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War Dept.

1933-36

WAR DEPARTMENT
OFFICE OF THE JUDGE ADVOCATE GENERAL
WASHINGTON

17 January 1934.

MEMORANDUM for the Chief of Staff.

Subject: Eligibility of the Chief of Staff for reappointment.

1. The pertinent provisions of law are as follows:

(a) "The General Staff Corps shall consist of the Chief of Staff, the War Department General Staff, and the General Staff with troops. The War Department General Staff shall consist of the Chief of Staff and four assistants to the Chief of Staff selected by the President from the general officers of the line, and eighty-eight other officers of grades not below that of captain * * * " (Sec. 5, N.D. Act)

(b) The General Staff Corps is a component part of the Regular Army. (Sec. 2, N.D. Act)

(c) "The Chief of Staff shall preside over the War Department General Staff and, under direction of the President, or of the Secretary of War under direction of the President, shall cause to be made, by the War Department General Staff, the necessary plans for recruiting, organizing, supplying, equipping, mobilizing, training, and demobilizing the Army of the United States and for use of the military forces for national defense. * * * upon approval of such plans or recommendations by the Secretary of War, he shall act as the agent of the Secretary of War in carrying the same into effect * * * " (Sec. 5, N.D. Act)

(d) " * * * In time of peace no officer of the line shall be or remain detailed as a member of the General Staff Corps unless he has served for two of the next preceding six years in actual command of troops of one or more of the combatant arms * * * " (Sec. 4g, N.D. Act)

DECLASSIFIED

DOD DIR. 5200.9 (9/27/58)

Date- 2-17-59

Signature-

Carl F. Spear

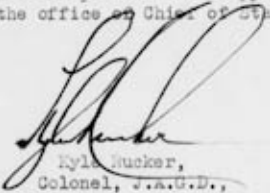
2. In my opinion, the provision of law quoted in (e) above is not applicable to the Chief of Staff for the following reasons:

(1) The Chief of Staff is "selected by the President". The restriction applies only to an officer who is "detailed as a member of the General Staff Corps". (Underscoring supplied)

(2) In his capacity as "the agent of the Secretary of War" in carrying into effect the plans for training, etc., and use of the military forces for national defense, and as "presiding" officer of the War Department General Staff which is a component part of the Regular Army, the Chief of Staff is constantly exercising command functions. He is, in effect, in immediate command of the whole Army. This is especially true under the present "Four Army" set-up, in which the Chief of Staff is the commander of the Group of Armies thus constituted.

(3) A statute which would so restrict the President in his selection of the Chief of Staff as to prevent a reappointment would, in my opinion, constitute an infringement upon the constitutional powers of the President as "Commander-in-Chief of the Army and Navy."

3. For the reasons thus briefly outlined, it is my opinion that there is no provision of law which would prevent the reappointment by the President of an incumbent in the office of Chief of Staff to succeed himself.


Kyle Hucker,
Colonel, J.A.G.D.,
Acting The Judge Advocate General.

ADDRESS REPLY TO
CHIEF OF THE AIR CORPS
WAR DEPARTMENT
WASHINGTON, D. C.

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WAR DEPARTMENT
OFFICE OF THE CHIEF OF THE AIR CORPS
WASHINGTON

March 2, 1934

Honorable Marvin H. McIntyre,
Secretary to the President,
The White House.

Dear Mr. McIntyre:

Attached hereto is a report which I was directed by the President to submit to him personally during a conference in his Office on February 28th.

In connection therewith, you are advised that I learned to-day that rumors of alleged sabotage and interference with the Army Air Corps Air Mail Operations have reached the ears of local Press men through some unknown source.

It is my understanding that the President desires the attached information to be released by him if and when he deems necessary.

In view of the fact that the local Press is endeavoring to secure information on the matter, it is believed that the President should have the attached data without delay.

Very truly yours,

B. D. Foulis

B. D. FOULIS,
Major General, Air Corps,
Chief of the Air Corps.

[Regarded Unclassified
Order Sec Army by Tag
per 311309 - 9/10/53]

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On or about February 16, 1934, information of a confidential nature but from a reliable source was received to the effect that a meeting was to be held in New York, attended by representatives of commercial aviation, for the purpose of deciding on ways and means by which to embarrass the Army Air Corps while flying the mail. This information was transmitted the following morning to Senator Black for his information and to the Chief Inspector of the Post Office Department who was requested to investigate same.

The three Zone Commanders directly in charge of Air Mail Operations were also promptly instructed by code messages to be extremely careful in guarding against sabotage and allied actions. Mr. K. P. Aldrich, the Chief of Postal Inspectors, took immediate steps to investigate the New York meeting but states that their agents had very little success in getting any concrete evidence. He stated further that he doubted the actuality of such a meeting among commercial companies, but that one company did hold a meeting, the exact nature of which has not been determined.

On February 15, 1934, an informal message was received by an officer on duty in this Office to the effect that a naval aviation officer stopping overnight at the Municipal Airport at Greensboro, North Carolina, on starting to leave, discovered several leaks in his gas tank, his rudder control jammed and his compass 60 degrees off. This was also promptly reported to the Chief of Postal Inspectors and the matter is still under investigation.

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Another case is covered in the following quoted and decoded radio:

"QAS19 168 NL Govt - Atlanta, Ga. 26 1934 Feb 26 PM 9 11

Chief Post Office Inspector,
Washington, D.C.

Commanding Officer, Fourth Corps Area, Fort McPherson, Atlanta, today turned over to me envelope postmarked Nashville, Tenn., Feb. 24, containing anonymous letter reading, quote: There is a plot being hatched or is already in use to disable as many Army air planes as possible so a bad showing will be made. The American Airways office here at Sky Harbor is taking active part in this. The man behind this plot is a blond, thirty to thirty-five years of age, fair complexion, six feet tall, or more, and is a regular employee of the American Airways. This is not the only firm whose mail contract was canceled which is trying to disgrace the Army. It is nation-wide. The plan is to do something to the plane so it will cruise from fifty to one hundred miles and then crash. It is also planned to damage the instruments so that the planes will lose their direction, etc. This is a phase of commercial crookedness which should be brought to the attention of the Postmaster General. Unquote. Letter and envelope being mailed to Inspector in Charge, Chattanooga, today.

WARD, Acting"

This case is now in the process of investigation by the Postal Inspectors but to date no report thereon has been received.

Still another case is that in which Mr. Thomas B. Doe, President of the Eastern Air Transport, in a telegram addressed to the Chief of Staff, United States Army, offered every assistance possible to assist the Army Air Corps in carrying the mail, including pilots and other facilities. The offer was very liberal and gratefully acknowledged. However, his offer should be compared to a statement made by Mr. David L. Behncke, President of the Air Line Pilots Association, to the effect that Mr. Doe had advised

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commercial pilots that they could not expect to be reemployed by Eastern Air Transport if they (these pilots) went to work for the Government. Mr. Behneke made this statement in the presence of Mr. Harilee Branch, Second Assistant Postmaster General; Mr. Eugene Vidal, Director of Aeronautics, Department of Commerce, and Major General Benjamin D. Foulois, Chief of the Army Air Corps, at about 3:00 P.M., February 17, 1934, in the Office of Mr. Branch.

Another similar case is that in which Mr. Croil Hunter, Vice-President and General Manager of the Northwestern Airways, Inc., offered the personnel and facilities of that organization to the Air Corps. However, Air Corps officers received news to the effect that this organization had threatened Reserve officers who were not on active duty but employed by the Northwestern Airways, Inc., that they would be demoted or would forfeit any chance of future jobs if they accepted active duty with the Army Air Corps to fly the mail.

The following information was received this morning, March 2, 1934, from an employee of one of the major wire news gathering services:

- a. That any employee of this agency who writes one word in a press release detrimental to commercial aviation operating companies will be at once discharged.
- b. That persons directly and indirectly connected with commercial aviation have a very complete organization which is issuing vicious propaganda containing distorted facts to the discredit not only of the administration in connection with the air mail

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but against the Army Air Corps while carrying the mail. Further, this propaganda organization has, thru distortion of facts and other ruthless means, influenced newspaper editorial writers, managing editors, and even higher officials of the Press to harass and hamper the administration and the Air Corps in carrying the air mail.

- c. That certain persons indirectly connected with commercial aviation will, in his opinion, use any means, no matter how degraded, to hamper the Air Corps in its carrying the mail.
- d. The informant made an investigation of the air mail about three years ago for a newspaper syndicate. During this investigation he was approached by an affiliate of the commercial aviation companies and offered a three-year contract and a thousand dollars a month if he would drop the investigation, turn over the report to the commercial aviation companies and go to work for them. He stated that he refused the contract and was viciously maligned and threatened. He has recently been taken off of aviation writing in Washington by the company for which he works.

[Regarded Unclassified
Order Sec Army by Tag
per 311309- 9/10/53]

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THE NATIONAL DEFENSE ACT

APPROVED JUNE 3, 1916

AS AMENDED TO MARCH 4, 1929, INCLUSIVE

WITH RELATED ACTS, DECISIONS
AND OPINIONS

THE PAY READJUSTMENT ACT

APPROVED JUNE 10, 1922

AS AMENDED TO MARCH 4, 1929, INCLUSIVE

WITH RELATED ACTS, DECISIONS
AND OPINIONS

ARMY AND NAVY PAY TABLES

MARCH, 1929

PRINTED FOR
COMMITTEE ON MILITARY AFFAIRS
HOUSE OF REPRESENTATIVES
SEVENTIETH CONGRESS



PREFACE

1. The National Defense Act, approved June 3, 1916, as amended or otherwise affected by the statutes set forth in Table C (p. 7, post), and the act of June 10, 1922, commonly known as the Pay Readjustment Act, as amended or otherwise affected by the statutes set forth in Table D (p. 91, post), together with the Army and Navy Pay Tables (p. 115, post), are published in this pamphlet.
2. Three kinds of type are used in this publication, as follows:
 - a. Ordinary Roman type, indicating, in the case of the National Defense Act, those provisions of the act approved June 3, 1916, that remained unchanged up to and including June 4, 1920, and, in the case of the Pay Readjustment Act, those provisions that remain unchanged since its enactment on June 10, 1922.
 - b. Bold-faced type, used in the case of the National Defense Act only, indicating the amendments made by the act approved June 4, 1920.
 - c. *Italics*, indicating the provisions of other acts that amend or affect sections of the National Defense Act or the Pay Readjustment Act, as the case may be.
3. In the act approved June 4, 1920, Chapter II deals with the Articles of War. That chapter is not included in this publication.
4. This compilation does not purport to contain all collateral enactments related to subjects covered by the National Defense Act or the Pay Readjustment Act, although many such enactments have been inserted under the sections to which they are related as "cognate acts." While, of necessity, many cognate provisions must be omitted, attention is invited particularly to Tables C and D (pp. 7 and 91, post), respectively, which list numerous acts affecting the two principal acts and to Table F (p. 92, post), which brings together most of the numerous pay and allowance statutes not directly affected by the Pay Readjustment Act, and also to the notes to section 21 of said act (p. 113, post), which contain the statute references to those matters expressly excepted from the operation of the Pay Readjustment Act.
5. While brackets have been used to inclose matter apparently of no present force, it is not intended by context or form to indicate any final interpretative conclusions of law as to either act. Unless an authority is cited, the opinion expressed is that of the compiler.
7. The citation of the United States Code is difficult, due to the fact that even the same sentence of the National Defense Act may be found separated into five or six scattered sections of the Code. In order, however, to aid quick reference to the Code, the citation thereto has been placed in the margin, as near the matter covered as possible. "Sup. II" refers to Supplement II of the Code, published in 1929, and containing all additions, changes, etc., to December 3, 1928, the date of commencement of the second session of the Seventieth Congress. In a few instances reference has been made to "Sup. III," not yet published. "Not in Code" is inserted only where there has been an opportunity to insert the provision and apparently a decision reached not to insert the same.

8. The tables found at pages 1 to 8 and 91 to 93 have been prepared with considerable care. Intermediate modifying acts, no longer in effect, are included therein, although perhaps no mention is made of them in the notes to the text.

9. Two charts, one for the Army and one for the Navy, at pages 141 and 142, respectively, show graphically what classes of officers fall into each of the six pay periods.

10. A few of the principal court decisions are noted and occasional references made to other official decisions and opinions, but no attempt has been made at extended reference to such authorities.

11. Grateful acknowledgment is made of the valuable assistance rendered in the preparation of this pamphlet by Maj. F. G. Munson, Judge Advocate, United States Army, on duty in the Office of The Adjutant General, and by Mr. W. L. Atwater of the Office of The Judge Advocate General.

H. F. SEDGWICK, Clerk.

MARCH 4, 1929.

The following is a list of the changes made in the text of the pamphlet since its first publication in 1925. It is intended to show the extent of the revision and to indicate the reasons for the changes. The changes are grouped under the following headings:

1. Changes in the text of the pamphlet.
2. Changes in the tables.
3. Changes in the charts.
4. Changes in the references.
5. Changes in the index.
6. Changes in the cover.
7. Changes in the title page.
8. Changes in the preface.
9. Changes in the introduction.
10. Changes in the body of the pamphlet.
11. Changes in the conclusion.
12. Changes in the appendix.
13. Changes in the bibliography.
14. Changes in the footnotes.
15. Changes in the endnotes.
16. Changes in the errata.
17. Changes in the corrections.
18. Changes in the revisions.
19. Changes in the amendments.
20. Changes in the supplements.
21. Changes in the addenda.
22. Changes in the corrigenda.
23. Changes in the errata.
24. Changes in the corrections.
25. Changes in the revisions.
26. Changes in the amendments.
27. Changes in the supplements.
28. Changes in the addenda.
29. Changes in the corrigenda.
30. Changes in the errata.
31. Changes in the corrections.
32. Changes in the revisions.
33. Changes in the amendments.
34. Changes in the supplements.
35. Changes in the addenda.
36. Changes in the corrigenda.
37. Changes in the errata.
38. Changes in the corrections.
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93. Changes in the errata.
94. Changes in the corrections.
95. Changes in the revisions.
96. Changes in the amendments.
97. Changes in the supplements.
98. Changes in the addenda.
99. Changes in the corrigenda.
100. Changes in the errata.

THE NATIONAL DEFENSE ACT

AS AMENDED TO MARCH 4, 1929, INCLUSIVE

TABLE A.—Table showing history of each section of the National Defense Act expressly amended or otherwise affected or mentioned by permanent legislation between June 3, 1916, and March 4, 1929, inclusive

(Sections not found in this table have not been modified or directly affected since the act of June 3, 1916)

ABBREVIATIONS

ADD.—Added.

AFF.—Affected (but not expressly amended or not necessarily mentioned).

AMD.—Expressly amended.

EXP.—Explained; application of section extended or defined.

OUT.—Stricken out or repealed.

SAV.—Saving clause in later act preventing any effect on section.

<i>Sec. 1</i>	
AMD-----	Act of June 4, 1920 (41 Stat. 759).
<i>Sec. 2</i>	
AMD-----	Act of June 4, 1920 (41 Stat. 759); act of July 2, 1926 (44 Stat. 780).
<i>Sec. 3</i>	
AMD-----	Act of June 4, 1920 (41 Stat. 759).
<i>Sec. 3a</i>	
AMD-----	Act of June 4, 1920 (41 Stat. 760.)
AFF-----	Act of Mar. 4, 1921 (41 Stat. 1438). See also Table B.
<i>Sec. 4</i>	
AMD-----	Act of June 4, 1920 (41 Stat. 760).
AFF-----	Act of June 30, 1922 (42 Stat. 721); act of Sept. 14, 1922 (42 Stat. 840); act of July 2, 1926 (44 Stat. 783).
<i>Sec. 4a</i>	
AMD-----	Act of June 4, 1920 (41 Stat. 761).
AFF-----	Act of June 10, 1922 (42 Stat. 629); act of June 30, 1922 (42 Stat. 723); act of June 6, 1924 (43 Stat. 472); act of Mar. 3, 1925 (43 Stat. 1100); act of Mar. 3, 1925 (43 Stat. 1101); act of Apr. 27, 1926 (44 Stat. 328); act of Mar. 4, 1927 (44 Stat. 1416); act of Feb. 4, 1929 (45 Stat. 2048).
<i>Sec. 4b</i>	
AMD-----	Act of June 4, 1920 (41 Stat. 761); act of June 6, 1924 (43 Stat. 470).
EXP-----	Act of Sept. 22, 1922 (42 Stat. 1018).
AFF-----	Act of June 10, 1922 (42 Stat. 629); act of May 31, 1924 (43 Stat. 251); act of June 6, 1924 (43 Stat. 472); act of Mar. 3, 1927 (44 Stat. 1356).
<i>Sec. 4c</i>	
AMD-----	Act of June 4, 1920 (41 Stat. 762); act of June 6, 1924 (43 Stat. 470); act of July 2, 1926 (44 Stat. 783).
AFF-----	Act of June 30, 1922 (42 Stat. 723); act of May 19, 1924 (43 Stat. 131); act of June 3, 1924 (43 Stat. 361); act of May 19, 1926 (44 Stat. 565); act of Feb. 28, 1927 (44 Stat. 1261).
<i>Sec. 5</i>	
AMD-----	Act of May 12, 1917 (40 Stat. 46); act of June 4, 1920 (41 Stat. 762); act of Sept. 22, 1922 (42 Stat. 1032); act of July 2, 1926 (44 Stat. 782); act of May 21, 1928 (45 Stat. 618); act of Feb. 23, 1929 (45 Stat. 1055).

Sec. 5a

AMD----- Act of June 4, 1920 (41 Stat. 764) ; act of July 2, 1926 (44 Stat. 784).
 AFF----- Act of June 5, 1920 (41 Stat. 975).

Sec. 5b

AMD----- Act of June 4, 1920 (41 Stat. 765).

Sec. 6

AMD----- Act of June 4, 1920 (41 Stat. 765).
 AFF----- Act of June 30, 1922 (42 Stat. 723).

Sec. 7

AMD----- Act of June 4, 1920 (41 Stat. 765).
 AFF----- Act of June 30, 1922 (42 Stat. 723).

Sec. 8

AMD----- Act of June 4, 1920 (41 Stat. 765).
 AFF----- Act of June 30, 1922 (42 Stat. 723).

Sec. 9

AMD----- Act of June 4, 1920 (41 Stat. 766).
 AFF----- Act of July 9, 1918 (40 Stat. 881) ; act of June 30, 1922 (42 Stat. 723). See also Table B.

Sec. 9a

AMD----- Act of June 4, 1920 (41 Stat. 766).
 AFF----- Act of June 30, 1922 (42 Stat. 723) ; act of Feb. 24, 1925 (43 Stat. 970) ; act of July 3, 1926 (44 Stat. 888).

Sec. 10

AMD----- Act of Aug. 29, 1916 (39 Stat. 640) ; act of July 9, 1918 (40 Stat. 889) ; act of June 4, 1920 (41 Stat. 766).
 AFF----- Act of July 9, 1918 (40 Stat. 879) ; act of June 30, 1922 (42 Stat. 721) ; act of May 13, 1926 (44 Stat. 531) ; act of July 2, 1926 (44 Stat. 796). See also Table B.

Sec. 11

AMD----- Act of July 9, 1918 (40 Stat. 868) ; act of June 4, 1920 (41 Stat. 768).
 AFF----- Act of June 30, 1922 (42 Stat. 723).

Sec. 12

AMD----- Act of Jan. 24, 1920 (40 Stat. 396) ; act of June 4, 1920 (41 Stat. 768).
 AFF----- Act of June 30, 1922 (42 Stat. 723).

Sec. 12a

AMD----- Act of June 4, 1920 (41 Stat. 768).
 AFF----- Act of June 30, 1922 (42 Stat. 723) ; act of Feb. 24, 1925 (43 Stat. 970).

