportation under this section may not be less than those charged by commercial lines for the same kinds of service.

(b) Amounts received under this section shall be covered into the Treasury as miscellaneous receipts.

§ 4746. Civilian personnel in Alaska

Persons residing in Alaska who are and have been employed there by the United States for at least two years, and their families, may be transported on vessels or airplanes operated by Army transport agencies or, within bulk space allocations made to the Department of the Army, on vessels or airplanes operated by any military transport agency of the Department of Defense, if—

(1) the Secretary of the Army considers that accommodations are available;

(2) the transportation is without expense to the United States;

(3) the transportation is limited to one round trip between Alaska and the United States during any two-year period, except in an emergency such as sickness or death; and

(4) in case of travel by air—

(A) the Civil Aeronautics Board has not certified that commercial air carriers of the United States that can handle the transportation are operating between Alaska and the United States; and

(B) the transportation cannot be reasonably handled by a United States commercial air carrier.

§ 4747. Passengers and merchandise to Guam: sea transport

Whenever space is available, passengers, and merchandise produced in the United States, or the Territories, Commonwealths, and possessions, and consigned to residents and mercantile firms of Guam, may be transported to Guam on vessels operated by Army transport agencies or, within bulk space allocations made to the Department of the Army, on vessels operated by any transport agency of the Department of Defense, under regulations and at rates to be prescribed by the Secretary of the Army.

§ 4748. Motor vehicles: for members on permanent change of station

When a member of the Army is ordered to make a permanent change of station, one motor vehicle owned by him and for his personal use may be transported to his new station on a vessel owned by the United States.

§ 4749. Property: for United States surveys

Under regulations governing the transportation of Army supplies, any branch, office, or officer designated by the Secretary of the Army shall receive, transport, and be responsible for property turned over by the officers or agents of any United States survey, for the National Museum or for a department of the United States or field office thereof. The amount paid by the Army for transportation under this section shall be refunded to the Army by the National Museum or the department to which the property is consigned.

CHAPTER 449.—REAL PROPERTY

Sec.

4771. Acceptance of donations: land for mobilization, training, supply base, or aviation field.
4772. Reservation and use for air base or testing field.
4774. Construction of quarters: limitations on space and cost.
4775. Quarters: officers.
4776. Emergency construction: fortifications.
4777. Permits: military reservations; landing ferries, erecting bridges, driving livestock.
4778. Licenses: military reservations; erection and use of buildings; Young Men's Christian Association.
4779. Use of public property.

§ 4771. Acceptance of donations: land for mobilization, training, supply base, or aviation field

The Secretary of the Army may accept for the United States a gift of—

(1) land that he considers suitable and desirable for a permanent mobilization, training, or supply station; and

(2) land that he considers suitable and desirable for an aviation field, if the gift is from a citizen of the United States and its terms authorize the use of the property by the United States for any purpose.

§ 4772. Reservation and use for air base or testing field

When ordered by the President—

(1) unappropriated public land may be reserved from entry for an air base, or a field for tests and experiments, for the Army; and

(2) such land and other property of the United States may be designated and used for either of those purposes.

§ 4774. Construction of quarters: limitations on space and cost

(a) In the construction of family quarters from appropriated funds for members of the Army, the following are the maximum limitations on net floor area for each unit:

Grade	Square feet
General officer	2,100
Colonel	1,670
Major or lieutenant colonel	1,400
Officer below major	1,250
Enlisted member	1,080

In this section, "net floor area" means the space inside the exterior walls, excluding basement, service space instead of basement, attic, garage, and porches.

(b) The maximum limitations prescribed by subsection (a) are increased—

(1) 10 percent for quarters outside the United States; and

(2) 10 percent for quarters of the commanding officer of any station, base, or other installation, based on the grade authorized for that position.

(c) The maximum limitations for family quarters constructed from appropriated funds for civilians are the same as those for members of the Army of comparable responsibility, grade, and pay, as determined by the Secretary of the Army.

(d) Except when built by members of the Army, no permanent barrack, quarters, building, or other permanent structure may be built unless a detailed estimate of its cost has been submitted to Congress and a specific appropriation has been made therefor. No one may build such a structure without specific authority of Congress if the cost is more than $100,000.

(e) A limitation upon the cost of quarters built for members of the Army does not apply to expenditures for work and equipment outside those quarters, including expenditures for—

(1) the furnishing of electricity, gas, water, and sewage disposal;

(2) roads and walks; and

(3) grading and drainage.

§ 4775. Quarters: officers

If there are quarters belonging to the United States at a post or station, the post quartermaster may assign them as follows:

Grade	Number of rooms
Lieutenant general	10
Major general	9
Brigadier general	8
Colonel	7
Lieutenant colonel	6
Major	5
Captain	4
First lieutenant	3
Second lieutenant	2

If such quarters exist, he may assign no other quarters to commissioned officers.

§ 4776. Emergency construction: fortifications

If in an emergency the President considers it urgent, a temporary fort or fortification may be built on private land if the owner consents in writing. In such a case, section 175 of title 50 does not apply.

§ 4777. Permits: military reservation; landing ferries, erecting bridges, driving livestock

Whenever the Secretary of the Army considers that it can be done without injury to the reservation or inconvenience to the military forces stationed there, he may permit—

(1) the landing of ferries at a military reservation;
(2) the erection of bridges on a military reservation; and
(3) the driving of livestock across a military reservation.

§ 4778. Licenses: military reservations; erection and use of buildings; Young Men's Christian Association

Under such conditions as he may prescribe, the Secretary of the Army may issue a revocable license to the International Committee of Young Men's Christian Associations of North America to erect and maintain on military reservations, inside the United States and the Territories, Commonwealths, and possessions, buildings needed by that organization for the promotion of the social, physical, intellectual, and moral welfare of the members of the Army on those reservations.

§ 4779. Use of public property

(a) When the economy of the Army so requires, the Secretary of the Army shall establish military headquarters in places where suitable buildings are owned by the United States.

(b) The Secretary shall assign suitable space for postal purposes at each military post where there is a post office.

(c) No money appropriated for the support of the Army may be spent for post gardens or Army exchanges. However, this does not prevent Army exchanges from using public buildings or public transportation that, in the opinion of the office or officer designated by the Secretary, are not needed for other purposes.

CHAPTER 451.—MILITARY CLAIMS

Sec.
4801. Definition.
4802. Damage by United States vessels; towage and salvage of United States vessels.
4803. Admiralty claims by United States.
4804. Salvage claims by United States.
4805. Reports to Congress.
4806. Settlement or compromise: final and conclusive.

§ 4801. Definition

In this chapter, "settle" means consider, ascertain, adjust, determine, and dispose of a claim, whether by full or partial allowance or by disallowance.

§ 4802. Damage by United States vessels; towage and salvage of United States vessels

(a) Under the direction of the Secretary of Defense, the Secretary of the Army may settle or compromise a claim against the United States for—

(1) damage caused by a vessel of, or in the service of, the Department of the Army; or

(2) compensation for towage and salvage service, including contract salvage, rendered to a vessel of, or in the service of, the Department of the Army.

(b) If a claim under subsection (a) is settled or compromised for $500,000 or less, the Secretary of the Army may pay it. If it is settled or compromised for more than $500,000, he shall certify it to Congress.

(c) In any case where the amount to be paid is not more than $1,000, the Secretary of the Army may delegate his authority under subsection (a) to any person in the Department of the Army designated by him.

§ 4803. Admiralty claims by United States

(a) Under the direction of the Secretary of Defense, the Secretary of the Army may settle, or compromise, and receive payment of a claim by the United States for damage to property under the jurisdiction of the Department of the Army or property for which the Department has assumed an obligation to respond for damage, if—

(1) the claim is—

(A) of a kind that is within the admiralty jurisdiction of a district court of the United States; or

(B) for damage caused by a vessel or floating object; and

(2) the amount to be received by the United States is not more than $500,000.