Sec. 13

AMD----- Act of June 4, 1920 (41 Stat. 768).
 AFF----- Act of June 30, 1922 (42 Stat. 723).

Sec. 13a

AMD----- Act of June 4, 1920 (41 Stat. 768) ; act of July 2, 1926 (44 Stat. 780).
 AFF----- Act of June 30, 1922 (42 Stat. 723, 724).

Sec. 14

AMD----- Act of June 4, 1920 (41 Stat. 769).

Sec. 15

AMD----- Act of May 12, 1917 (40 Stat. 72) ; act of May 25, 1918 (40 Stat. 561) ; act of June 4, 1920 (41 Stat. 769).
 AFF----- Act of June 30, 1922 (42 Stat. 721).

Sec. 16

OUT----- Act of June 4, 1920 (41 Stat. 769).

Sec. 17

AMD----- Act of June 4, 1920 (41 Stat. 769).
 AFF----- Act of June 30, 1922 (42 Stat. 723).

Sec. 18

AMD----- Act of June 4, 1920 (41 Stat. 770).
 AFF----- Act of June 30, 1922 (42 Stat. 723).

Sec. 19

AMD----- Act of June 4, 1920 (41 Stat. 770).
 AFF----- Act of June 30, 1922 (42 Stat. 723).

Sec. 20

AMD----- Act of June 4, 1920 (41 Stat. 770).
 AFF----- Act of June 30, 1922 (42 Stat. 723).

Sec. 21

<i>Sec. 22</i>	
AMD-----	Act of July 9, 1918 (40 Stat. 889); (by adding sec. 22a) act of June 4, 1920 (41 Stat. 770).
<i>Sec. 22a</i>	
ADD-----	Act of June 4, 1920 (41 Stat. 770).
AFF-----	Act of May 10, 1926 (44 Stat. 496).
SAV-----	Act of June 10, 1922 (42 Stat. 633).
<i>Sec. 23</i>	
AMD-----	Act of July 9, 1918 (40 Stat. 851); act of June 4, 1920 (41 Stat. 771).
<i>Sec. 24</i>	
AMD-----	Act of May 12, 1917 (40 Stat. 44, 73); act of July 9, 1918 (40 Stat. 890); act of June 4, 1920 (41 Stat. 771); act of May 19, 1926 (44 Stat. 564).
EXP-----	Act of Aug. 29, 1916 (39 Stat. 623).
<i>Sec. 24a</i>	
ADD-----	Act of June 4, 1920 (41 Stat. 771).
<i>Sec. 24b</i>	
ADD-----	Act of June 4, 1920 (41 Stat. 773).
<i>Sec. 24c</i>	
ADD-----	Act of June 4, 1920 (41 Stat. 774).
AFF-----	Act of Mar. 2, 1923 (42 Stat. 1383).
<i>Sec. 24d</i>	
ADD-----	Act of June 4, 1920 (41 Stat. 774).
<i>Sec. 24e</i>	
ADD-----	Act of June 4, 1920 (41 Stat. 774).
AFF-----	Act of June 30, 1922 (42 Stat. 721); act of Sept. 14, 1922 (42 Stat. 840).
<i>Sec. 25</i>	
AMD-----	Act of June 4, 1920 (41 Stat. 775).
EXP-----	Act of Aug. 29, 1916 (39 Stat. 623); act of May 12, 1917 (40 Stat. 43).
<i>Sec. 26</i>	
OUT-----	Act of June 4, 1920 (41 Stat. 775).
<i>Sec. 27</i>	
AMD-----	Act of June 4, 1920 (41 Stat. 775); act of June 30, 1921 (42 Stat. 74).
AFF-----	Act of June 10, 1922 (42 Stat. 629); act of June 7, 1924 (43 Stat. 481); act of Feb. 12, 1925 (43 Stat. 896); act of Mar. 16, 1926 (44 Stat. 208); act of Jan. 5, 1927 (44 Stat. 932); act of Mar. 2, 1929 (45 Stat. 1505).
<i>Sec. 28</i>	
AMD-----	Act of July 9, 1918 (40 Stat. 890); act of June 4, 1920 (41 Stat. 775).
AFF-----	Act of June 10, 1922 (42 Stat. 632).
<i>Sec. 29</i>	
AMD-----	Act of June 4, 1920 (41 Stat. 775).
<i>Sec. 30</i>	
AMD-----	Act of June 4, 1920 (41 Stat. 775).
<i>Sec. 31</i>	
AMD-----	Act of July 9, 1918 (40 Stat. 890).
OUT-----	Act of June 4, 1920 (41 Stat. 775).
<i>Sec. 32</i>	
OUT-----	Act of June 4, 1920 (41 Stat. 775).
<i>Sec. 33</i>	
OUT-----	Act of June 4, 1920 (41 Stat. 775).
<i>Sec. 34</i>	
OUT-----	Act of June 4, 1920 (41 Stat. 775).
<i>Sec. 36</i>	
OUT-----	Act of June 4, 1920 (41 Stat. 775).
<i>Sec. 37</i>	
AMD-----	Act of May 12, 1917 (40 Stat. 73); act of June 4, 1920 (41 Stat. 775); act of Sept. 22, 1922 (42 Stat. 1033).
AFF-----	Act of Oct. 6, 1917 (40 Stat. 393).
<i>Sec. 37a</i>	
ADD-----	Act of June 4, 1920 (41 Stat. 776).
AFF-----	Act of June 10, 1922 (42 Stat. 627); act of Sept. 14, 1922 (42 Stat. 841); act of Mar. 4, 1923 (42 Stat. 1507, 1508); act of May 31, 1924 (43 Stat. 250, 251). See also Table B.

THE NATIONAL DEFENSE ACT

- Sec. 38*
 OUT----- Act of June 4, 1920 (41 Stat. 775).
 ADD----- Act of June 6, 1924 (43 Stat. 470).
- Sec. 39*
 OUT----- Act of June 4, 1920 (41 Stat. 775).
- Sec. 40*
 AMD----- Act of June 4, 1920 (41 Stat. 776).
 AFF----- Act of May 12, 1928 (45 Stat. 501). See also Table B.
- Sec. 40a*
 ADD----- Act of June 4, 1920 (41 Stat. 777).
- Sec. 40b*
 ADD----- Act of June 4, 1920 (41 Stat. 777).
 EXP----- Act of Mar. 3, 1925 (43 Stat. 1099).
- Sec. 41*
 OUT----- (Superseded by sec. 40.) Act of June 4, 1920 (41 Stat. 776).
- Sec. 42*
 AMD----- Act of July 9, 1918 (40 Stat. 891).
 OUT----- (Superseded by sec. 40.) Act of June 4, 1920 (41 Stat. 776).
- Sec. 43*
 OUT----- (Superseded by sec. 40a.) Act of June 4, 1920 (41 Stat. 776).
- Sec. 45*
 AFF----- Act of April 17, 1918 (40 Stat. 531).
 OUT----- (Superseded by sec. 40b.) Act of June 4, 1920 (41 Stat. 776).
- Sec. 46*
 AFF----- Act of April 17, 1918 (40 Stat. 531).
 OUT----- (Superseded by sec. 40b.) Act of June 4, 1920 (41 Stat. 776).
- Sec. 47*
 AMD----- Act of June 4, 1920 (41 Stat. 777).
 AFF----- See Table B.
- Sec. 47a*
 ADD----- Act of June 4, 1920 (41 Stat. 778).
 AFF----- Act of Mar. 4, 1923 (42 Stat. 1508); act of June 3, 1924 (43 Stat. 365).
- Sec. 47b*
 ADD----- Act of June 4, 1920 (41 Stat. 778).
- Sec. 47c*
 (See also sec. 50.)
- Sec. 47d*
 ADD----- Act of June 4, 1920 (41 Stat. 778).
 AMD----- Act of May 12, 1928 (45 Stat. 501).
- Sec. 47d*
 ADD----- Act of June 4, 1920 (41 Stat. 779).
 AMD----- Act of Mar. 9, 1928 (45 Stat. 251).
 AFF----- Act of July 9, 1918 (40 Stat. 892); act of Mar. 4, 1923 (42 Stat. 1508); act of June 3, 1924 (43 Stat. 365). See also Table B.
- Sec. 48*
 OUT----- (Superseded by sec. 47a.) Act of June 4, 1920 (41 Stat. 777).
- Sec. 49*
 AMD----- Act of June 5, 1920 (41 Stat. 966).
- Sec. 49*
 OUT----- (Superseded by sec. 47b.) Act of June 4, 1920 (41 Stat. 777).
- Sec. 50*
 OUT----- (Superseded by sec. 47c.) Act of June 4, 1920 (41 Stat. 777).
 EXP----- Res. of Sept. 8, 1916 (39 Stat. 853).
- Sec. 51*
 AMD----- Act of July 9, 1918 (40 Stat. 891).
 OUT----- Act of June 4, 1920 (41 Stat. 777).
- Sec. 52*
 OUT----- Act of June 4, 1920 (41 Stat. 777).
- Sec. 53*
 OUT----- (Superseded by sec. 47b.) Act of June 4, 1920 (41 Stat. 777).
- Sec. 54*
 AFF----- Act of May 12, 1917 (40 Stat. 70).
 OUT----- (Superseded by sec. 47d.) Act of June 4, 1920 (41 Stat. 777).
- Sec. 55*
 AMD----- Act of July 9, 1918 (40 Stat. 891); act of June 4, 1920 (41 Stat. 780);
 act of June 8, 1926 (44 Stat. 704).
- Sec. 55a*
 ADD----- Act of June 4, 1920 (41 Stat. 780).

<i>Sec. 55b</i>	
ADD-----	Act of June 4, 1920 (41 Stat. 780).
AFF-----	Act of Mar. 4, 1923 (42 Stat. 1508).
<i>Sec. 55c</i>	
ADD-----	Act of June 4, 1920 (41 Stat. 780).
EXP-----	Act of Mar. 3, 1925 (43 Stat. 1099).
<i>Sec. 56</i>	
AFF-----	Act of Apr. 17, 1918 (40 Stat. 531).
OUT-----	(Superseded by sec. 55c.) Act of June 4, 1920 (41 Stat. 780).
<i>Sec. 58</i>	
AMD-----	Act of Feb. 28, 1925 (43 Stat. 1075).
<i>Sec. 60</i>	
AMD-----	Act of June 4, 1920 (41 Stat. 780).
AFF-----	See Table B.
<i>Sec. 62</i>	
AFF-----	Act of July 11, 1919 (41 Stat. 127).
<i>Sec. 63</i>	
EXP-----	Act of May 12, 1917 (40 Stat. 71).
<i>Sec. 67</i>	
AMD-----	Act of July 9, 1918 (40 Stat. 878); act of Sept. 22, 1922 (42 Stat. 1034); act of Apr. 6, 1928 (45 Stat. 406).
AFF-----	Act of June 3, 1924 (43 Stat. 305); act of June 3, 1926 (44 Stat. 688). See also Table B.
EXP-----	Act of May 22, 1928 (45 Stat. 704).
<i>Sec. 69</i>	
AMD-----	Act of July 11, 1919 (41 Stat. 127); act of June 4, 1920 (41 Stat. 781); act of June 6, 1924 (43 Stat. 470).
<i>Sec. 70</i>	
AMD-----	Act of June 4, 1920 (41 Stat. 781).
<i>Sec. 71</i>	
OUT-----	Act of June 4, 1920 (41 Stat. 781).
<i>Sec. 72</i>	
AMD-----	Act of June 4, 1920 (41 Stat. 781).
<i>Sec. 74</i>	
AMD-----	Act of June 4, 1920 (41 Stat. 781).
<i>Sec. 75</i>	
EXP-----	Act of Mar. 4, 1923 (42 Stat. 1508).
<i>Sec. 78</i>	
AMD-----	Act of June 4, 1920 (41 Stat. 782); act of Feb. 28, 1925 (43 Stat. 1076).
<i>Sec. 79</i>	
OUT-----	Act of June 4, 1920 (41 Stat. 782).
<i>Sec. 81</i>	
AMD-----	Act of June 4, 1920 (41 Stat. 782); act of Sept. 22, 1922 (42 Stat. 1034); act of Feb. 28, 1925 (43 Stat. 1076).
<i>Sec. 87</i>	
AMD-----	Act of June 3, 1924 (43 Stat. 363); act of Feb. 28, 1925 (43 Stat. 1077).
<i>Sec. 89</i>	
AMD-----	Act of June 4, 1920 (41 Stat. 783).
<i>Sec. 90</i>	
AMD-----	Act of June 4, 1920 (41 Stat. 783); act of Mar. 1, 1922 (42 Stat. 401); act of June 6, 1924 (43 Stat. 471); act of May 28, 1926 (44 Stat. 673); act of Apr. 21, 1928 (45 Stat. 440).
<i>Sec. 92</i>	
AMD-----	Act of June 3, 1924 (43 Stat. 363).
AFF-----	Act of Mar. 4, 1923 (42 Stat. 1507); act of May 31, 1924 (43 Stat. 250); act of June 3, 1924 (43 Stat. 365); act of June 6, 1924 (43 Stat. 471).
EXP-----	Act of May 22, 1928 (45 Stat. 704).
<i>Sec. 94</i>	
AFF-----	Act of June 10, 1922 (42 Stat. 631); act of Sept. 14, 1922 (42 Stat. 841); act of Mar. 4, 1923 (42 Stat. 1507, 1508); act of May 31, 1924 (43 Stat. 250, 251); act of June 3, 1924 (43 Stat. 364-366); act of June 6, 1924 (43 Stat. 472); act of May 28, 1926 (44 Stat. 675); act of Apr. 26, 1928 (45 Stat. 461).

Sec. 97

- AMD----- Act of May 28, 1926 (44 Stat. 674).
 AFF----- Act of Mar. 4, 1923 (42 Stat. 1507, 1508); act of May 31, 1924 (43 Stat. 250, 251); act of June 3, 1924 (43 Stat. 364-366); act of June 6, 1924 (43 Stat. 472); act of May 28, 1926 (44 Stat. 675); act of Apr. 26, 1928 (45 Stat. 461).

Sec. 99

- AMD----- Act of Sept. 22, 1922 (42 Stat. 1035); act of May 28, 1926 (44 Stat. 674).
 AFF----- Act of June 10, 1922 (42 Stat. 631); act of Sept. 14, 1922 (42 Stat. 840); act of Mar. 4, 1923 (42 Stat. 1507, 1508); act of May 31, 1924 (43 Stat. 250, 251); act of June 3, 1924 (43 Stat. 364-366); act of June 6, 1924 (43 Stat. 472); act of Apr. 26, 1928 (45 Stat. 461).

Sec. 101

- AFF----- Act of June 6, 1924 (43 Stat. 472).

Sec. 103

- AMD----- Act of June 4, 1920 (41 Stat. 783); act of June 3, 1924 (43 Stat. 364).
 AFF----- Act of June 10, 1922 (42 Stat. 631); act of Sept. 14, 1922 (42 Stat. 840); act of Mar. 4, 1923 (42 Stat. 1508); act of Apr. 15, 1926 (44 Stat. 282).

Sec. 110

- AMD----- Act of June 4, 1920 (41 Stat. 784); act of Sept. 22, 1922 (42 Stat. 1035); act of June 6, 1924 (43 Stat. 471); act of Apr. 6, 1928 (45 Stat. 407); act of May 12, 1928 (45 Stat. 500).
 AFF----- Act of July 11, 1919 (41 Stat. 127); act of June 10, 1922 (42 Stat. 631); act of Sept. 14, 1922 (42 Stat. 840); act of Mar. 4, 1923 (42 Stat. 1508); act of June 3, 1924 (43 Stat. 366); act of Apr. 15, 1926 (44 Stat. 282); act of May 28, 1926 (44 Stat. 675).

Sec. 111

- AMD----- Act of June 4, 1920 (41 Stat. 784).

Sec. 113

- AFF----- Act of June 7, 1924 (43 Stat. 510); act of Feb. 14, 1927 (44 Stat. 1095); act of May 28, 1928 (45 Stat. 786).

Sec. 114

- OUT----- Act of June 4, 1920 (41 Stat. 785).

Sec. 117

- AFF----- Act of July 1, 1918 (40 Stat. 708).

Sec. 119

- AFF----- See Table B.

Sec. 125

- AMD----- Act of July 9, 1918 (40 Stat. 891); act of June 4, 1920 (41 Stat. 836); act of July 3, 1926 (44 Stat. 891).
 EXP----- Act of Aug. 29, 1916 (39 Stat. 649); act of Feb. 14, 1927 (44 Stat. 1096).
 AFF----- Act of Feb. 28, 1919 (40 Stat. 1202); act of Sept. 29, 1919 (41 Stat. 288); act of June 30, 1921 (42 Stat. 82); act of Feb. 24, 1923 (42 Stat. 1286). See also Table B.

Sec. 126

- AMD----- Act of Feb. 28, 1919 (40 Stat. 1203); act of Sept. 22, 1922 (42 Stat. 1021).
 EXP----- Act of Sept. 29, 1919 (41 Stat. 288).
 AFF----- Act of June 7, 1924 (43 Stat. 481); act of Feb. 12, 1925 (43 Stat. 896). See also Table B.

Sec. 127a

- ADD----- Act of June 4, 1920 (41 Stat. 785).
 AMD----- Act of Feb. 28, 1925 (43 Stat. 1078); act of June 8, 1926 (44 Stat. 705).
 AFF----- Act of June 10, 1922 (42 Stat. 632); act of June 30, 1922 (42 Stat. 721); act of Sept. 14, 1922 (42 Stat. 840); act of June 6, 1924 (43 Stat. 472); act of May 23, 1928 (45 Stat. 720); act of May 29, 1928 (45 Stat. 996).

TABLE B.—Table showing sections of the National Defense Act affected by certain recurrent provisions in War Department appropriation acts

NOTE.—These provisions are not permanent in form, but in some instances have been repeated so regularly as in effect to be the equivalent of permanent legislation. However, the current War Department appropriation act should always be consulted for possible changes or omissions. See note under text of each of the sections of the National Defense Act given below for more detailed information concerning them. See also Table E, page 91, post.

Section	Short subject	Heading in War Department appropriation act
3a	Detail for more than 15 days, O. R. C.	Organized Reserves.
5b	Detail for more than 15 days, O. R. C.	Organized Reserves.
9	Reserve supplies for two field armies.	Citizens' Military Training Camps.
10	Pay of additional medical officers and nurses.	Organized Reserves.
	Detail for more than 15 days, O. R. C.	Organized Reserves.
37a	Mileage allowance, O. R. C.	Organized Reserves.
	Use of funds, O. R. C., limited.	Organized Reserves.
40	Certain units, R. O. T. C., prohibited.	Reserve Officers' Training Corps.
	Equipment, subsistence, travel, medical treatment, R. O. T. C.	Reserve Officers' Training Corps.
47	Use of funds, R. O. T. C., limited.	Reserve Officers' Training Corps.
47d	Uniform, travel, maximum age, C. M. T. C.	Citizens' Military Training Camps.
	Use of funds, C. M. T. C., limited.	Citizens' Military Training Camps.
60	Certain units, National Guard, limited.	Arms, uniforms, etc., National Guard.
67	Issues to National Guard.	Arms, uniforms, etc., National Guard.
119	Interchangeability of appropriations, National Guard.	Arming, etc., National Guard.
125	Donation to discharged prisoners.	Apprehension of deserters, etc.
126	Issue of clothing to discharged prisoners, etc.	Q. M. C.: Clothing and equipage.
	Transportation of discharged prisoners and insane.	Q. M. C.: Army transportation.

TABLE C.—Table of statutes affecting the Army, expressly amending or otherwise affecting the National Defense Act, between June 3, 1916, and March 4, 1929, inclusive

Statute	Reference ¹	Sections expressly amended	Sections affected, but not expressly amended nor necessarily mentioned
Act of June 3, 1916.	39 Stat. 166.	(Original enactment)	
Act of Aug. 29, 1916.	39 Stat. 619.	10.	24, 25, 125.
Resolution of Sept. 8, 1916.	39 Stat. 853.		50 (now 47c).
Act of May 12, 1917.	40 Stat. 40.	5, 15, 24.	25, 37, 54, 60, 63.
Act of Oct. 6, 1917.	40 Stat. 393.		37.
Act of Apr. 17, 1918.	40 Stat. 531.		45, 46, 56.
Act of May 25, 1918.	40 Stat. 561.	15.	
Act of July 1, 1918.	40 Stat. 708.		117.
Act of July 9, 1918.	40 Stat. 845.	10, 11, 22-24, 28, 31, 42, 51, 55, 67, 125.	9, 10, 47d, 60, 111.
Act of Feb. 28, 1919.	40 Stat. 1202.	126.	125.
Act of July 11, 1919.	41 Stat. 127.	69.	62, 110.
Act of Sept. 29, 1919.	41 Stat. 288.		125, 126.
Act of Jan. 24, 1920.	41 Stat. 396.	12.	
Act of June 4, 1920.	41 Stat. 759.	1-3, 3a, 4, 4a, 4b, 4c, 5, 5a, 5b, 6-9, 9a, 10-12, 12a, 13, 13a, 14-22, 22a, 23, 24, 24a, 24b, 24c, 24d, 24e, 25-34, 36, 37, 37a, 38-40, 40a, 40b, 41-43, 45-47, 47a, 47b, 47c, 47d, 48-54, 55, 55a, 55b, 55c, 56, 60, 69-72, 74, 78, 79, 81, 89, 90, 109-111, 114, 127a.	
Act of June 4, 1920.	41 Stat. 836.	125.	
Act of June 5, 1920.	41 Stat. 966, 975.	48 (now 47a).	5a.
Act of Mar. 4, 1921.	41 Stat. 1438.		3a.
Act of June 30, 1921.	42 Stat. 74, 82.	27.	125.
Act of Mar. 1, 1922.	42 Stat. 401.	90.	
Act of June 10, 1922.	42 Stat. 629 et seq.		4a, 4b, 22a, 27, 28, 37a, 94, 99, 109, 110, 127a.
Act of June 30, 1922.	42 Stat. 721-723, 724.		4, 4a, 4c, 6-12, 12a, 13, 13a, 15, 17-20, 24a, 127a.
Act of Sept. 14, 1922.	42 Stat. 840.		4, 24a, 37a, 94, 99, 109, 110, 127a.
Act of Sept. 22, 1922.	42 Stat. 1018.		4b.
Act of Sept. 22, 1922.	42 Stat. 1021.	126.	
Act of Sept. 22, 1922.	42 Stat. 1032.	5, 37, 67, 81, 99, 110.	

¹ If the exact page reference is not given in this column, the same may be obtained by reference to the specific section in Table A.

THE NATIONAL DEFENSE ACT

TABLE C.—Table of statutes affecting the Army, etc.—Continued

Statute	Reference	Sections expressly amended	Sections affected, but not expressly amended nor necessarily mentioned
Act of Feb. 24, 1923	42 Stat. 1286		125.
Act of Mar. 2, 1923	42 Stat. 1383		24c.
Act of Mar. 4, 1923	42 Stat. 1507		37a, 47a, 47d, 55b, 75, 92, 94, 97, 99, 109, 110.
Act of May 19, 1924	43 Stat. 131		4c.
Act of May 31, 1924	43 Stat. 250		4b, 37a, 92, 94, 97, 99.
Act of June 3, 1924	43 Stat. 361		4c.
Act of June 3, 1924	43 Stat. 363	87, 92, 109	47a, 47d, 67, 92, 94, 97, 99, 110.
Act of June 6, 1924	43 Stat. 470	4b, 4c, 38, 60, 90, 110	4a, 4b, 92, 94, 97, 99, 101, 127a.
Act of June 7, 1924	43 Stat. 481, 510		27, 113, 126.
Act of Feb. 12, 1925	43 Stat. 896		27, 126.
Act of Feb. 24, 1925	43 Stat. 970		9a, 12a.
Act of Feb. 28, 1925	43 Stat. 1075		40b, 55c.
Act of Mar. 3, 1925	43 Stat. 1099	58, 78, 81, 87, 127a	4a.
Act of Mar. 3, 1925	43 Stat. 1100		4a.
Act of Mar. 3, 1925	43 Stat. 1101		27.
Act of Mar. 16, 1926	44 Stat. 208		109, 110.
Act of Apr. 15, 1926	44 Stat. 282		4a.
Act of Apr. 27, 1926	44 Stat. 328		22a.
Act of May 10, 1926	44 Stat. 496		10.
Act of May 13, 1926	44 Stat. 531		4c.
Act of May 19, 1926	44 Stat. 564	24	94, 97, 110.
Act of May 19, 1926	44 Stat. 565		67.
Act of May 28, 1926	44 Stat. 673	90, 97, 99	55.
Act of June 3, 1926	44 Stat. 688		127a.
Act of June 8, 1926	44 Stat. 704		2, 4c, 5, 5a, 13a
Act of June 8, 1926	44 Stat. 705		4.
Act of July 2, 1926	44 Stat. 780		10.
Act of July 2, 1926	44 Stat. 796		9a.
Act of July 3, 1926	44 Stat. 888		125.
Act of July 3, 1926	44 Stat. 891		27.
Act of Jan. 5, 1927	44 Stat. 932		113.
Act of Feb. 14, 1927	44 Stat. 1093		125.
Act of Feb. 14, 1927	44 Stat. 1096		40.
Act of Feb. 28, 1927	44 Stat. 1261		4b.
Act of Mar. 3, 1927	44 Stat. 1350		4a.
Act of Mar. 4, 1927	44 Stat. 1416		47d.
Act of Mar. 9, 1928	45 Stat. 251		67.
Act of Apr. 6, 1928	45 Stat. 406		110.
Act of Apr. 6, 1928	45 Stat. 407		90.
Act of Apr. 21, 1928	45 Stat. 437		125.
Act of Apr. 21, 1928	45 Stat. 440		94, 97, 99.
Act of Apr. 26, 1928	45 Stat. 461		110.
Act of May 12, 1928	45 Stat. 500		47c.
Act of May 12, 1928	45 Stat. 501		5.
Act of May 21, 1928	45 Stat. 618		40.
Act of May 22, 1928	45 Stat. 704		67, 92.
Act of May 23, 1928	45 Stat. 718		4a.
Act of May 23, 1928	45 Stat. 720		127a.
Act of May 28, 1928	45 Stat. 786		113.
Act of May 29, 1928	45 Stat. 996		127a.
Act of Feb. 4, 1929	45 Stat. 2048		4a.
Act of Feb. 23, 1929	45 Stat. 1255		5.
Act of Mar. 2, 1929	45 Stat. 1505		27.

THE NATIONAL DEFENSE ACT

AS AMENDED TO MARCH 4, 1929, INCLUSIVE

U. S. Code.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Army of the United States shall consist of the Regular Army, the National Guard while in the service of the United States, and the Organized Reserves, including the Officers' Reserve Corps and the Enlisted Reserve Corps.

10:2.

Sec. 2. COMPOSITION OF THE REGULAR ARMY.—The Regular Army of the United States shall consist of the Infantry, the Cavalry, the Field Artillery, the Coast Artillery Corps, the Air Corps, the Corps of Engineers, the Signal Corps, which shall be designated as the combatant arms or the line of the Army; the General Staff Corps; the Adjutant General's Department; the Inspector General's Department; the Judge Advocate General's Department; the Quartermaster Corps; the Finance Department; the Medical Department; the Ordnance Department; the Chemical Warfare Service; the officers of the Bureau of Insular Affairs; the officers and enlisted men under the jurisdiction of the Militia Bureau; the chaplains; the professors and cadets of the United States Military Academy; [the present military storekeeper;] detached officers; detached enlisted men; unassigned recruits; the Indian Scouts; the officers and enlisted men of the retired list; and such other officers and enlisted men as are now or may hereafter be provided for. Except in time of war or similar emergency when the public safety demands it, the number of enlisted men of the Regular Army shall not exceed two hundred and eighty thousand, including the Philippine Scouts. As amended by section 1, act of July 2, 1926 (44 Stat. 780).

10:4.

Not in Code.

NOTES.—The enlisted strength of the Army, from year to year, since the enactment of this section, has been governed by the provision of the current Army or War Department appropriation act. By the act of June 30, 1921 (42 Stat. 74), applications for discharge of enlisted men might be received until the number in the Army had been reduced to 150,000, not including Philippine Scouts. From the act of June 30, 1922, to that of April 15, 1926, inclusive, the total number of enlisted men, not including the Philippine Scouts, was annually fixed at 125,000. See acts of June 30, 1922 (42 Stat. 724); March 2, 1923 (42 Stat. 1384); June 7, 1924 (43 Stat. 481); February 12, 1925 (43 Stat. 896); and April 15, 1926 (44 Stat. 257). But since the act of February 23, 1927 (44 Stat. 1106), by which a large increase in the personnel of the Air Corps was effected, no limitation has been made.

For change of title of Air Service to Air Corps, and increase of number of second lieutenants and enlisted men in the same, see section 13a, post, and act of July 2, 1926, set forth in part thereunder.

The grade of military storekeeper was revived by the act of Aug. 29, 1916 (39 Stat. 626), for the purpose of permitting the appointment of a designated person, and again ceased to exist with the death of the incumbent, on Nov. 13, 1926.

Sec. 3. ORGANIZATION OF THE ARMY.—The Organized peace establishment, including the Regular Army, the National Guard, and the Organized Reserves, shall include all of those divisions and other military organizations necessary to form the basis for a complete and immediate mobilization for the national defense in the event of a national emergency declared by Congress. The Army shall at all times be organized so far as practicable into brigades, divisions and army corps, and whenever the President may deem it expedient, into armies.

10:5.

For purposes of administration, training and tactical control, the continental area of the United States shall be divided on a basis of military population into corps areas. Each corps area shall contain at least one division of the National Guard or Organized Reserves, and such other troops as the President may direct. The President is authorized to group any or all corps areas into army areas or departments.

10:342.

32:191

Sec. 3a. THE INITIAL ORGANIZATION OF THE NATIONAL GUARD AND THE ORGANIZED RESERVES.—In the reorganization of the National Guard and in the initial organization of the Organized Reserves, the names, numbers, and other designations, flags, and records of the divisions and subordinate units thereof that served in the World War between April 6, 1917, and November 11, 1918, shall be preserved as such as far as practicable. Subject to revision and approval by the Secretary of War, the plans and regulations under which the initial organization and territorial distribution of the National Guard and the Organized Reserves shall be made, shall be prepared by a committee of the branch or division of the War Department General Staff, hereinafter provided for, which is charged with the preparation of plans for the national defense and for the mobilization of the land forces of the United States. For the purpose of this task said committee shall be composed of members of said branch or division of the General Staff and an equal number of reserve officers, including reserve officers who hold or have held commissions in the National Guard. Subject to general regulations approved by the Secretary of War, the location and designation of units of the National Guard and of the Organized Reserves entirely comprised within the limits of any State or Territory shall be determined by a board, a majority of whom shall be reserve officers, including reserve officers who hold or have held commissions in the National Guard and recommended for this duty by the governor of the State or Territory concerned.

10:37.

10:341.

32:7.

NOTE.—The annual War Department appropriation acts have contained a provision in recent years excepting reserve officers on duty under section 3a from the prohibition found in such acts against receiving pay for a period longer than 15 days.

COGNATE ACT

That the Secretary of War be, and he hereby is, authorized to dispose of all colors, standards, and guidons of demobilized organizations of the United States Army in the following manner: Any which were used during their service by such organizations and which were brought into the service of the United States from the National Guard of any State may be returned to that State upon

request therefor from the governor thereof; and all others may be sent, upon the request of the governor thereof, to whatever State the Secretary of War may determine to have furnished the majority of men to any such organization at the time of its formation: *Provided, however, That where it is impossible to determine what State furnished a majority of the men of an organization at the time of its formation, or where any organization was so cosmopolitan in its original make-up, that it is impossible to identify it with any particular State, the colors of such organization will be turned in to the Quartermaster General for such national use as the Secretary of War may direct: Provided further, That the title to all such colors, standards, and guidons shall remain in the United States: And provided further, That the Secretary of War shall require assurance that proper provision has been or will be made for their care and preservation before returning or sending the same as herein authorized.* Sec. 2, act of Mar. 4, 1921 (41 Stat. 1438).

5:202.

Sec. 4. OFFICERS.—Officers commissioned to and holding in the Army the office of a general officer shall hereafter be known as general officers of the line. Officers commissioned to and holding in the Army an office other than that of general officer, but to which the rank of a general officer is attached, shall be known as general officers of the staff. There shall be one general, as now authorized by law, until a vacancy occurs in that office, after which it shall cease to exist. On and after July 1, 1920, there shall be twenty-one major generals and forty-six brigadier generals of the line; [five hundred and ninety-nine colonels; six hundred and seventy-four lieutenant colonels; two thousand two hundred and forty-five majors; four thousand four hundred and ninety captains; four thousand two hundred and sixty-six first lieutenants; two thousand six hundred and ninety-four second lieutenants; and also the number of officers of the Medical Department and chaplains, hereinafter provided for,] professors as now authorized by law, [and the present military storekeeper, who shall hereafter have the rank, pay, and allowances of major; and the numbers herein prescribed shall not be exceeded:] *Provided, That major generals of the line shall be appointed from officers of the grade of brigadier general of the line, and brigadier generals of the line shall be appointed from officers of the grade of colonel of the line whose names are borne on an eligible list prepared annually by a board of not less than five general officers of the line, not below the grade of major general: [Provided further, That the first board convened after the passage of this Act may place upon such eligible list any officer of the line of not less than twenty-two years' commissioned service.]*

10:483.

Not in Code.

10:482.

Not in Code.

10:482.

10:551.

Not in Code.

Officers of all grades in the Infantry, Cavalry, Field Artillery, Coast Artillery Corps, Corps of Engineers, and Medical Department; officers above the grade of captain in the Signal Corps, Judge Advocate General's Department, Quartermaster Corps, Ordnance Department, and Chemical Warfare Service, all chaplains and professors, [and the military storekeeper] shall be permanently commissioned in their respective branches. All officers of the General Staff Corps, Inspector General's Department, Bureau of Insular Affairs, and Militia Bureau shall be

10:487.

obtained by detail from officers of corresponding grades in other branches. Other officers may be either detailed or, with their own consent, be permanently commissioned, in the branches to which they are assigned for duty.

NOTE.—For number of officers below the grade of general officer authorized under existing laws, see cognate acts set forth below.

COGNATE ACTS

Not in Code.

10:482.

10:91.

10:121.

10:152.

10:233.

10:482.

10:554.

*That after January 1, 1923, the sum herein appropriated for the pay of officers shall not be used for the pay of more than twelve thousand commissioned officers on the active list of the Regular Army and the emergency officers in service undergoing physical reconstruction: Provided further, That on and after January 1, 1923, there shall be officers as now authorized by law, except that there shall be four hundred and twenty colonels, five hundred and seventy-seven lieutenant colonels, one thousand five hundred and seventy-five majors, three thousand one hundred and fifty captains, two thousand nine hundred and sixty-seven first lieutenants, and one thousand seven hundred and seventy-one second lieutenants, and these numbers shall not be exceeded except as hereinafter provided; nine hundred and eighty-three officers of the Medical Corps, one hundred and fifty-eight officers of the Dental Corps, one hundred and twenty-six officers of the Veterinary Corps, seventy-two officers of the Medical Administrative Corps, and one hundred and twenty-five chaplains; and the numbers herein provided shall include the officers of Philippine Scouts who shall continue to be carried on the promotion list and who shall be promoted to grades from first lieutenant to colonel, inclusive, in the same manner as prescribed by law for other officers on the promotion list: * * * and beginning January 1, 1923, there shall be no promotions or appointments to any grade or to the branches of the Medical Department or Chaplains that would cause the numbers herein authorized for such grade or branch to be exceeded, except that the colonels, exclusive of those in the Medical Department and professors, remaining on the active list on January 1, 1923, and not included in the four hundred and twenty junior colonels on that date shall be carried as additional numbers so long as they remain in that grade and shall not prevent promotions due to vacancies occurring among the four hundred and twenty authorized colonels: * * * Army appropriation act of June 30, 1922 (42 Stat. 721).*

10:482 (and
Sup. II).

10:481 (and
Sup. II).

That the President is authorized, upon the recommendation of said board, to increase the authorized strength of various grades as prescribed in said Act [Army appropriation act of June 30, 1922] by not more than fifty colonels, one hundred and fifty majors, and three hundred captains, and to decrease by a total of not to exceed five hundred, apportioned among the grades as the President may determine, the authorized strength of the two lowest grades as prescribed by said Act: Provided further, That on and after January 1, 1923, there shall be not to exceed a total of twelve thousand officers in the Army and on and after that date the authorized number in each grade shall be as prescribed in said Act or as modified and prescribed by the President in accordance with the provisions of the preceding proviso,

*and on that date there shall not be any promotion list officers in any grade in addition to these prescribed numbers: * * **
Section 1, act of September 14, 1922 (42 Stat. 849).

NOTES.—For pay of commissioned officers on the active list, see sections 1 and 8, Pay Readjustment Act, pages 95 and 101, respectively, post.

For pay of retired officers, including those retired or discharged under the act of June 30, 1922, see section 17, Pay Readjustment Act, page 109, post, and cognate acts thereunder.

For increase in number of promotion-list officers by 403 (in the Air Corps), see section 8, act of July 2, 1926, set forth as cognate act under section 13a, post.

Sec. 4a. **WARRANT OFFICERS.**—In addition to those authorized for the Army Mine Planter Service, there shall be not more than one thousand one hundred and twenty warrant officers, including band leaders, who shall hereafter be warrant officers. Appointments shall be made by the Secretary of War from among noncommissioned officers who have had at least ten years' enlisted service; enlisted men who served as officers of the Army at some time between April 6, 1917, and November 11, 1918, and whose total service in the Army, enlisted and commissioned, amounts to five years; persons serving or who have served as Army field clerks or field clerks, Quartermaster Corps; and, in the case of those who are to be assigned to duty as band leaders, from among persons who served as Army band leaders at some time between April 6, 1917, and November 11, 1918, or enlisted men possessing suitable qualifications. Hereafter no appointments as Army field clerks or field clerks, Quartermaster Corps, shall be made. Warrant officers, other than those of the Army Mine Planter Service, shall receive [base pay of \$1,320 a year and] the allowances of a second lieutenant; shall be entitled [to longevity pay and] to retirement under the same conditions as commissioned officers; and shall take rank next below second lieutenants and among themselves according to the dates of their respective warrants.

NOTE.—For the present rates of pay and allowances, other than in kind, of warrant officers, which supersede the above rates, see sections 9, 11, and 17, Pay Readjustment Act, pages 101, 102, and 109, respectively, post. As to allowances in kind, the above provision, assimilating such allowances to those of a second lieutenant, remains the basic law, both as to such allowances and as to mileage.

COGNATE ACTS

That no vacancies in the grade of warrant officer, exclusive of warrant officers in the Mine Planter Service, shall be filled until the number in such grade is reduced to six hundred, and thereafter the number shall not be increased above six hundred: Provided further, That nothing contained herein shall prevent the appointment of qualified band leaders for authorized bands: Provided further, That within sixty days after the approval of this Act the number of warrant officers in the Army Mine Planter Service shall be reduced to forty, and thereafter the number shall not be increased above forty. Act of June 30, 1922 (42 Stat. 723).

NOTE.—For act of March 3, 1925, authorizing the reappointment and immediate discharge or retirement of warrant officers discharged under the above provision, see cognate acts under section 17, Pay Readjustment Act, p. 109, post.