(b) In exchange for payment of an amount found to be due the United States under subsection (a), the Secretary of the Army may execute a release of the claim on behalf of the United States. Amounts received under this section shall be covered into the Treasury.

(c) In any case where the amount to be received by the United States is not more than $1,000, the Secretary of the Army may delegate his authority under subsections (a) and (b) to any person in the Department of the Army designated by him.

§ 4804. Salvage claims by United States

Under the direction of the Secretary of Defense, the Secretary of the Army may settle, or compromise, and receive payment of a claim by the United States for salvage services performed by the Department of the Army for any vessel. Amounts received under this section shall be covered into the Treasury.

§ 4805. Reports to Congress

The Secretary of the Army shall report to the Committees on Armed Services of the Senate and the House of Representatives within 20 days after paying a claim in an amount over $3,000 under

section 4802 of this title, or receiving payment of a claim under section 4803 or 4804 of this title. The report shall include a description of the claim, the names of the vessels involved, a statement of the amount paid or received, the basis of the determination, and other pertinent information. The Secretary shall also report to Congress at each session all amounts paid or received under those sections during the period covered by the report. However, during a war, the Secretary may omit from a report under this section any information the disclosure of which he believes would prejudice the national security.

§ 4806. Settlement or compromise: final and conclusive

Notwithstanding any other provision of law, upon acceptance of payment the settlement or compromise of a claim under section 4802 or 4803 of this title is final and conclusive.

CHAPTER 453.—ACCOUNTABILITY AND RESPONSIBILITY

Sec.
4831. Custody of departmental records and property.
4832. Property accountability: regulations.
4833. Accountability for public money: disbursing officers; agent officers.
4834. Fidelity bonds: accountable officers; Quartermaster Corps.
4835. Reports of survey.
4836. Individual equipment: unauthorized disposition.
4837. Settlement of accounts: deductions from pay.
4838. Settlement of accounts: affidavit of company commander.
4839. Settlement of accounts: oaths.
4840. Final settlement of officer's accounts.

§ 4831. Custody of departmental records and property

The Secretary of the Army has custody and charge of all books, records, papers, furniture, fixtures, and other property under the lawful control of the executive part of the Department of the Army.

§ 4832. Property accountability: regulations

The Secretary of the Army may prescribe regulations for the accounting for Army property and the fixing of responsibility for that property.

§ 4833. Accountability for public money: disbursing officers; agent officers

Under such regulations as the Secretary of the Army may prescribe, any officer of the Army accountable for public money may intrust it to another officer of the Army to make disbursements as his agent. Both the officer to whom money is intrusted under this section, and the officer who intrusts the money to him, are pecuniarily responsible for that money to the United States.

§ 4834. Fidelity bonds: accountable officers; Quartermaster Corps

(a) Before entering upon the duties of his office, each commissioned officer of the Quartermaster Corps shall give a good and sufficient bond to the United States to account faithfully for all public money and property received by him. A bond required by this subsection shall be in the amount directed by the Secretary of the Army, but the President may at any time direct that the amount be increased.

However, the Secretary may excuse an officer of the Quartermaster Corps who is not accountable for public money or property from giving bond.

(b) The Quartermaster General is not liable for money or property received by a subordinate officer of the Quartermaster Corps.

§ 4835. Reports of survey

(a) Under such regulations as the Secretary of the Army may prescribe, any officer of the Army designated by him may act upon reports of surveys and vouchers pertaining to the loss, spoilage, unserviceability, unsuitability, or destruction of or damage to property of the United States under the control of the Department of the Army.

(b) Action taken under subsection (a) is final, except that action holding a person pecuniarily liable for loss, spoilage, destruction, or damage is not final until approved by the Secretary or an officer of the Army designated by him.