As to the limitation of 600, above prescribed, see the respective concluding provisos of the four cognate acts following, three of which modify this number.

That the Secretary of War is hereby authorized to appoint a warrant officer of the Regular Army leader of the Army band, who, while holding such appointment, shall receive, in lieu of any and all pay and allowances as warrant officer, the base pay and the allowances of a captain of the Regular Army in the third pay period and shall be entitled to longevity pay provided for an officer for each three years of service under such appointment plus any previous active commissioned service under a Federal appointment which the appointee may have had, but shall not be entitled to pass to a higher pay period. The leader of the Army band may be relieved from his appointment as such and returned to his former status at the discretion of the Secretary of War. Upon retirement he shall be retired as a warrant officer and shall receive the retired pay to which he would have been entitled had he not been appointed and received the pay and allowances of leader of the Army band: Provided, That no back pay or allowances shall be allowed to the leader of the Army band by reason of the passage of this Act: And provided further, That nothing contained in this Act shall operate to increase the authorized number of commissioned officers or warrant officers of the Regular Army nor to decrease the number of warrant officers authorized by law. Act of March 3, 1925 (43 Stat. 1100).

10: 11.

That hereafter Army field clerks and field clerks, Quartermaster Corps, now in active service, shall have the rank, pay, allowances, retirement privileges, and benefits of warrant officers, other than those of the Army Mine Planter Service, and the Secretary of War is hereby authorized and directed to appoint them warrant officers of the Regular Army: Provided, That in determining length of service for longevity pay and retirement they shall be credited with and entitled to count the same military service as now authorized for warrant officers, including service as Army field clerks and field clerks, Quartermaster Corps, and all classified field service rendered as headquarters clerks and clerks of the Quartermaster Corps: Provided further, That the limitation in the act of June 30, 1922, on the number of warrant officers, United States Army, shall not apply to the appointees hereunder. Act of April 27, 1926 (44 Stat. 328).

10: 595 (Sup.
II).

That the Secretary of War is authorized to appoint as warrant officers of the Regular Army any persons whose commissioned service in the Army during the World War, added to their prior service as quartermaster clerk, amounted to twelve years or more of continuous service prior to June 4, 1920, and who were deemed not eligible for appointment as field clerks, Quartermaster Corps, because of the interruption of their twelve years' requisite service as quartermaster clerks to render commissioned service in the World War, and who also had sufficient military service under the provisions of section 4a of the Act of June 4, 1920, for appointment as warrant officers, but were not eligible for such appointment by reason of having returned to a civilian status at the end of their said commissioned service: Provided, That in determining length of service for longevity pay and retirement they shall be credited with and entitled to count the same military service as authorized for warrant officers and all classified service rendered as clerks

Not in Code.

of the Quartermaster Department and Quartermaster Corps: *Provided further, That the limitation in the act of June 30, 1922, on the number of warrant officers, United States Army, shall not apply to appointees hereunder. Act of March 4, 1927 (44 Stat. 1416).*

That the Secretary of War be, and he hereby is, authorized and directed to appoint as warrant officers of the Regular Army any persons whose commissioned service in the Army during the World War, added to their service as quartermaster clerk, amounted to twelve years or more of service prior to June 4, 1920, and who were not eligible for appointment as field clerks, Quartermaster Corps, under the provisions of the Act of August 29, 1916, because of the interruption of their twelve years' requisite service as quartermaster clerks to render commissioned service in the World War: Provided, That for the purposes of this Act, the period of commissioned service during the World War prior to June 4, 1920, be deemed equivalent to a like period of detached service away from permanent station or duty beyond the continental limits of the United States: Provided further, That in determining length of service for longevity pay and retirement they shall be credited with and entitled to count the same military service as authorized for warrant officers, and all classified service rendered as clerks in the military establishment: Provided further, That the limitation in the Act of June 30, 1922, on the number of warrant officers, United States Army, shall not apply to the appointees hereunder. Act of May 23, 1928 (45 Stat. 718).

Not in Code.

NOTE.—The act of August 29, 1916 (39 Stat. 625), mentioned in the act last above set forth, provided for the appointment of 200 clerks, Quartermaster Corps, of at least 12 years' service, at least three years of which were on detached duty away from permanent stations, or on duty beyond the continental limits of the United States, or both, to be known as field clerks, Quartermaster Corps, to receive the same allowances, except retirement, theretofore allowed by law to pay clerks, Quartermaster Corps, and to be subject to the rules and articles of war.

Sec. 4b. ENLISTED MEN.—On and after July 1, 1920, the grades of enlisted men shall be such as the President may from time to time direct, * * * the transportation privileges authorized by section 12 of the said Act [Act of May 18, 1920.—41 Stat. 604] shall apply only to enlisted men of the first three grades. Existing laws providing for continuous service pay are repealed to take effect July 1, 1920, * * *. Under such regulations as the Secretary of War may prescribe, enlisted men of the sixth and seventh grades may be rated as specialists, and receive extra pay therefor per month, as follows: * * *. Of the total authorized number of enlisted men in the sixth and seventh grades, those rated as specialists of the first class shall not exceed 0.7 per centum; of the second class, 1.4 per centum; of the third class, 1.9 per centum; of the fourth class, 4.7 per centum; of the fifth class, 5 per centum; of the sixth class, 15.2 per centum. All laws and parts of laws providing for extra duty pay for enlisted men are repealed, to take effect July 1, 1920: *Provided, That nothing in this section shall operate to reduce the pay which any enlisted man is now receiving, during his current enlistment and while he holds his present grade, nor to change the present rate of pay of any enlisted men now on the retired list.*

10:604.

Not in Code.

10:605.

Not in Code.

10: 604.

That hereafter the respective grade percentages * * * of the total authorized number of enlisted men shall not exceed 0.79 per centum for the first grade, 2.1 per centum for the second grade, 3.4 per centum for the third grade, 9.2 per centum for the fourth grade, 9.5 per centum for the fifth grade, and 25 per centum for the sixth grade; and aforementioned section 4 (b) is hereby amended accordingly. As amended by section 1, act of June 6, 1924 (43 Stat. 470).

NOTE.—Except for the parts set forth above, section 4b, as enacted on June 4, 1920, has been entirely superseded by later enactments, or else contained temporary matter no longer in force. The act of May 18, 1920, referred to in the text, was an act providing for temporary increases of pay and allowances of which the only provisions still in force, so far as the Army is concerned, are a proviso of section 11, set forth as a cognate act under section 1, Pay Readjustment Act, page 95, post, and section 12, above mentioned, authorizing transportation to certain dependents, upon permanent change of station, set forth as a cognate act under section 12, Pay Readjustment Act, page 103, post.

COGNATE ACTS

Not in Code.

That all payments heretofore made in good faith to enlisted men while in active service by reason of anything contained in that portion of the proviso of section 4b * * * reading: "That nothing in this section shall operate to reduce the pay which any enlisted man is now receiving during his current enlistment and while he holds his present grade," be, and the same hereby are, validated for all purposes, irrespective of whether such payments conform to decisions of the Comptroller of the Treasury or the General Accounting Office; and such payments shall be passed by the proper accounting officers of the United States to the credit of the disbursing officers making the same. Any sums of money which may have been deducted from the pay of any enlisted man on account of any such payment validated by this Act shall be refunded. Act of September 22, 1922 (42 Stat. 1018).

Not in Code.

That the following noncommissioned officers on the retired list of the Regular Army are placed in the first grade: Post ordnance sergeants, post commissary sergeants, and post quartermaster sergeants on the retired list; electrician sergeants, first class, Coast Artillery Corps, retired; quartermaster sergeants, Quartermaster Corps, retired prior to June 3, 1916, hospital stewards retired prior to March 2, 1903, and sergeants, first class, Hospital Corps, retired prior to June 3, 1916. Act of March 3, 1927 (44 Stat. 1356).

NOTE.—For existing law as to pay of the various grades of enlisted men, increase of pay for each four years of service, enlistment allowances, and pay for specialists' ratings, see section 9, Pay Readjustment Act, page 101, post.

Sec. 4c. ASSIGNMENTS.—Officers and enlisted men shall be assigned to the several branches of the Army as hereafter directed, a suitable proportion of each grade in each branch, but the President may increase or diminish the number of officers or enlisted men assigned to any branch by not more than a total of [15] per centum: *Provided*, That the total number authorized in any grade by this Act is not exceeded; *Provided further*, That the number of enlisted men herein authorized for any branch shall include such number of Philippine Scouts as may be organized in that branch: *Provided further*, That no officers shall be transferred from one branch of

10: 8.

10: 482a (Sup.
II).

the service to another under the provisions of this section without his own consent. Except as otherwise herein prescribed, chiefs and assistants to the chiefs of the several branches shall hereafter be appointed by the President, by and with the advice and consent of the Senate, for a period of four years, and such appointments shall not create vacancies. Appointment as chief of any branch shall be made from among officers commissioned in grades not below that of colonel, and as assistant from among officers of not less than fifteen years' commissioned service, who have demonstrated by actual and extended service in such branch or on similar duty that they are qualified for such appointment: *Provided*, That the chiefs of the several branches shall make recommendations to the Secretary of War for the appointment of their assistants: *Provided further*, That in making the first appointment to any such office created by this Act, the chief of a branch may be selected from among officers of not less than twenty-two years' commissioned service.

10: 6.

And provided further, That during the period of seven years immediately following July 1, 1926, any appointment as Chief of the Air Corps shall be made from among officers of any grade of not less than fifteen years' commissioned service, and from those who have demonstrated by actual and extended service in such corps that they are qualified for such appointment; and as assistants from among officers of not less than fifteen years' commissioned service of similar qualifications: *Provided*, That the Chief of the Air Corps shall make recommendations to the Secretary of War for the appointment of his assistants. Added by section 7, act of July 2, 1926 (44 Stat. 783).

10: 6 (Sup. II).

Any officer who shall have served four years as chief of a branch, and who may subsequently be retired, shall be retired with the rank, pay and allowances authorized by law for the grade held by him as such chief. In time of peace no officer of the line shall be or remain detailed as a member of the General Staff Corps unless he has served for two of the next preceding six years in actual command of troops of one or more of the combatant arms; and in time of peace every officer serving in a grade below that of brigadier general shall perform duty with troops of one or more of the combatant arms for at least one year in every period of five consecutive years, except that officers of less than one year's commissioned service in the Regular Army may be detailed as students at service schools: *Provided*, That an officer commissioned in a staff corps shall not be or remain detailed as a member of the General Staff Corps unless he has served for one of the next preceding five years with troops of one or more of the combatant arms. In the administration of this provision, all duty performed between April 6, 1917, and July 1, 1920, inclusive, or as a student at service schools, other than those of the noncombatant branches, at any time shall be regarded as satisfying the requirements of service with combatant arms. Existing laws in so far as they restrict the detail or assignment of officers are hereby repealed. The Secretary of War shall annu-

10: 1026.

10: 27. ✓

10: 532.

10: 28.

10: 29.

10: 533.
Not in Code.

ally report to Congress the numbers, grades, and assignments of the officers and enlisted men of the Army, and the number, kinds, and strength of organizations pertaining to each branch of the service.

10:18.

When in his judgment efficiency demands such action the President is authorized to except officers of the Medical Corps, Ordnance Department, and Chemical Warfare Service from the provisions of this section requiring duty with troops of one or more of the combatant arms. The President is further authorized to except from the provisions of this section requiring duty with troops of one or more of the combatant arms such officers of the Judge Advocate General's Department as are now engaged in patent litigation in which the Government is involved. Added by section 2, act of June 6, 1924 (43 Stat. 470).

10:534.

NOTES.—The officer detailed as chairman of the Advisory Board, Inland Waterways Corporation, is, during his term of office as such, "exempt from the operation of any provision of law or any rules or regulations issued thereunder which limits the length of such detail or compels him to perform duty with troops," by a provision of sec. 4(c), act of June 3, 1924 (43 Stat. 361), as amended by the act of Feb. 28, 1927 (44 Stat. 1261).

For the administration of the provisions of the World War adjusted compensation act of May 19, 1924, the President, by a provision of section 701 thereof (43 Stat. 131), is authorized to except from the operations of section 4c, set forth above, or of any act amendatory thereof or supplemental thereto, not more than seven officers of the Army.

COGNATE ACTS

* * * Provided further, That officers shall be assigned to the several branches of the Army so that the number assigned to any branch, except of the Medical Department and Chaplains, shall be 70 per centum of the number prescribed for such branch under the Act of June 4, 1920, but the President may increase or diminish the number of officers assigned to any branch by not more than a total of 30 per centum. War Department appropriation act of June 30, 1922 (42 Stat. 723).

10:482a (Sup. 11).

That the President of the United States be, and hereby is, authorized, upon application from the foreign governments concerned, and whenever in his discretion the public interests render such a course advisable, to detail officers and enlisted men of the United States Army, Navy, and Marine Corps to assist the governments of the Republics of North America, Central America, and South America and of the republics of Cuba, Haiti, and Santo Domingo, in military and naval matters: Provided, That the officers and enlisted men so detailed be, and they are hereby, authorized to accept from the government to which detailed offices and such compensation and emoluments thereunto appertaining as may be first approved by the Secretary of War or by the Secretary of the Navy, as the case may be: Provided further, That while so detailed such officers and enlisted men shall receive, in addition to the compensation and emoluments allowed them by such governments, the pay and allowances whereto entitled in the United States Army, Navy, and Marine Corps and shall be allowed the same credit for longevity, retirement, and for all other purposes that they would receive if they were serving with the forces of the United States. Act of May 19, 1926 (44 Stat. 565).

10:540.

Sec. 5. GENERAL STAFF CORPS.—The General Staff Corps shall consist of the Chief of Staff, the War Department General Staff, and the General Staff with troops. The War Department General Staff shall consist of the Chief of Staff and four assistants to the Chief of Staff selected by the President from the general officers of the line, and eighty-eight other officers of grades not below that of captain. The General Staff with troops shall consist of such number of officers not below the grade of captain as may be necessary to perform the General Staff duties of the headquarters of territorial departments, armies, army corps, divisions, and brigades, and as military attachés abroad. In time of peace the detail of an officer as a member of the General Staff Corps shall be for a period of four years, unless sooner relieved, and such details shall be limited to officers whose names are borne on the list of General Staff Corps eligibles. The initial eligible list shall be prepared by a board consisting of the general of the army, the commandant of the General Staff College, the commandant of the General Service Schools, and two other general officers of the line, selected by the Secretary of War, who are not then members of the General Staff Corps. This board shall select and report the names of all officers of the Regular Army, National Guard, and Officers' Reserve Corps of the following classes who are recommended by them as qualified by education, military experience, and character for General Staff duty; 10:22.
10:23.
10:24.
10:25.
10:26.

(a) Those officers graduated from the Army Staff College or the Army War College prior to July 1, 1917, who, upon graduation, were specifically recommended for duty as commander or chief of staff of a division or higher tactical unit, or for detail in the General Staff Corps;

(b) Those officers who since April 6, 1917, have commanded a division or higher tactical unit, or have demonstrated by actual service in the World War that they are qualified for General Staff duty.

After the completion of the initial General Staff Corps eligible list, the name of no officer shall be added thereto unless upon graduation from the General Staff School he is specifically recommended as qualified for General Staff duty, and hereafter no officer of the General Staff Corps, except the Chief of Staff, shall be assigned as a member of the War Department General Staff unless he is a graduate of the General Staff College or his name is borne on the initial eligible list: Provided, That nothing herein shall operate to debar the name of any graduate of the Army War College, the Command and General Staff School, or the former General Staff College, General Staff School, Army Staff College, the Staff College, the School of the Line, the Army School of the Line, or the Infantry-Cavalry School from being added to the General Staff Corps eligible list if the manner of the performance of his duties and quality of his work is such as to indicate that he has since become well qualified for General Staff duty, and he is so recommended by a board of general officers: And provided further, That the name of any National Guard or reserve officer who has demonstrated by actual service with the War Department General

Staff during a period of not less than six months, as hereinafter provided for, that he is qualified for General Staff duty, may, upon the recommendation of a board consisting of the general officers of the War Department General Staff, assistants to the Chief of Staff, be added to said eligible list at any time. The Secretary of War shall publish annually the list of officers eligible for General Staff duty, and such eligibility shall be noted in the annual Army Register. If at any time the number of officers available and eligible for detail to the General Staff is not sufficient to fill all vacancies therein, majors or captains may be detailed as acting General Staff officers under such regulations as the President may prescribe: *Provided*, That in order to insure intelligent cooperation between the General Staff and the several noncombatant branches, officers of such branches may be detailed as additional members of the General Staff Corps under such special regulations as to eligibility and redetail as may be prescribed by the President, but not more than two officers from each such branch shall be detailed as members of the War Department General Staff. As amended by section 1, act of September 22, 1922 (42 Stat. 1032), as amended by act of May 21, 1928 (45 Stat. 618).

10:30.

10:31.

10:34.

The duties of the War Department General Staff shall be to prepare plans for national defense and the use of the military forces for that purpose, both separately and in conjunction with the naval forces, and for the mobilization of the manhood of the Nation and its material resources in an emergency, to investigate and report upon all questions affecting the efficiency of the Army of the United States, and its state of preparation for military operations; and to render professional aid and assistance to the Secretary of War and the Chief of Staff.

10:33.

Not in Code.

All policies and regulations affecting the organization, distribution, and training of the National Guard and the Organized Reserves, and all policies and regulations affecting the appointment, assignment, promotion, and discharge of reserve officers, shall be prepared by committees of appropriate branches or divisions of the War Department General Staff, to which shall be added an equal number of reserve officers, including reserve officers who hold or have held commissions in the National Guard, and whose names are borne on lists of officers suitable for such duty, submitted by the governors of the several States and Territories. For the purposes specified herein, they shall be regarded as additional members of the General Staff while so serving: [*Provided*, That prior to January 1, 1921, National Guard officers who do not hold reserve commissions, if recommended by the governors of the several States and Territories, may be designated by the President as members of the committees herein provided for, and while so serving such officers shall receive the pay and allowances of their corresponding grades in the Regular Army.]

10:35.

The duties of the General Staff with troops shall be to render professional aid and assistance to the general officers over them; to act as their agents in harmonizing the plans, duties, and operations of the various organizations and services under their jurisdiction, in preparing detailed instructions for the

execution of the plans of the commanding generals, and in supervising the execution of such instructions.

The Chief of Staff shall preside over the War Department General Staff and, under the direction of the President, or of the Secretary of War under the direction of the President, shall cause to be made, by the War Department General Staff, the necessary plans for recruiting, organizing, supplying, equipping, mobilizing, training, and demobilizing the Army of the United States and for the use of the military forces for national defense. He shall transmit to the Secretary of War the plans and recommendations prepared for that purpose by the War Department General Staff and advise him in regard thereto; upon the approval of such plans or recommendations by the Secretary of War, he shall act as the agent of the Secretary of War in carrying the same into effect. Whenever any plan or recommendation involving legislation by Congress affecting national defense or the reorganization of the Army is presented by the Secretary of War to Congress, or to one of the committees of Congress, the same shall be accompanied, when not incompatible with the public interest, by a study prepared in the appropriate division of the War Department General Staff, including the comments and recommendations of said division for or against such plan, and such pertinent comments for or against the plan as may be made by the Secretary of War, the Chief of Staff, or individual officers of the division of the War Department General Staff in which the plan was prepared.

Hereafter, members of the General Staff Corps shall be confined strictly to the discharge of duties of the general nature of those specified for them in this section and in the Act of Congress approved February 14, 1903, and they shall not be permitted to assume or engage in work of an administrative nature that pertains to established bureaus or offices of the War Department, or that, being assumed or engaged in by members of the General Staff Corps, would involve impairment of the responsibility or initiative of such bureaus or offices or would cause injurious or unnecessary duplication of or delay in the work thereof.

That for the period of three years immediately following July 1, 1926, there is hereby created in each of the divisions of the War Department General Staff an air section to be headed by an officer of the Air Corps, the duties of which shall be to consider and recommend proper action on such air matters as may be referred to such division. Added by section 5, act of July 2, 1926 (44 Stat. 782).

NOTE.—But see modifying provision set forth as cognate act under section 4c, ante, by which the number of officers is reduced to 70 per cent of the above number.

The annual War Department appropriation acts have contained a provision in recent years excepting reserve officers on duty under this section from the prohibition found in such acts against receiving pay for a longer period than 15 days.

COGNATE ACT

That hereafter the Chief of Staff of the Army, while holding office as such, shall have the rank and title of general, and shall receive

10:33.

10:36.

10:32.

10:23a (Sup.

10:22a (Sup. III).

the pay and allowances of a major general, and in addition thereto, the personal money allowance prescribed by law for the officer of the Navy serving as Chief of Naval Operations. The Chief of Staff of the Army and the Chief of Naval Operations shall take rank between themselves according to dates of appointment as such and shall both take rank above all other officers on the active list of the Army and Navy: Provided, That nothing in this Act shall have the effect of changing the relative rank of the present Chief of Staff and the present Chief of Naval Operations. Act of Feb. 23, 1929 (45 Stat. 1255).

10:1198.

Sec. 5a. Hereafter, in addition to such other duties as may be assigned him by the Secretary of War, the Assistant Secretary of War, under the direction of the Secretary of War, shall be charged with supervision of the procurement of all military supplies and other business of the War Department pertaining thereto and the assurance of adequate provision for the mobilization of matériel and industrial organizations essential to war-time needs. The Assistant Secretary of War shall receive a salary of \$10,000 per annum. There shall be detailed to the office of the Assistant Secretary of War from the branches engaged in procurement such number of officers and civilian employees as may be authorized by regulations approved by the Secretary of War. The offices of Second Assistant Secretary of War and Third Assistant Secretary of War are hereby abolished.

5:182.

10:1194.

10:1193.

Under the direction of the Secretary of War chiefs of branches of the Army charged with the procurement of supplies for the Army shall report direct to the Assistant Secretary of War regarding all matters of procurement. He shall cause to be manufactured or produced at the Government arsenals or Government-owned factories of the United States all such supplies or articles needed by the War Department as said arsenals or Government-owned factories are capable of manufacturing or producing upon an economical basis. And all appropriations for manufacture of matériel pertaining to approved projects which are placed with arsenals of Government-owned factories or other ordnance establishments shall remain available for such purpose until the close of the next ensuing fiscal year.

10:1195.

5:182a (Sup.
II).

To aid the Secretary of War in fostering military aeronautics, and to perform such functions as the Secretary may direct, there shall be an additional Assistant Secretary of War who shall be appointed by the President, by and with the advice and consent of the Senate, and whose compensation shall be fixed in accordance with the Classification Act of 1923. Added by section 9, act of July 2, 1926 (44 Stat. 784).

NOTE.—As to appropriations for manufacture, compare similar provision in act of June 5, 1920 (41 Stat. 975).

5:184.

Sec. 5b. **THE WAR COUNCIL.**—The Secretary of War, the Assistant Secretary of War, the General of the Army, and the Chief of Staff shall constitute the War Council of the War Department, which council shall from time to time meet and consider policies affecting both the military and munitions problems of the War Department. Such questions shall be presented to the Secretary of War in the War Council, and his

decision with reference to such questions of policy, after consideration of the recommendations thereon by the several members of the War Council, shall constitute the policy of the War Department with reference thereto.

Sec. 6. ADJUTANT GENERAL'S DEPARTMENT.—The Adjutant General's Department shall consist of The Adjutant General with the rank of major general, one assistant with the rank of brigadier general, who shall be Chief of the Personnel Bureau, and one hundred and fifteen officers in grades from colonel to captain, inclusive. The Personnel Bureau shall be charged, under such regulations as may be prescribed by the Secretary of War, with the operating functions of procurement, assignment, promotion, transfer, retirement, and discharge of all officers and enlisted men of the Army: *Provided*, That territorial commanders and the chiefs of the several branches of the Army shall be charged with such of the above-described duties within their respective jurisdictions as may be prescribed by the Secretary of War.

10: 41.

NOTE.—But see modifying provision set forth as cognate act under section 4c, ante, by which the number of officers is reduced to 70 per cent of above number.

Sec. 7. INSPECTOR GENERAL'S DEPARTMENT.—The Inspector General's Department shall consist of one Inspector General with the rank of major general and sixty-one officers in grades from colonel to captain, inclusive.

10: 51.
10: 482a (Sup.
II).

NOTE.—But see modifying provision set forth as cognate act under section 4c, ante, by which the number of officers is reduced to 70 per cent of above number.

Sec. 8. JUDGE ADVOCATE GENERAL'S DEPARTMENT.—The Judge Advocate General's Department shall consist of one Judge Advocate General with the rank of major general and one hundred and fourteen officers in grades from colonel to captain, inclusive: [*Provided*, That immediately upon the passage of this Act the number of colonels of the Judge Advocate General's Department shall be increased by five, and the vacancies thus created shall be filled by promotion in the manner heretofore provided by law.]

10: 61.
10: 482a (Sup.
II).

Not in Code.

NOTE.—But see modifying provision set forth as cognate act under section 4c, ante, by which the number of officers is reduced to 70 per cent of above number.

Sec. 9. QUARTERMASTER CORPS.—The Quartermaster Corps shall consist of one Quartermaster General with the rank of major general, three assistants with the rank of brigadier general, one thousand and fifty officers in grades from colonel to second lieutenant, inclusive, and twenty thousand enlisted men. The Quartermaster General, under the authority of the Secretary of War, shall be charged with the purchase and procurement for the Army of all supplies of standard manufacture and of all supplies common to two or more branches but not with the purchase or the procurement of special or technical articles to be used or issued exclusively by other supply departments; with the direction of all work pertaining to the construction, maintenance, and repair of buildings, structures, and utilities other than fortifications connected with the Army; with the storage and issue of sup-

10: 71.
10: 482a (Sup.
II).

10:72.

plies; with the operation of utilities; with the acquisition of all real estate and the issue of licenses in connection with Government reservations; with the transportation of the Army by land and water, including the transportation of troops and supplies by mechanical or animal means; with the furnishing of means of transportation of all classes and kinds required by the Army; and with such other duties not otherwise assigned by law as the Secretary of War may prescribe: *Provided*, That special and technical articles used or issued exclusively by other branches of the service may be purchased or procured with the approval of the Assistant Secretary of War by the branches using or issuing such articles, and the chief of each branch may be charged with the storage and issue of property pertaining thereto: *Provided further*, That utilities pertaining exclusively to any branch of the Army may be operated by such branches.

NOTES.—But see modifying provision set forth as cognate act under section 4c, ante, by which the number of officers is reduced to 70 per cent of above number.

War Department appropriation acts, until that of February 28, 1929, provided that no funds appropriated therein should be used to pay the operating expenses of any utility selling services or supplies at which the cost of the services or supplies sold did not include all customary overhead costs and expenses thereto, but that provision was omitted in the act of February 28, 1929.

Such acts also provide that no authorizations therein shall be construed to impair reserve supplies or equipment held by the War Department for two field armies or one million men.

Sec. 9a. FINANCE DEPARTMENT.—There is hereby created a Finance Department. The Finance Department shall consist of one Chief of Finance with the rank of [brigadier general], one hundred and forty-one officers in grades from colonel to second lieutenant, inclusive, and nine hundred enlisted men.

10:171.
10:482a (Sup.
II).

10:172

The Chief of Finance, under the authority of the Secretary, shall be charged with the disbursement of all funds of the War Department, including the pay of the Army and the mileage for officers and the accounting therefor; and with such other fiscal and accounting duties as may be required by law, or assigned to him by the Secretary of War: *Provided*, That under such regulations as may be prescribed by the Secretary of War, officers of the Finance Department, accountable for public moneys, may intrust moneys to other officers for the purpose of having them make disbursements, as their agents, and the officer to whom the moneys are intrusted, as well as the officer who intrusts the moneys to him, shall be held pecuniarily responsible therefor to the United States.

10:173.

NOTE.—But see modifying provision set forth as cognate act under section 4c, ante, by which the number of officers is reduced to 70 per cent of above number.

COGNATE ACTS

10:171.

That the Chief of Finance * * * of the Army shall hereafter have the rank, pay, and allowances of a major general. Act of February 24, 1925 (43 Stat. 970).

31:103a (Sup.
II).

When, in the opinion of the Secretary of War or the Secretary of the Navy, the exigencies of the service so require, disbursing officers of the Army, Navy, and Marine Corps may, with the approval of the head of their executive department and the consent of their surety or sureties, if any, designate deputies for the pur-

pose of having them make disbursements as their agents, sign checks drawn against their disbursing accounts with the Treasurer of the United States, and discharge all other duties required according to law or regulation to be performed by such disbursing officers, and the agent officer shall be subject, for his official misconduct, to all liabilities and penalties prescribed by law in like cases for the officer for whom he acts as deputy: Provided, That every deputy so designated for a disbursing officer who is bonded shall, if not already under bond, give bond as required by the head of the department concerned. Act of July 3, 1926 (44 Stat. 888).

NOTE.—For agent officers of property and disbursing officers of the National Guard, see act of June 3, 1924, set forth as cognate act under section 67, post.

Sec. 10. MEDICAL DEPARTMENT.—The Medical Department shall consist of one Surgeon General with the rank of major general, two assistants with the rank of brigadier general, the Medical Corps, the Dental Corps, the Veterinary Corps, the Medical Administrative Corps, a number of enlisted men which until June 30, 1921, shall not exceed 5 per centum of the authorized enlisted strength and thereafter 5 per centum of the actual strength, commissioned and enlisted, of the Regular Army, the Army Nurse Corps as now constituted by law, and such contract surgeons as are now authorized by law. [The number of officers of the Medical Corps shall be six and one-half for every thousand, and of the Medical Administrative Corps, one for every two thousand, of the total enlisted strength of the Regular Army, authorized from time to time, and within the peace strength permitted by this Act. The number of officers of the Dental Corps shall be one for every thousand of the total strength of the Regular Army, authorized from time to time, and within the peace strength permitted by this Act. The number of officers of the Veterinary Corps shall be 175.]

Hereafter an officer of the Medical or Dental Corps shall be promoted to the grade of captain after three years' service, to the grade of major after twelve years' service, to the grade of lieutenant colonel after twenty years' service, and to the grade of colonel after twenty-six years' service. An officer of the Veterinary Corps shall be promoted to the grade of first lieutenant after three years' service, to the grade of captain after seven years' service, to the grade of major after fourteen years' service, to the grade of lieutenant colonel after twenty years' service, and to the grade of colonel after twenty-six years' service. An officer of the Medical Administrative Corps shall be promoted to the grade of first lieutenant after five years' service, and to the grade of captain after ten years' service. For purposes of promotion there shall be credited to officers of the Medical Department all active commissioned service in the Regular Army whenever rendered; and also all such service rendered since April 6, 1917, in the Army or in the National Guard when in active service under a call by the President, except service under a reserve commission while in attendance at a school or camp for the training of candidates

10:81.

Not in Code.

10:97.

10:126.

10:143.

10:153.

10:98.

10:127. for commission. To officers of the Dental Corps shall be credited their service as contract dental surgeons and acting dental surgeons, and to officers of the Veterinary Corps, their governmental veterinary service rendered prior to June 3, 1916. The length of service of any officer who shall have lost files by reason of sentence of court-martial or failure in examination for promotion shall be regarded as diminished to the equivalent of the service of the officer of his corps immediately preceding him in relative rank.

Not in Code.

10:99, 128,
145, 154.

[Of the vacancies in the Medical Department existing on July 1, 1920, such number as the President may direct shall be filled by the appointment on that date, in any grade authorized by this section, of persons under the age of fifty-eight years, other than officers of the Regular Army, who served as officers of the Army at some time between April 6, 1917, and the date of the passage of this Act, the selection to be made by the board of general officers provided for in section 24, and subject to the restrictions as to age therein prescribed. Appointees in the Medical Administrative Corps must also have had at least five years' enlisted service in the Medical Department, and the number appointed in the grades of captain and first lieutenant under the provisions of this paragraph shall not exceed one-half of the whole number authorized for said corps.] For purposes of future promotion, any person so appointed in the Medical or Dental Corps shall be considered as having had, on the date of appointment, service equal to that of the junior officer of his grade and corps now in the Regular Army; and in the Veterinary or Medical Administrative Corps, sufficient service to bring him to his grade under the rules established in this section.

10:164.

Hereafter, the members of the Army Nurse Corps shall have relative rank as follows: The superintendent shall have the relative rank of major; the assistant superintendents, director and assistant directors, the relative rank of captain; chief nurses, the relative rank of first lieutenant; head nurses and nurses, the relative rank of second lieutenant; and as regards medical and sanitary matters and all other work within the line of their professional duties shall have authority in and about military hospitals next after the officers of the Medical Department. The Secretary of War shall make the necessary regulations prescribing the rights and privileges conferred by such relative rank.

COGNATE ACTS

10:107.

* * * *Provided further, That in emergencies the Surgeon-General of the Army, with the approval of the Secretary of War, may appoint as many contract surgeons as may be necessary, at a compensation not to exceed one hundred and fifty dollars per month. Sec. 2, act of May 12, 1898 (30 Stat. 400); sec. 18, act of Feb. 2, 1901 (31 Stat. 752).*

10:482.

* * * *Provided further, That on and after January 1, 1923, there shall be officers as now authorized by law except that there shall be * * * nine hundred and eighty-three officers of the*

Medical Corps, one hundred and fifty-eight officers of the Dental Corps, one hundred and twenty-six officers of the Veterinary Corps, seventy-two officers of the Medical Administrative Corps * * * War Department appropriation act of June 30, 1922 (42 Stat. 721).

Army Nurse Corps: [Sec. 1.] That the Nurse Corps (female) of the Medical Department of the Army shall hereafter be known as the Army Nurse Corps, and shall consist of one superintendent, who shall be a graduate of a hospital-training school having a course of instruction of not less than two years; of as many chief nurses, nurses, and reserve nurses as may from time to time be needed and prescribed or ordered by the Secretary of War, and, in the discretion of the Secretary of War, of not exceeding six assistant superintendents, and, for each Army or separate military force beyond the continental limits of the United States, one director and not exceeding two assistant directors of nursing service, all of whom shall be graduates of hospital-training schools and shall have passed such professional, moral, mental, and physical examination as shall be prescribed by the Secretary of War. 10:161.

Sec. 2. That rules and regulations prescribing the duties of the members of the Army Nurse Corps shall be prescribed by the Surgeon General of the United States Army, subject to the approval of the Secretary of War. 10:163.

Sec. 3. That the superintendent shall be appointed by, and, at his discretion, be removed by, the Secretary of War; that all other members of said corps shall be appointed by, and, at his discretion, be removed by, the Surgeon General by and with the approval of the Secretary of War; but the assistant superintendents, the directors, the assistant directors, and the chief nurses shall by (sic) appointed by promotion from other members of the corps, and shall, upon being relieved from duty as such, unless removed for incompetency or misconduct, revert to the grades in the corps from which they were promoted. Chapter V, act of July 9, 1918 (40 Stat. 879). 10:162.

* * * Provided, That any and all laws applicable to women who belonged to the Nurse Corps of the Army after February 2, 1901, shall apply equally to members of the Army Nurse Corps who served under contract between April 21, 1898, and February 2, 1901, including all women who served honorably as nurses, chief nurses, or superintendent of said corps in said period: * * * Sec. 202 (10), act of June 7, 1924, as amended by sec. 9, act of July 2, 1926 (44 Stat. 796). 38:484.

[Sec. 1.] That when a member of the Army Nurse Corps or the Navy Nurse Corps shall have served thirty years, or shall have reached the age of fifty years, having served twenty years, she may, in the discretion of the Secretary of War or the Secretary of the Navy, respectively, be retired from active service and placed on a list, hereby created in each of the aforementioned services and designated the "Nurse Corps Retired List," in the grade to which she belonged at the time of her retirement. 10:1029.

Sec. 4. That retired nurses shall be authorized to bear the title and may, under such regulations as may be prescribed by the Secretary of War or the Secretary of the Navy, wear the uniform of the grade held at the time of retirement, and, in time of war 10:1032.

or national emergency, may be employed on active duty, in the discretion of the Secretary of War or the Secretary of the Navy, and when so employed shall receive the full active pay and allowances of their respective grades. Act of May 13, 1926 (44 Stat. 531).

NOTES.—For provision removing restriction preventing captains of the Medical Administrative Corps receiving pay higher than that of the third period, see notes to section 1, Pay Readjustment Act, page —, post. For sections 2 and 3 of the act of May 13, 1926, which relate to pay of retired nurses, see the same set forth as cognate act under section 13, Pay Readjustment Act, page 105, post.

For pay and allowances of contract surgeons, see section 1, Pay Readjustment Act, page 95, post.

For pay and allowances of nurses, see section 13, Pay Readjustment Act, page 105, post, and acts thereunder.

Recent War Department appropriation acts have excepted from the prohibition found in such acts against paying a reserve officer on active duty for a longer period than 15 days such additional officers and nurses of the Medical Reserve Corps as are required to supplement the like officers and nurses of the Regular Army in the care of beneficiaries of the United States Veterans' Bureau treated in Army hospitals.

10:181, 482a.

Sec. 11. CORPS OF ENGINEERS.—The Corps of Engineers shall consist of one Chief of Engineers with the rank of major general, one assistant with the rank of brigadier general, six hundred officers in grades from colonel to second lieutenant, inclusive, and twelve thousand enlisted men, such part of whom as the President may direct being formed into tactical units organized as he may prescribe.

NOTE.—But see modifying provision set forth as cognate act under section 4c, ante, by which the number of officers is reduced to 70 per cent of above number.

10:191, 482a.

Sec. 12. ORDNANCE DEPARTMENT.—The Ordnance Department shall consist of one Chief of Ordnance with the rank of major general, two assistants with the rank of brigadier general, three hundred and fifty officers in grades from colonel to second lieutenant, inclusive, and four thousand five hundred enlisted men.

NOTE.—But see modifying provision set forth as cognate act under section 4c, ante, by which the number of officers is reduced to 70 per cent of above number.

10:221, 482a.

10:222.

Sec. 12a. CHEMICAL WARFARE SERVICE.—There is hereby created a Chemical Warfare Service. The Chemical Warfare Service shall consist of one Chief of the Chemical Warfare Service with the rank of [brigadier general], one hundred officers in grades from colonel to second lieutenant, inclusive, and one thousand two hundred enlisted men. The Chief of the Chemical Warfare Service under the authority of the Secretary of War shall be charged with the investigation, development, manufacture, or procurement and supply to the Army of all smoke and incendiary materials, all toxic gases, and all gas-defense appliances; the research, design, and experimentation connected with chemical warfare and its material; and chemical projectile filling plants and proving grounds; the supervision of the training of the Army in chemical warfare, both offensive and defensive, including the necessary schools of instruction; the organization, equipment, training, and operation of special gas troops, and such other duties as the President may from time to time prescribe.

NOTE.—But see modifying provision set forth as cognate act under section 4c, ante, by which the number of officers is reduced to 70 per cent of above number.

COGNATE ACT

That * * * the Chief of the Chemical Warfare Service of the Army shall hereafter have the rank, pay, and allowances of a major general. Act of February 24, 1925 (43 Stat. 970). 10:221.

Sec. 13. SIGNAL CORPS.—The Signal Corps shall consist of one Chief Signal Officer with the rank of major general, three hundred officers in grades from colonel to second lieutenant, inclusive, and five thousand enlisted men, such part of whom as the President may direct being formed into tactical units organized as he may prescribe. 10:211, 482a (Sup. II).