§ 4836. Individual equipment: unauthorized disposition

(a) No enlisted member of the Army may sell, lend, pledge, barter, or give any clothing, arms, or equipment furnished him by the United States to any person other than a member of the Army, or an officer of the United States, authorized to receive it.

(b) If a member of the Army has disposed of property in violation of subsection (a) and it is in the possession of a person who is neither a member of the Army, nor an officer of the United States, authorized to receive it, that person has no right to or interest in the property, and any civil or military officer of the United States may seize it, wherever found. Possession of such property furnished by the United States to a member of the Army, by a person who is neither a member of the Army nor an officer of the United States, is prima facie evidence that it has been disposed of in violation of subsection (a).

(c) If an officer who seizes property under subsection (b) is not authorized to retain it for the United States, he shall deliver it to a person who is authorized to retain it.

§ 4837. Settlement of accounts: deductions from pay

(a) An amount due the United States from an enlisted member of the Army for articles sold to the member on credit under section 4621 (a) (1) of this title shall be deducted from the next pay due that member after the sale is reported to the Chief of Finance. An amount due the United States from an enlisted member of the Army for tobacco sold to him by the United States under section 4623 of this title shall be deducted from his pay in the manner provided for the settlement of clothing accounts.

(b) Under regulations to be prescribed by the Secretary of the Army, any amount that an enlisted member is administratively determined to owe the United States or any of its instrumentalities may be deducted from his pay in monthly installments. However, after the deduction of pay forfeited by the sentence of a court-martial, if any, or otherwise authorized by law to be withheld, the deductions authorized by this section may not reduce the pay actually received for any month to less than one-third of his basic pay for that month.

(c) Subject to subsection (b), an amount due the United States

from an enlisted member may be deducted from his pay on final statement, or from his savings on his clothing allowance.

(d) If he considers it in the best interest of the United States, the Secretary may have remitted or cancelled any part of an enlisted member's indebtedness to the United States or any of its instrumentalities remaining unpaid before, or at the time of, that member's honorable discharge.

(e) The amount of any damage, or cost of repairs, to arms or equipment caused by the abuse or negligence of a member of the Army who had the care of, or was using, the property when it was damaged shall be deducted from his pay.

(f) If, upon final settlement of the accounts of a commissioned officer of the Army charged with the issue of an article of military supply, there is a deficiency of that article, or if an article of military supply with whose issue a commissioned officer is charged is damaged, the value of the lost article or the amount of the damage shall be charged against the officer and deducted from his monthly pay, unless he shows to the satisfaction of the Secretary, by one or more affidavits setting forth the circumstances, that he was not at fault.

(g) An amount due the United States from an officer of the Army for rations bought on credit, and for articles bought on credit under section 4621 (a) (1) of this title, shall be deducted from the next pay due that officer after the sale is reported.

§ 4838. Settlement of accounts: affidavit of company commander

In the settlement of the accounts of the commanding officer of a company for clothing and other military supplies, his affidavit may be received to show—

(1) that vouchers or company books were lost;

(2) anything tending to prove that any apparent deficiency of those articles was caused by unavoidable accident, or by loss in actual service without his fault; or

(3) that all or part of the clothing and supplies was properly used.

The affidavit may be used as evidence of the facts set forth, with or without other evidence, as determined by the Secretary of the Army to be just and proper under the circumstances.

§ 4839. Settlement of accounts: oaths

The Secretary of the Army may detail any employee of the Department of the Army to administer oaths required by law in the settlement of an officer's accounts for clothing and other military supplies. An oath administered under this section shall be without expense to the person to whom it is administered.

§ 4840. Final settlement of officer's accounts

Before final payment upon discharge may be made to an officer of the Army who has been accountable or responsible for public property, he must obtain a certificate of nonindebtedness to the United States from each officer to whom he was accountable or responsible for property. He must also make an affidavit, certified by his com-

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

Subtitle C—Navy and Marine Corps

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