NOTE.—But see modifying provision set forth as cognate act under section 4c, ante, by which the number of officers is reduced to 70 per cent of above number.

Sec. 13a. Air Corps.—There is hereby created an Air Corps. The Air Corps shall consist of one Chief of the Air Corps, with the rank of major general; three assistants, with the rank of brigadier general; one thousand five hundred and fourteen officers in grades from colonel to second lieutenant, inclusive; and sixteen thousand enlisted men, including not to exceed two thousand five hundred flying cadets, such part of whom as the President may direct being formed into tactical units or bands, organized as he may prescribe: Provided, That the Chief of the Air Corps, at least two brigadier generals, and at least 90 per centum of the officers in each grade below that of brigadier general shall be flying officers: Provided further, That in time of war 10 per centum of the total number of officers that may be authorized for the Air Corps for such war may be immediately commissioned as nonflying officers: Provided further, That as soon as a sufficient number can be trained, at least 90 per centum of the total number of officers authorized for the Air Corps for such war shall be flying officers: Provided further, That hereafter in time of peace in order to insure that the commissioned officers of the Air Corps shall be properly qualified flying officers and, for the purpose of giving officers of the Army an opportunity to so qualify, the Secretary of War is hereby authorized to detail to the Air Corps officers of all grades, and such officers shall start flying training immediately upon being so detailed, but hereafter such officers shall not remain detailed to the Air Corps for a period in excess of one year or be permanently commissioned therein unless they qualify as flying officers: Provided further, That any officer who is specifically recommended by the Secretary of War because of special qualifications other than as a flyer may be detailed to the Air Corps for a period longer than one year, or may be permanently commissioned in the Air Corps, but such officers, together with those flying officers who shall have become disqualified for flying, shall not be included among the 90 per centum of flying officers: And provided further, That nothing in this Act shall be construed to limit the number of officers in each grade that may be detailed to the Air Corps for training as flying officers except that the total number of officers allotted to the Air Corps shall not be exceeded. Flying units shall in all cases be commanded by flying officers. 10:291. 10:291a (Sup. II). 10:291b (Sup. II). 10:249. 10:291c (Sup. II). Wherever used in this Act a flying officer in time of peace is defined as one who has received an aeronautical rating as a pilot

- 10:291d (Sup. II). *of service types of aircraft: Provided, That all officers of the Air Corps now holding any rating as a pilot shall be considered as flying officers within the meaning of this Act: And provided further, That hereafter in order to receive a rating as a pilot in time*
- 10:291e (Sup. II). *of peace an officer or an enlisted man must fly in heavier-than-air craft at least two hundred hours while acting as a pilot, seventy-five of which must be alone, and must successfully complete the course prescribed by competent authority: And provided further, That in time of war a flying officer may include any officer who has received an aeronautical rating as a pilot of service types of air craft and also in time of war may include any officer who has received an aeronautical rating as observer. Officers and enlisted men of the Army shall receive an increase of 50 per centum of their pay when by orders of competent authority they are required to participate regularly and frequently in aerial flights, and when in consequence of such orders they do participate in regular and frequent aerial flights as defined by such Executive orders as have heretofore been, or may hereafter be, promulgated by the President: Provided, That nothing in this Act shall be construed as amending existing provisions of law relating to flying cadets. On and after July 1, 1929, and in time of peace, not less than 20 per centum of the total number of pilots employed in tactical units of the Air Corps shall be enlisted men, except when the Secretary of War shall determine that it is impractical to secure that number of enlisted pilots.*
- 10:300. *Enlisted men of the fourth, fifth, sixth, and seventh grades in the Air Corps who have demonstrated their fitness and shown that they possess the necessary technical qualifications therefor and are engaged upon the duties pertaining thereto may be rated as air mechanics, first class, or air mechanics, second class, under such regulations as the Secretary of War may prescribe. Each enlisted man*
- 10:291f (Sup. II). *while holding the rating of air mechanic, first class, and performing the duties as such shall receive the pay of the second grade, and each enlisted man while holding the rating of air mechanic, second class, and performing the duties as such shall receive the pay of the third grade: Provided, That such number as the Secretary of War may determine as necessary, not to exceed 14 per centum of the total authorized enlisted strength of the Air Corps, shall be rated as air mechanics, first class, or air mechanics, second class. As amended by section 2, act of July 2, 1926 (44 Stat. 780).*

NOTE.—For qualifications of Chief of the Air Corps and assistants, see section 4c, ante.

For pay of enlisted men rated as air mechanics under the provisions of this section, see section 9, Pay Readjustment Act, page 101, post.

The Army Air Corps, by statute, controls "all aerial operations from land bases." See act of June 5, 1920 (41 Stat. 954).

COGNATE ACT

Not in Code.

That the Act entitled "An Act for making further and more effectual provision for the national defense, and for other purposes," approved June 3, 1916, as amended, be, and the same is hereby, amended so that the Air Service referred to in that Act and in all subsequent Acts of Congress shall be known as the Air Corps. Section 1, act of July 2, 1926 (44 Stat. 780).

- 10:292a (Sup. II). *Temporary rank for Air Corps officers.—The Secretary of War is hereby authorized to assign, under such regulations as he may*

prescribe, officers of the Air Corps to flying commands including wings, groups, squadrons, flights, schools, important air stations, and to the staffs of commanders of troops, which assignment shall carry with it temporary rank, including pay and allowances appropriate to such rank, as determined by the Secretary of War, for the period of such assignment: *Provided, That such temporary rank is limited to two grades above the permanent rank of the officer appointed: Provided further, That no officer shall be temporarily advanced in rank as contemplated in this section unless the Chief of the Air Corps certifies that no officers of suitable permanent rank are available for the duty requiring the increased rank: And provided further, That no officer holding temporary rank under the provisions of this section shall be eligible to command outside of his own corps except by seniority under his permanent commission.* Section 3, act of July 2, 1926 (44 Stat. 780).

Personnel.—The number of promotion-list officers now authorized by law in the grade of second lieutenant of the Regular Army is hereby increased by four hundred and three, and the number of enlisted men now authorized by law for the Regular Army is hereby authorized to be increased by six thousand two hundred and forty: *Provided, That the increase in the number of officers and enlisted men herein authorized shall be allotted as hereinafter provided. The present allotment of officers to the Air Corps is hereby authorized to be increased by four hundred and three officers distributed in grades from colonel to second lieutenant, inclusive, and the present allotment of enlisted men to the Air Corps is hereby authorized to be increased by six thousand two hundred and forty enlisted men. The President is authorized to call to active service, with their consent, such number of Air Corps reserve officers as he may deem necessary, not to exceed five hundred and fifty, 90 per centum of whom shall serve for periods of not more than one year, and 10 per centum for periods of not more than two years: Provided, That nothing contained in this section shall affect the number of reserve officers that may be called to active duty for periods of less than six months under existing law.* * * *

Method of Increase.—The total increase in personnel and equipment authorized herein shall be distributed over a five-year period beginning July 1 1926. Not to exceed one-fifth of the total increase shall be made during the first year, and the remainder in four approximately equal increments. The President is hereby authorized to submit to Congress annually estimates of the cost of carrying out the five-year program authorized herein: * * *

Section 8, act of July 2, 1926 (44 Stat. 783).

NOTE.—Other portions of the act of July 2, 1926, dealing with the equipment of the Air Corps and methods of encouraging Army and Navy aeronautical efficiency are not set forth herein.

For flying duty pay and allowances, see section 20, Pay Readjustment Act, page 112, post.

Sec. 14. BUREAU OF INSULAR AFFAIRS.—The officers of the Bureau of Insular Affairs shall be one Chief of the Bureau with the rank of brigadier general and two officers below the grade of brigadier general: [*Provided, That during the tenure of office of the present Chief of the Bureau of Insular Affairs he shall have the rank of major general.*]

NOTE.—The Chief of the Bureau to whom the proviso of this section was applicable was retired on January 5, 1929.

10:292b (Sup. II).

10:292b (Sup. II).

48:2.

Not in Code.

Sec. 15. CHAPLAINS.—[There shall be one chaplain for every twelve hundred officers and enlisted men of the Regular Army, exclusive of the Philippine Scouts and the unassigned recruits, authorized from time to time in accordance with law and within the peace strength permitted by this Act.] Chaplains shall hereafter have rank, pay, and allowances according to length of active commissioned service in the Army, or, since April 6, 1917, in the National Guard while in active service under a call by the President, as follows: Less than five years, first lieutenant; five to fourteen years, captain; fourteen to twenty years, major; over twenty years, lieutenant colonel. One chaplain, of rank not below that of major, may be appointed by the President, by and with the advice and consent of the Senate, to be chief of chaplains. He shall serve as such for four years, and shall have the rank, pay, and allowances of colonel while so serving. His duties shall include investigation into the qualifications of candidates for appointment as chaplain, and general coordination and supervision of the work of chaplains. [Of the vacancies existing on July 1, 1920, such number as the President may direct shall be filled by appointment on that date of persons under the age of fifty-eight years, other than chaplains of the Regular Army, who served as chaplains in the Army at some time between April 6, 1917, and the date of the passage of this Act. Such appointments may be made in grades above the lowest under the same restrictions as to age and rank as are hereinafter prescribed for original appointments in other branches of the service, and in accordance with the recommendation of the board of officers provided for in section 24.] For purposes of future promotion, persons so appointed shall be considered as having had, on the date of appointment, sufficient prior service to bring them to their respective grades under the rules of promotion established in this section.

10:236.

10:234.

Not in Code.

10:237.

COGNATE ACT

10:233, 482.

* * * *Provided further, That on and after January 1, 1923, there shall be officers as now authorized by law, except that there shall be * * * one hundred and twenty-five chaplains. War Department appropriation act of June 30, 1922 (42 Stat. 721).*

SEC. 16. VETERINARIANS.—[Stricken out by sec. 16, act of June 4, 1920 (41 Stat. 769). See sec. 10, ante.]

10:281, 482a
(Sup. II).

Sec. 17. INFANTRY.—The Infantry shall consist of one Chief of Infantry with the rank of major general, four thousand two hundred officers in grades from colonel to second lieutenant, inclusive, and one hundred and ten thousand enlisted men, organized into such Infantry units as the President may direct. Hereafter all tank units shall form a part of the Infantry.

10:251, 482a
(Sup. II).

NOTE.—But see modifying provision set forth as cognate act under section 4c, ante, by which the number of officers is reduced to 70 per cent of above number.

10:251, 482a
(Sup. II).

Sec. 18. CAVALRY.—The Cavalry shall consist of one Chief of Cavalry with the rank of major general, nine hundred and fifty officers in grades from colonel to second lieutenant, inclu-

sive, and twenty thousand enlisted men, organized into Cavalry units as the President may direct.

NOTE.—But see modifying provision set forth as cognate act under section 4c, ante, by which the number of officers is reduced to 70 per cent of above number.

Sec. 19. FIELD ARTILLERY.—The Field Artillery shall consist of one Chief of Field Artillery with the rank of major general, one thousand nine hundred officers in grades from colonel to second lieutenant, inclusive, and thirty-seven thousand enlisted men, organized into Field Artillery units as the President may direct.

10:262, 482a
(Sup. II).

NOTE.—But see modifying provision set forth as cognate act under section 4c, ante, by which the number of officers is reduced to 70 per cent of above number.

Sec. 20. COAST ARTILLERY CORPS.—The Coast Artillery Corps shall consist of one Chief of Coast Artillery with the rank of major general, one thousand two hundred officers in grades from colonel to second lieutenant, inclusive, the warrant officers of the Army Mine Planter Service as now authorized by law, and thirty thousand enlisted men, organized into such Coast Artillery units as the President may direct.

10:272, 482a
(Sup. II).

NOTE.—But see modifying provision set forth as cognate act under section 4c, ante, by which the number of officers is reduced to 70 per cent of above number.

The number of warrant officers authorized for the Army Mine Planter Service is 40. See act of June 30, 1922, set forth as cognate act under section 4a, ante.

This branch is "charged with the use of the fixed and movable elements of land and coast fortifications, including the submarine mine and torpedo defenses," by act of Jan. 25, 1907 (34 Stat. 861).

Sec. 21. PORTO RICO REGIMENT OF INFANTRY.—The Porto Rico Regiment of Infantry and the officers and enlisted men of such regiment shall become a part of the Infantry branch herein provided for [and its officers shall, on July 1, 1920, be recommissioned in the Infantry with their present grades and dates of rank, unless promoted on that date in accordance with the provisions of section 24 hereof].

10:283.

Not in Code.

SEC. 22. All existing laws pertaining to or affecting the United States Military Academy and civilian or military personnel on duty thereat in any capacity whatever, the officers and enlisted men on the retired list, the detached and additional officers under the Act of Congress approved March third, nineteen hundred and eleven, recruiting parties, recruit depots and unassigned recruits, service school detachments, United States disciplinary barracks guards, disciplinary organizations, the Philippine Scouts, and Indian scouts shall continue and remain in force except as herein specifically provided otherwise: [Provided, That one of the enlisted men at each main recruiting station who has been detached for duty at such station under the provisions of the Act of Congress approved February second, nineteen hundred and one, may, in the discretion of the Secretary of War, have the rank, pay, and allowances of a first sergeant of Infantry.] As amended by sec. 2, Chap. XVII, act of July 9, 1918 (40 Stat. 889).

Not in Code.

NOTE.—The proviso added by the act of July 9, 1918, is considered no longer in effect by reason of the fact that since the addition of this proviso the percentage of enlisted men in each of the seven grades has been prescribed by section 4b, ante, and no exception having been made of first sergeants at recruiting stations, they are included in that percentage and not additional thereto.

10:321.

Not in Code.

10:324.

10:323.

10:326.

10:327.

Not in Code.

Sec. 22a. PHILIPPINE SCOUTS.—The President is authorized to form the Philippine Scouts into such branches and tactical units as he may deem expedient, within the limit of strength prescribed by law, organized similarly to those of the Regular Army, the officers to be detailed from those authorized in section 4 hereof. On July 1, 1920, all officers of the Philippine Scouts on the active list, who are citizens of the United States and are found qualified under such regulations as the President may prescribe, shall be recommissioned in some one of the branches provided for by this Act, and those not so recommissioned shall continue to serve under their commissions as officers of the Philippine Scouts. No further appointments shall be made as officers of Philippine Scouts except of citizens of the Philippine Islands, who may be appointed in the grade of second lieutenant, under such regulations as the President may prescribe. Officers commissioned in the Philippine Scouts shall be subject to promotion, classification, and elimination, as hereinafter prescribed for officers of the Regular Army. Those now on the retired list shall hereafter receive the same pay as a retired second lieutenant of equal service. Officers of the Philippine Scouts shall hereafter be retired under the same conditions, and those hereafter placed on the retired list shall receive the same retired pay, as other officers of like grades and length of service, and shall be equally eligible for advancement on account of active duty performed since retirement. Nothing in this Act shall be construed to alter in any respect the present status of enlisted men of the Philippine Scouts.

NOTES.—See act of June 30, 1922, set forth as cognate act under section 4, ante, by which it was provided that the number of officers therein provided shall include the officers of Philippine Scouts "who shall continue to be carried on the promotion list and who shall be promoted to grades from first lieutenant to colonel, inclusive, in the same manner as provided by law for other officers on the promotion list."

For promotion, pay, etc., of officers and former officers of Philippine Scouts, placed on the retired list prior to June 4, 1920, see section 17, Pay Readjustment Act, page 109, post.

For duty of retired officers of Philippine Scouts at educational institutions, see act of March 3, 1925, set forth as cognate act under section 40b, post, and section 17, Pay Readjustment Act, page 109, post.

For pay and allowances of enlisted men of Philippine Scouts, and validation of certain payments, see act of May 10, 1926, set forth as cognate act under section 21, Pay Readjustment Act, page 112, post.

Not in Code.

Sec. 23. PROVISIONAL APPOINTMENTS.—All laws providing that certain appointments of officers shall be provisional for a period of time are hereby repealed.

Sec. 24. FILLING OF VACANCIES.—[Not less than one-half of the total number of vacancies caused by this Act, exclusive of those in the Medical Department and among chaplains, shall be filled by the appointment, to date from July 1, 1920, and subject to such examination as the President may prescribe, of persons other than officers of the Regular Army who served as officers of the United States Army at any time between April 6, 1917, and the date of the passage of this Act. A suitable number of such officers shall be appointed in each of the grades below that of brigadier general, according to their qualifications for such grade as may be determined by the board of general officers provided for in this section. No such persons above the age of fifty years

Not in Code.

shall be appointed in a combatant branch, or above the age of fifty-eight in a noncombatant branch. No such person below the age of forty-eight years shall be appointed in the grade of colonel, or below the age of forty-five years in the grade of lieutenant colonel, or below the age of thirty-six years in the grade of major. Not less than three such persons shall be appointed to the grade of colonel in the Judge Advocate General's Department and not less than eight to the grade of lieutenant colonel in the Judge Advocate General's Department, provided a sufficient number of applicants for such appointments are legally eligible and are found by the board provided for in this section to be properly qualified.] Any person originally appointed under the provisions of this Act at an age greater than forty-five years shall, when retired, receive retired pay at the rate of 4 per centum of active pay for each complete year of commissioned service in the United States Army, the total to be not more than 75 per centum.

Provided, That any officer so appointed, who has been or may hereafter be retired in accordance with law on account of physical disability incident to the service, shall receive, from the date of such retirement, retired pay at the rate of 75 per centum of his active pay at the time of such retirement. 10: 971a (Sup. II).

[Vacancies remaining in grades above the lowest which are not filled by such appointments shall be filled by promotion to date from July 1, 1920, in accordance with the provisions of section 24c hereof. The selection of officers to be appointed under the provisions of this section, under such rules and regulations as may be approved by the Secretary of War, shall be made by a board consisting of the General of the Army, three bureau chiefs, and three general officers of the line, to be appointed by the Secretary of War: *Provided, That no officer shall be appointed in any branch of the service under the provisions of this section except with the approval of the chief of such branch or officer acting as such.*] As amended by act of May 19, 1926 (44 Stat. 564).

Not in Code.

Sec. 24a. PROMOTION LIST.—For the purpose of establishing a more uniform system for the promotion of officers, based on equity, merit, and the interests of the Army as a whole, the Secretary of War shall cause to be prepared a promotion list, on which shall be carried the names of all officers of the Regular Army and Philippine Scouts below the grade of colonel, except officers of the Medical Department, chaplains, professors [the military storekeeper, and certain second lieutenants of the Quartermaster Corps hereinafter specified]. The names on the list shall be arranged, in general, so that the first name on the list shall be that of the officer having the longest commissioned service; the second name that of the officer having the next longest commissioned service, and so on. In computations for the purpose of determining the position of officers on the promotion list there shall be credited all active commissioned service in the Army performed while under appointment from the United States Government, whether in the Regular, provisional, or temporary forces, except service under

10: 553.

a reserve commission while in attendance at a school or camp for the training of candidates for commission; also commissioned service in the National Guard while in active service since April 6, 1917, under a call by the President; and also commissioned service in the Marine Corps when detached for service with the Army by order of the President. In determining position on the promotion list, and relative rank, commissioned service in the Regular Army or the Philippine Scouts, if continuous to the present time, shall be counted as having begun on the date of original commission. The original promotion list shall be formed by a board of officers appointed by the Secretary of War, consisting of one colonel of each of six branches of the service in which officers are permanently commissioned under the terms of this Act, and one officer who, as a member of the personnel branch of the General Staff, has made a special study of merging the present promotion lists into a single list. The steps in the formation of the original promotion list shall be as follows:

First, officers below the grade of colonel in the Corps of Engineers, Signal Corps, Infantry, Cavalry, Field Artillery, Coast Artillery Corps, Porto Rico Regiment, and Philippine Scouts, who were originally appointed in the Regular Army or Philippine Scouts prior to April 6, 1917, shall be arranged without changing the present order of officers on the lineal lists of their own branches, but otherwise as nearly as practicable according to length of commissioned service. The following shall be omitted:

(a) Officers who, as a result of voluntary transfer, occupy positions on the lineal list other than those they would have held if their original commissions had been in their present branches;

(b) Officers of other branches appointed in the Field Artillery or the Coast Artillery Corps to fill vacancies created by the Act approved January 25, 1907;

(c) Officers appointed in the Regular Army since January 1, 1903, while serving as officers of the Porto Rico Provisional Regiment of Infantry or Philippine Scouts;

(d) Former officers of the Regular Army or Philippine Scouts who have been reappointed in these forces and who are now below normally placed officers of less commissioned service than theirs.

Officers of classes (a), (b), and (c) shall be placed on the list in the positions they would have occupied if they had remained in their original branches of the service. Officers of class (d) shall be placed on the list in the position that would normally be occupied by an officer of continuous service equal to the total active commissioned service of such officers in the Army.

Second, officers of the Judge Advocate General's Department, Quartermaster Corps, and Ordnance Department shall be placed on the list according to length of commissioned service [except those second lieutenants of the Quartermaster

Corps who are found not qualified for promotion as provided in section 24b hereof].

Third, captains and lieutenants of the Regular Army and Philippine Scouts, originally appointed since April 6, 1917, shall be arranged among themselves, according to commissioned service rendered prior to November 11, 1918, and shall be placed at the foot of the list as prepared to this point.

Fourth, persons to be appointed as captains or lieutenants under the provisions of section 24 hereof shall be placed according to commissioned service rendered prior to November 11, 1918, among the officers referred to in the next preceding clause; and where such commissioned service is equal, officers now in the Regular Army shall precede persons to be appointed under the provisions of this Act, and the latter shall be arranged according to age.

Fifth, persons appointed as lieutenant colonels or majors under the provisions of section 24 hereof shall be placed immediately below all officers of the Regular Army who, on July 1, 1920, are promoted to those grades respectively under the provisions of section 24 hereof: *Provided*, That the board charged with the preparation of the promotion list may, in its discretion, assign to any such officer a position on the list higher than that to which he would otherwise be entitled, but not such as to place him above any officer of greater age, whose commissioned service commenced prior to April 6, 1917, and who would precede him on the list under the general provisions of this section.

Any former officer of the Regular Army and any retired officer who may hereafter be appointed to the active list in the manner provided by law shall be placed on the promotion list in accordance with his total active commissioned service; except that former officers appointed to field grades on July 1, 1920, under the provisions of section 24, may be placed as provided in the next preceding paragraph of this section. A reserve judge advocate appointed in the Regular Army shall be placed as provided in section 24c.

Other officers on original appointment shall be placed at the foot of the list. The place of any officer on the promotion list once established shall not thereafter be changed, except as the result of the sentence of a court-martial.

NOTES.—The grade of military storekeeper ceased to exist on November 13, 1926.

No second lieutenants of the Quartermaster Corps occupy the status described in the language of that part of the text placed in brackets.

On the reappointment of former or retired officers, see note to section 24e, post.

Sec. 24b. CLASSIFICATION OF OFFICERS.—Immediately upon the passage of this Act, and in September of 1921 and every year thereafter, the President shall convene a board of not less than five general officers which shall arrange all officers in two classes, namely: Class A, consisting of officers who should be retained in the service, and Class B, of officers who should not be retained in the service. Until otherwise finally classified, all officers shall be regarded as belonging to Class A and shall be promoted according to the provisions of

10:571.

this Act to fill any vacancies which may occur prior to such final classification. No officer shall be finally classified in Class B until he shall have been given an opportunity to appear before a court of inquiry. In such court of inquiry he shall be furnished with a full copy of the official records upon which the proposed classification is based and shall be given an opportunity to present testimony in his own behalf. The record of such court of inquiry shall be forwarded to the final classification board for reconsideration of the case, and after such consideration the finding of said classification board shall be final and not subject to further revision except upon the order of the President. Whenever an officer is placed in Class B, a board of not less than three officers shall be convened to determine whether such classification is due to his neglect, misconduct, or avoidable habits. If the finding is affirmative, he shall be discharged from the Army; if negative, he shall be placed on the unlimited retired list with pay at the rate of $2\frac{1}{2}$ per centum of his active pay multiplied by the number of complete years of commissioned service, or service which under the provisions of this Act is counted as its equivalent, unless his total commissioned service or equivalent service shall be less than ten years, in which case he shall be honorably discharged with one year's pay. The maximum retired pay of an officer retired under the provisions of this section prior to January 1, 1924, shall be 75 per centum of active pay, and of one retired on or after that date, 60 per centum. If an officer is thus retired before the completion of thirty years' commissioned service, he may be employed on such active duty as the Secretary of War considers him capable of performing until he has completed thirty years' commissioned service. [The board convened upon the passage of this Act shall also report the names of those second lieutenants of the Quartermaster Corps who were commissioned under the provisions of section 9 of the Act of June 3, 1916, who are not qualified for further promotion. The officers so reported shall continue in the grade of second lieutenant for the remainder of their service] and the others shall be placed upon the promotion list according to their commissioned service, as hereinbefore provided.

NOTE.—No second lieutenants of the Quartermaster Corps occupy the status described in the language of that part of the text placed in brackets. The reference is to certain former pay clerks who had been commissioned second lieutenants.

COURT DECISIONS.—This section is constitutional and does not require the personal and judicial action of the President precedent to the final classification of the officer, but his power may be exercised on his behalf and under his authority by the Secretary of War. *United States ex rel. French v. Weeks, Secretary of War* (1922), 259 U. S. 326; *United States ex rel. Creary v. Weeks, Secretary of War* (1922), 259 U. S. 336.

That the court of inquiry discouraged an officer from adducing cumulative testimony in disproof of charges which it did not consider does not invalidate proceedings under this section because the final classification board did consider such charges. *Rogers v. United States* (1926), 270 U. S. 154.

An officer given a copy of everything adverse to him in his record and full opportunity in the court of inquiry to consult his entire record can not object because not "furnished with a full copy of the official records upon which the proposed classification is based," as prescribed by this section. *Id.*

Not in Code.

Sec. 24c. PROMOTION OF OFFICERS.—[Up to and including June 30, 1920, except as otherwise provided herein, promotions shall continue to be made in accordance with law existing

prior to the passage of this Act, and on the basis of the number heretofore authorized for each grade and branch.] On and after July 1, 1920, vacancies in grades below that of brigadier general shall be filled by the promotion of officers in the order in which they stand on the promotion list, without regard to the branches in which they are commissioned. Existing laws providing for the examination of officers for promotion are hereby repealed, except those relating to physical examination, which shall continue to be required for promotion to all grades below that of brigadier general, and except also those governing the examination of officers of the Medical, Dental, and Veterinary Corps. Officers of said three Corps shall be examined in accordance with laws governing examination of officers of the Medical Corps, second lieutenants of the Veterinary Corps being subject to the same provisions as first lieutenants.

10:552.

10:556.

NOTE.—For laws governing promotion of officers of the Medical, Dental, and Veterinary Corps, see section 5, act of April 23, 1908 (35 Stat. 67), and act of March 3, 1909 (35 Stat. 737). By section 24, National Defense Act, as originally enacted (39 Stat. 182), the last cited statute was extended to include promotions of lieutenant colonels to the grade of colonel, said section remaining in force, so far as examination of officers in the Medical Corps is concerned. Ops. J. A. G., June 12, 1916-2408455, A. G. O.

COGNATE ACT

That no part of the money herein appropriated shall be used for the pay and allowance of officers on the "promotion list" who shall be promoted to the grade of captain after the passage of this Act, unless said promotion shall have been made in the following manner, which is hereby established as the method of promotion to the grade of captain of officers on said promotion list, to wit:

Not in Code.

"So long as there shall remain in the grade of first lieutenant any officer discharged in the grade of captain and recommissioned in the grade of first lieutenant in accordance with the provisions of the Act of June 30, 1922, as amended by the Act of September 14, 1922, who was appointed in the grade of captain in the Regular Army under the provisions of section 24 of the Act of June 4, 1920 (Public Numbered 242, Sixty-sixth Congress), promotions of officers on the promotion list to the grade of captain shall be made solely from such officers." War Department appropriation act of March 2, 1923. (42 Stat. 1384.)

10:555.

NOTE.—In order to reduce the commissioned strength of the Army to the limits prescribed in the acts of June 30, 1922, and September 14, 1922, respectively, set forth, in part, as cognate acts under section 4, ante, a provision of the former act (not set forth herein) provided, inter alia, for the discharge of captains (irrespective of the date or manner of their appointment) and their recommissioning as first lieutenants. It was to this provision that the above act refers. The provision is now fully executed but is retained as explanatory of the position the officers affected by it hold on the promotion list. Over thirty demoted captains of the Corps of Engineers to whom this provision is not applicable as their appointment as captain was not made under section 24, ante, have not, at this date, again been promoted to the grade of captain.

Sec. 24d. TRANSFER OF OFFICERS.—Upon his own application any officer may be transferred to another branch without loss of rank or change of place on the promotion list.

10:493.

Sec. 24e. APPOINTMENT OF OFFICERS.—Except as otherwise herein provided, appointments shall be made in the grade of second lieutenant, first, from graduates of the United States

10:484.

- 10: 64. Military Academy; second, from warrant officers and enlisted men of the Regular Army between the ages of twenty-one and thirty years, who have had at least two years' service; and, third, from reserve officers, and from officers, warrant officers, and enlisted men of the National Guard, members of the Enlisted Reserve Corps, and graduates of technical institutions approved by the Secretary of War, all between the ages of twenty-one and thirty years. Any vacancy in the grade of captain in the Judge Advocate General's Department, not filled by transfer or detail from another branch, may, in the discretion of the President, be filled by appointment from reserve judge advocates between the ages of thirty and thirty-six years, and such appointee shall be placed upon the promotion list immediately below the junior captain on said list. Appointments in the Medical and Dental Corps shall be made in the grade of first lieutenant from reserve medical and dental officers, respectively, between the ages of twenty-three and thirty-two years; in the Veterinary Corps in the grade of second lieutenant from reserve veterinary officers between the ages of twenty-one and thirty years; and in the Medical Administrative Corps in the grade of second lieutenant from enlisted men of the Medical Department between the ages of twenty-one and thirty-two years, who have had at least two years' service. To be eligible for appointment in the Dental Corps, a candidate must be a graduate of a recognized dental college, and have been engaged in the practice of his profession for at least two years subsequent to graduation. Appointments as chaplains shall be made from among persons duly accredited by some religious denomination or organization, and of good standing therein, between the ages of twenty-three and forty-five years. [Former officers of the Regular Army and retired officers may be reappointed to the active list, if found competent for active duty, and shall be commissioned in the grades determined by the places assigned to them on the promotion list under the provisions of section 24a hereof.]
- 10: 92, 122.
- 10: 141.
- 10: 151.
- 10: 123.
- 10: 231.
- 10: 485, 986.

NOTE.—The Judge Advocate General has held that former or retired officers may not be reappointed to vacancies, because such vacancies must be filled by promotion, as provided in section 24c, ante. The authority to carry reappointed officers as additional numbers, contained in the above section and in the second paragraph of section 127a, was held withdrawn by the acts of June 30, 1922, and September 14, 1922, set forth as cognate acts under section 4, ante, fixing new absolute maximums. The authority to reappoint former or retired officers was therefore held repealed. (Ops. J. A. G., 210.104, Dec. 20, 1922.)

10: 531, 607.

Sec. 25. DETACHED OFFICERS AND ENLISTED MEN.—All officers and enlisted men authorized by law and not assigned to duty with any branch or bureau herein provided for shall be carried on the Detached Officers' List and Detached Enlisted Men's List, respectively.

SEC. 26. RETIREMENT OF OFFICERS OF PHILIPPINE SCOUTS.—[Stricken out by sec. 26, act of June 4, 1920 (41 Stat. 775). See sec. 22a, ante.]

10: 628.

Sec. 27. ENLISTMENTS.—Hereafter original enlistments in the Regular Army shall be for a period of one or three years at the option of the soldier, and reenlistments shall be for a

period of three years. Existing laws providing for the payment of three months' pay to certain soldiers upon reenlistment are hereby repealed [and hereafter an enlistment allowance equal to three times the monthly pay of a soldier of the seventh grade shall be paid to every soldier who enlists or reenlists for a period of three years, payment of the enlistment allowance for original enlistment to be deferred until honorable discharge].

Not in Code.

Provided, That any noncommissioned officer discharged with an excellent character shall be permitted, at the expiration of three years in the active service, to reenlist in the organization from which discharged with the rank and grade held by him at the time of his discharge if he reenlists within twenty days after the date of such discharge: *Provided further*, That no person under the age of eighteen years shall be enlisted or mustered into the military service of the United States without the written consent of his parents or guardians, provided that such minor has such parents or guardians entitled to his custody and control.

10: 630.

10: 627.

In addition to military training, soldiers while in the active service shall hereafter be given the opportunity to study and receive instruction upon educational lines of such character as to increase their military efficiency and enable them to return to civil life better equipped for industrial, commercial, and general business occupations. Civilian teachers may be employed to aid the Army officers in giving such instruction, and part of this instruction may consist of vocational education either in agriculture or the mechanic arts. The Secretary of War, with the approval of the President, shall prescribe rules and regulations for conducting the instructions herein provided for, and the Secretary of War shall have the power at all times to suspend, increase, or decrease the amount of such instruction offered as may in his judgment be consistent with the requirements of military instruction and service of the soldiers.

10: 1176.

NOTES.—The option of a 1 or 3 year enlistment being that of the soldier, the Secretary of War is not authorized to restrict enlistments under this section to a period of three years. 34 Ops. Atty. Gen. 128; Ops. J. A. G. 342.02, March 4, 1924.

For present enlistment allowance, see section 9, Pay Readjustment Act, page 101, post.

COURT DECISIONS.—The second proviso of this section was the subject of numerous judicial decisions during the period of the World War, arising out of efforts to obtain the release of minors from the military service. Only a few such decisions can be mentioned.

The attempted enlistment of a minor under 16 years of age is ineffective to give him the status of a soldier, under this section. *Hoskins v. Pell* (C. C. A., 1917), 239 Fed. 279; but compare *In re Cosenow* (C. C. 1889), 37 Fed. 668. A minor over 16 but under 18 years of age requires the consent of his parents to enlist in the National Guard in Federal service. *Hoskins v. Dickerson* (C. C. A., 1917), 239 Fed. 275. However, enlistment of one between those ages without such consent does not make the enlistment void, but voidable. *Es parte Winfield* (D. C., 1916), 236 Fed. 552; *Reed v. Cushman* (C. C. A., 1918), 251 Fed. 872. Any defect of this nature becomes unavailable to the parent where not urged, although known, until after the soldier has reached 18 years of age. *Reed v. Cushman*, *supra*.

The military authorities have a right to try a minor for fraudulent enlistment paramount to any right in his parent to secure his release on account of minority. *Es parte Foley* (D. C., 1917), 243 Fed. 470; *Es parte Rush* (D. C., 1917), 246 Fed. 172.

Where one over 18 but under 21 years of age, who had enlisted prior to the passage of this section (the former minimum age having been 21 years), took the oath prescribed by section 70, post, any defect in his original enlistment was cured, by reason of the enactment of this section. *Es parte Dostal* (D. C., 1917), 243 Fed. 664.

COGNATE ACTS

Not in Code.

The provisions of section 27 of the Army Reorganization Act, approved June 4, 1920, providing an enlistment allowance, are hereby repealed. Act of June 30, 1921 (42 Stat. 74).

10: 653.

That hereafter upon the presentation of satisfactory evidence as to his age and upon application for discharge by his parent or guardian presented to the Secretary of War within six months after the date of his enlistment, any man enlisted after July 1, 1925, in the Army, under twenty-one years of age who was enlisted without the written consent of his parent or guardian, if any, shall be discharged with the form of discharge certificate and the travel and other allowances to which his service after enlistment shall entitle him. Act of February 12, 1925 (43 Stat. 896).

NOTE.—A provision identical with that of the act of February 12, 1925, set forth above, except that the period of application by parent or guardian was limited to 60 days, was found in the act of June 7, 1924 (43 Stat. 481).

10: 655.

That in the administration of any laws conferring rights, privileges, or benefits upon honorably discharged soldiers of the United States Army, their widows and dependent children, a soldier who was enlisted between April 21, 1898, and July 4, 1902, both dates inclusive, and who was discharged for fraudulent enlistment on account of misrepresentation of his age, shall hereafter be held and considered to have been discharged honorably from the military service on the date of his actual separation therefrom, if his service otherwise was such as would have entitled him to an honorable discharge: Provided, That no back pay or allowances shall accrue by reason of the passage of this Act: Provided further, That in all such cases the War Department shall, upon request, grant to such men or their widows a discharge certificate showing that the soldiers are held and considered to have been honorably discharged under the provisions of this Act. Act of January 5, 1927 (44 Stat. 932).

10: 654a (Sup.
III).

That in the administration of any laws conferring rights, privileges, or benefits, upon honorably discharged soldiers of the United States Army, their widows and dependent children, a soldier who served as an enlisted man between April 6, 1917, and November 11, 1918, both dates inclusive, and who was discharged for fraudulent enlistment on account of misrepresentation of his age, shall hereafter be held and considered to have been discharged honorably from the military service on the date of his actual separation therefrom if his service otherwise was such as would have entitled him to an honorable discharge: Provided, That no back pay or allowances shall accrue by reason of the passage of this Act: Provided further, That in all such cases the War Department shall, upon request, grant to such men or their widows a discharge certificate showing that the soldiers are held and considered to have been honorably discharged under the provisions of this act. Act of March 2, 1929 (45 Stat. 1505).

NOTE.—The act of March 2, 1929, above set forth, superseded the act of March 16, 1926 (44 Stat. 208), the earlier act having read, where the later act reads "served as an enlisted man," simply "was enlisted," but otherwise the acts being identical.

SEC. 28. PAY OF CERTAIN ENLISTED MEN.—[Repealed by section 18, Pay Readjustment Act, page 111, post.]

NOTE.—The original section 28 prescribed the rates of pay for the grades of enlisted men created by the act of June 3, 1916 (39 Stat. 186). A proviso was added by section 5, Chapter XVII, act of July 9, 1918 (40 Stat. 890), which prescribed rates of pay for the various classes of military telegraphers. The entire section, except this proviso, was stricken out by section 28, act of June 4, 1920 (41 Stat. 775), and the proviso was repealed by the general repeal in section 18, Pay Readjustment Act, page 111, post, which see for the present law authorizing additional compensation for special qualification in the use of required arm or arms. Military telegraphers may now be paid as specialists, for the rates of pay of whom see section 9, Pay Readjustment Act, page 101, post.

SEC. 29. DISCHARGE ON ACCOUNT OF DEPENDENT RELATIVES.—When by reason of death or disability of a member of the family of an enlisted man, occurring after his enlistment, members of his family become dependent upon him for care or support, he may, in the discretion of the Secretary of War, be discharged from the service of the United States. 10:652.

SEC. 30. The Regular Army Reserve is hereby abolished, and all members thereof shall be discharged from the obligations under which they are now serving. Not in Code.

SEC. 31. [Stricken out by sec. 31, act of June 4, 1920 (41 Stat. 775)].

SEC. 32. [Stricken out by sec. 31, act of June 4, 1920 (41 Stat. 775)].

SEC. 33. [Stricken out by sec. 31, act of June 4, 1920 (41 Stat. 775)].

SEC. 34. [Stricken out by sec. 31, act of June 4, 1920 (41 Stat. 775)].

SEC. 35. ENLISTED MEN PROHIBITED FROM CIVIL EMPLOYMENT.—Hereafter no enlisted man in the active service of the United States in the Army, Navy, and Marine Corps, respectively, whether a noncommissioned officer, musician, or private, shall be detailed, ordered, or permitted to leave his post to engage in any pursuit, business, or performance in civil life, for emolument, hire, or otherwise, when the same shall interfere with the customary employment and regular engagement of local civilians in the respective arts, trades, or professions. 10:609.
34:449.

SEC. 36. [Stricken out by sec. 31, act of June 4, 1920 (41 Stat. 775)].

SEC. 37. *Officers' Reserve Corps.*—For the purpose of providing a reserve of officers available for military service when needed there shall be organized an Officers' Reserve Corps consisting of general officers of sections corresponding to the various branches of the Regular Army, and of such additional sections as the President may direct. The grades in each section and the number in each grade shall be as the President may prescribe. Reserve officers shall be appointed and commissioned by the President alone, except general officers, who shall be appointed by and with the advice and consent of the Senate. Appointment in every case shall be for a period of five years, but an appointment in force at the outbreak of war or made in time of war shall continue in force until six months after its termination. Any reserve officer may be discharged at any time in the discretion of the President. A reserve officer appointed during the existence of a state of war shall be 10:351.
10:352.
10:353.

entitled to discharge within six months after its termination if he makes application therefor. In time of peace a reserve officer must at the time of his appointment be a citizen of the United States or of the Philippine Islands, between the ages of twenty-one and sixty years. Any person who has been an officer of the Army at any time between April 6, 1917, and June 30, 1919, or an officer of the Regular Army at any time may be appointed as a reserve officer in the highest grade which he held in the Army or any lower grade. Any person commissioned in the National Guard and recognized as a National Guard officer by the Secretary of War may upon his own application be appointed as a reserve officer in the grade held by him in the National Guard. No other person shall in time of peace be originally appointed as a reserve officer of Infantry, Cavalry, Field Artillery, Coast Artillery, or Air Service in a grade above that of second lieutenant. In time of peace appointments in the Infantry, Cavalry, Field Artillery, Coast Artillery, and Air Service shall be limited to former officers of the Army, officers of the National Guard recognized as such by the Secretary of War, graduates of the Reserve Officers' Training Corps, as provided in section 47b hereof, warrant officers and enlisted men of the Regular Army, National Guard, and Enlisted Reserve Corps, and persons who served in the Army at some time between April 6, 1917, and November 11, 1918. Promotions and transfers shall be made under such rules as may be prescribed by the President, and shall be based so far as practicable upon recommendations made in the established chain of command. So far as practicable reserve officers shall be assigned to units in the locality of their places of residence. Nothing in this Act shall operate to deprive a reserve officer of the reserve commission he now holds. Any reserve officer may hold a commission in the National Guard without thereby vacating his reserve commission. As amended by section 2, act of September 22, 1922 (42 Stat. 1033).

10:353.
10:360.
10:370.
Not in Code.
10:356.
10:369.
10:361.
10:364.

Sec. 37a. **RESERVE OFFICERS ON ACTIVE DUTY.**—To the extent provided for from time to time by appropriations for this specific purpose, the President may order reserve officers to active duty at any time and for any period; but except in time of a national emergency expressly declared by Congress, no reserve officer shall be employed on active duty for more than fifteen days in any calendar year without his own consent. A reserve officer shall not be entitled to pay and allowances except when on active duty. When on active duty he shall receive [the same pay and allowances as an officer of the Regular Army of the same grade and length of active service, and] mileage from his home to his first station and from his last station to his home, but shall not be entitled to retirement or retired pay.

NOTES.—The pay and allowances of reserve officers when on active duty are now prescribed by sections 3, 5, 6, and 14, Pay Readjustment Act, pages 98, 99, 100, and 106, post, respectively.

For leave of absence with pay of employees of United States or District of Columbia, for 15 days' training, see act of May 12, 1917 (40 Stat. 72).

For active duty in the Air Corps and flying duty pay, see section 13a and acts thereunder, ante, and section 20, Pay Readjustment Act, page 112, post.

Recent War Department appropriation acts have contained a prohibition against paying a reserve officer on active duty for a longer period than 15 days, except such reserve officers as are on duty under sections 3a and 5(b), ante, or detailed for courses of instruction at general or special service schools of the Army, or detailed for duty as instructors at

civilian military training camps, or detailed for duty with tactical units of the Air Corps, and for such additional officers of the Medical Reserve Corps required to supplement regular personnel in the care of beneficiaries of the United States Veterans' Bureau treated in the Army hospitals.

Recent War Department appropriation acts have also set the mileage allowance to reserve officers called into active service for training for 15 days or less at not to exceed 4 cents per mile, with actual and necessary expenses only for travel performed on Government-owned transports.

None of the funds appropriated in recent War Department appropriation acts, except for printing and binding and for pay and allowances of officers and enlisted men of the Regular Army, shall be used, under a provision therein, for expenses in connection with the Organized Reserves, but available supplies and existing facilities at military posts shall be utilized to the fullest extent possible.

Sec. 38. Commissions of reserve officers.—All persons appointed reserve officers shall be commissioned in the Army of the United States. Officers of the National Guard, federally recognized as such under the provisions of this Act, who are appointed reserve officers under the provisions of section 37 of this Act, shall be appointed for the period during which such recognition shall continue in effect and terminating at the expiration thereof in lieu of the five-year period hereinbefore prescribed, and in time of peace shall be governed by such special regulations appropriate for this class of reserve officers as the Secretary of War may prescribe. Added by section 3, act of June 6, 1924 (43 Stat. 470). 10:355.

NOTE.—The original section 38 was stricken out by section 31, act of June 4, 1920 (41 Stat. 775), and this new section inserted in place thereof by the above-mentioned act.

SEC. 39. [Stricken out by sec. 31, act of June 4, 1920 (41 Stat. 775).] 10:359.

Sec. 40. RESERVE OFFICERS' TRAINING CORPS—ORGANIZATION.—The President is hereby authorized to establish and maintain in civil educational institutions a Reserve Officers' Training Corps, one or more units in number, which shall consist of a senior division organized at universities and colleges granting degrees, including State universities and those State institutions that are required to provide instruction in military tactics under the Act of Congress of July 2, 1862, donating lands for the establishment of colleges where the leading object shall be practical instruction in agriculture and the mechanic arts, including military tactics, and at those essentially military schools not conferring academic degrees, especially designated by the Secretary of War as qualified, and a junior division organized at all other public and private educational institutions, and each division shall consist of units of the several arms, corps, or services in such number and such strength as the President may prescribe: *Provided*, That no such unit shall be established or maintained at any institution until an officer of the Regular Army shall have been detailed as professor of military science and tactics, nor until such institution shall maintain under military instruction at least one hundred physically fit male students, except that in the case of units other than infantry, cavalry, or artillery the minimum number shall be fifty: *Provided further*, That except at State institutions described in this section, no unit shall be established or maintained in an educational institution until the authorities of the same agree to establish and maintain a two years' elective or compulsory course of 10:381.

military training as a minimum for its physically fit male students, which course, when entered upon by any student, shall, as regards such student, be a prerequisite for graduation unless he is relieved of this obligation by regulations to be prescribed by the Secretary of War.

NOTE.—Recent War Department appropriation acts prohibit the use of funds therein appropriated for "mounted, motor transport, or tank units" in the Reserve Officers' Training Corps. This provision has been changed somewhat in form from year to year.

That advanced training is not required to follow immediately on completion of the two years' course under this section, see proviso added to section 47c, post, by act of May 12, 1928.

10:385. **Sec. 40a. RESERVE OFFICERS' TRAINING CORPS COURSES.**—The Secretary of War is hereby authorized to prescribe standard courses of theoretical and practical military training for units of the Reserve Officers' Training Corps, and no unit of such corps shall be organized or maintained at any educational institution the authorities of which fail or neglect to adopt into their curriculum the prescribed courses of military training or to devote at least an average of three hours per week per academic year to such military training, except as provided in section 47c of this Act.

NOTE.—For training camps, see section 47a, post.

10:386. **Sec. 40b. PERSONNEL FOR DUTY WITH RESERVE OFFICERS' TRAINING CORPS.**—The President is hereby authorized to detail such numbers of officers, warrant officers, and enlisted men of the Regular Army, either active or retired, as may be necessary for duty as professors of military science and tactics, assistant professors of military science and tactics, and military instructors at educational institutions where one or more units of the Reserve Officers' Training Corps are maintained. In time of peace retired officers, retired warrant officers, or retired enlisted men shall not be detailed under the provisions of this section without their consent, and no officer on the active list shall be detailed for recruiting service or for duty at a school or college, not including schools of the service, where officers on the retired list can be secured who are competent for such duty. Hereafter retired officers below the grade of brigadier general and retired warrant officers and enlisted men shall, when on active duty, receive full pay and allowances.

10:536.

COGNATE ACT

10:331. [Sec. 1.] *That the authority for detail of retired officers of the Regular Army contained in section 40b and section 55c of the National Defense Act of June 3, 1916, as amended by the Act of June 4, 1920, shall, in either case, be construed to include authority to so detail retired officers of the Philippine Scouts.*

10:328, 975. **SEC. 2.** *Duty performed by retired officers of the Regular Army and duty performed by retired officers of the Philippine Scouts, pursuant to War Department orders issued under section 40b or section 55c, respectively, of said National Defense Act of June 3, 1916, as amended by the Act of June 4, 1920, including in either case, temporary duty for attendance on any course of preparatory*

instruction required by such order, shall be construed to be active duty for the purpose of increase of longevity pay of such retired officers within the meaning of the National Defense Act of June 3, 1916, as amended by the Act of June 4, 1920, and the Act of May 12, 1917, entitled "An Act making appropriations for the support of the Army for the fiscal year ending June thirtieth, nineteen hundred and eighteen, and for other purposes," and the Act of June 10, 1922, entitled "An Act to readjust the pay and allowances of the commissioned and enlisted personnel of the Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service."

SEC. 3. Duty heretofore performed by retired officers of the Philippine Scouts, pursuant to War Department orders purporting to have been issued under section 40b or section 55c, respectively, of said National Defense Act of June 3, 1916, as amended by the Act of June 4, 1920, including, in either case, temporary duty for attendance on any course of preparatory instruction required by such order, shall be construed to be active duty for the purpose of increase of longevity pay of such retired officers, within the meaning of the aforesaid Act of June 3, 1916, as amended by the Act of June 4, 1920, and the aforesaid Act of May 12, 1917, and the aforesaid Act of June 10, 1922. 10:330.

SEC. 4. Duty performed prior to July 1, 1922, by retired officers of the Regular Army and duty performed prior to June 10, 1922, by retired officers of the Philippine Scouts, pursuant to War Department orders issued or purporting to have been issued under section 40b or section 55c, respectively, of said National Defense Act of June 3, 1916, as amended by the Act of June 4, 1920, including, in either case, temporary duty for attendance on any course of preparatory instruction required by such order, shall be construed to be active duty for the purpose of promotion of such retired officers on the retired list, within the meaning of the aforesaid Act of June 3, 1916, as amended by the Act of June 4, 1920, and the aforesaid Act of June 10, 1922. 10:1013.

SEC. 5. Any administrative action heretofore taken by the War Department dependent for validity upon the above-mentioned constructions of the indicated statutes, or a like construction of any other statute authorizing the detail of retired officers of the Army to educational institutions, is hereby ratified and confirmed; and that any pay otherwise due to any retired officers of the Regular Army or the Philippine Scouts but heretofore withheld by reason of a construction of any of the indicated statutes inconsistent with those foregoing shall be considered due and payable. Act of March 3, 1925 (43 Stat. 1099). 10:329.

SEC. 41. [Superseded by sec. 40, ante. Sec. 33, act of June 4, 1920 (41 Stat. 776).]

SEC. 42. [Superseded by sec. 40, ante. Sec. 33, act of June 4, 1920 (41 Stat. 776).]

SEC. 43. [Superseded by sec. 40a, ante. Sec. 33, act of June 4, 1920 (41 Stat. 776).]

SEC. 44. Eligibility to membership in the Reserve Officers' Training Corps shall be limited to students of institutions in which units of such corps may be established who are citizens of the 10:332.

United States, who are not less than fourteen years of age, and whose bodily condition indicates that they are physically fit to perform military duty, or will be so upon arrival at military age.

Sec. 45. [Superseded by sec. 40b, ante. Sec. 33, act of June 4, 1920 (41 Stat. 776).]

Sec. 46. [Superseded by sec. 40b, ante. Sec. 33, act of June 4, 1920 (41 Stat. 776).]

10:389.

Sec. 47. SUPPLIES FOR RESERVE OFFICERS' TRAINING CORPS.—The Secretary of War, under such regulations as he may prescribe, is hereby authorized to issue to institutions at which one or more units of the Reserve Officers' Training Corps are maintained such public animals, transportation, arms, ammunition, supplies, tentage, equipment, and uniforms belonging to the United States as he may deem necessary, and to forage at the expense of the United States public animals so issued, to pay commutation in lieu of uniforms at a rate to be fixed annually by the Secretary of War, and to authorize such expenditures from proper Army appropriations as he may deem necessary for the efficient maintenance of the Reserve Officers' Training Corps. He shall require from each institution to which property of the United States is issued a bond in the value of the property issued for the care and safe-keeping thereof, except for uniforms, expendable articles, and supplies expended in operation, maintenance, and instruction, and for its return when required.

NOTE.—Recent War Department appropriation acts provide for travel allowances to and from camps of instruction, pay for students attending advanced camps, subsistence, medical and hospital treatment while injured in line of duty at camps, transportation of remains from camps, issue of uniforms from surplus stocks of the War Department, etc.

None of the funds appropriated in recent War Department appropriation acts, except for printing and binding, and pay and allowances of officers and enlisted men of the Regular Army, shall be used, under a provision therein, for expenses in connection with the Reserve Officers' Training Corps.

10:441.

Sec. 47a. RESERVE OFFICERS' TRAINING CORPS CAMPS.—The Secretary of War is hereby authorized to maintain camps for the further practical instruction of the members of the Reserve Officers' Training Corps, no such camps to be maintained for a longer period than six weeks in any one year, except in time of actual or threatened hostilities; to transport members of such corps to and from such camps at the expense of the United States so far as appropriations will permit, to subsist them at the expense of the United States while traveling to and from such camps and while remaining therein so far as appropriations will permit, or in lieu of transporting them to and from such camps and subsisting them while en route to pay them travel allowances at the rate of 5 cents per mile for the distance by the shortest usually traveled route from the places from which they are authorized to proceed to the camp and for the return travel thereto, and to make the payment of travel allowances for the return journey in advance of the actual performance of the same, and to admission to military hospitals at such camps, and to furnish medical attendance and supplies; to use the troops of the Regular Army, and such Government property as he may

deem necessary, for the military training of the members of such corps while in attendance at such camps; and to prescribe regulations for the government of such camps.

NOTES.—An intermediate amendment of section 48 of the National Defense Act, as originally enacted (superseded by sec. 47a, inserted in lieu thereof and of other sections, by sec. 34, act of June 4, 1920, 41 Stat. 777), is not inserted because so much of said amendment as concerned travel allowances is now covered by the above provision and so much as concerned commutation of uniforms at educational institutions is covered by section 47, ante.

For hospitalization, transportation, etc., when injured in aerial flights or at camps of instruction, see section 6, act of March 4, 1923, as twice amended, set forth as cognate act under section 14, Pay Readjustment Act, page 106, post.

Sec. 47b. APPOINTMENT OF GRADUATES OF RESERVE OFFICERS' TRAINING CORPS AS RESERVE OFFICERS.—

The President alone, under such regulations as he may prescribe, is hereby authorized to appoint as a reserve officer of the Army of the United States any graduate of the senior division of the Reserve Officers' Training Corps who shall have satisfactorily completed the further training provided for in section 47a of this Act, or any graduate of the junior division who shall have satisfactorily completed the courses of military training prescribed for the senior division and the further training provided for in section 47a of this Act, and shall have participated in such practical instruction subsequent to graduation as the Secretary of War shall prescribe, who shall have arrived at the age of twenty-one years and who shall agree, under oath in writing, to serve the United States in the capacity of a reserve officer of the Army of the United States during a period of at least five years from the date of his appointment as such reserve officer, unless sooner discharged by proper authority: *Provided*, That no reserve officer appointed pursuant to this Act shall be entitled to retirement, or to retired pay, and shall be eligible for pension only for disability incurred in line of duty in active service or while serving with the Army pursuant to provisions of this Act.

10:354.

10:364.

10:365.

Sec. 47c. PAY AND COMMUTATION OF SUBSISTENCE, RESERVE OFFICERS' TRAINING CORPS.—When any member of the senior division of the Reserve Officers' Training Corps has completed two academic years of service in that division, and has been selected for advanced training by the president of the institution and by the professor of military science and tactics, and has agreed in writing to continue in the Reserve Officers' Training Corps for the remainder of his course at the institution, devoting five hours per week to the military training prescribed by the Secretary of War, and has agreed in writing to pursue the course in camp training prescribed by the Secretary of War, he may be furnished at the expense of the United States commutation of subsistence at such rate, not exceeding the cost of the garrison ration prescribed for the Army, as may be fixed by the Secretary of War, during the remainder of his service in the Reserve Officers' Training Corps, not exceeding two years: *Provided*, That any medical, dental, or veterinary student may be admitted to a Medical, Dental, or Veterinary Corps unit of the

10:387.

- 10:383. Reserve Officers' Training Corps for a course of training at the rate of ninety hours of instruction per annum for the four collegiate years, and if at the end of two years of such training he has been selected by the professor of military science and tactics and the head of the institution for advanced training, and has agreed in writing to continue in the Reserve Officers' Training Corps for the remainder of his course at the institution, and has agreed in writing to pursue the course in camp training prescribed by the Secretary of War, he may be furnished, at the expense of the United States, with commutation of subsistence at such rate not exceeding the cost of the garrison ration prescribed for the Army, as may be fixed by the Secretary of War, during the remainder of his service in the Reserve Officers' Training Corps, not exceeding two years: *Provided further*, That any reserve officer who is also a medical, dental, or veterinary student may be admitted to such Medical, Dental, or Veterinary Corps unit for such training, under such rules and regulations as the Secretary of War may prescribe: *Provided further*, That members of the Reserve Officers' Training Corps, or other persons authorized by the Secretary of War to attend advanced course camps, shall be paid for attendance at such camps at the rate prescribed for soldiers of the seventh grade of the Regular Army.
- 10:444.
- 10:384.
- 10:443.
- 10:386a (Sup. II). *Provided further*, That nothing in this Act shall be construed to require that the advanced training provided for herein shall follow without interruption upon the completion of the two years' elective or compulsory course of military training prescribed in section 40 of this Act or to require that such advanced training be pursued without interruption after it has been commenced in those cases where the person selected for advanced training at any institution will, under the rules and regulations thereof, normally require, in order to be graduated therefrom, a period of sufficient duration after any interruption, to complete the advanced course without curtailment. As amended by Act of May 12, 1928 (45 Stat. 501).

COGNATE ACT

- 10:388. That in the interpretation and execution of section fifty of the Act of Congress approved June third, nineteen hundred and sixteen, credit shall be given as for service in the senior division of the Reserve Officers' Training Corps to any member of that division for any period or periods of time during which such member has received or shall have received at an educational institution under the direction of an officer of the Army, detailed as professor of military science and tactics, a course of military training substantially equivalent to that prescribed by regulations under this section for the corresponding period or periods of training of the senior division, Reserve Officers' Training Corps. Joint resolution of September 8, 1916 (39 Stat. 853).

NOTE.—Section 50, to which the joint resolution of September 8, 1916, refers, was superseded by section 47c. See section 34, act of June 4, 1920 (41 Stat. 778).

- 10:442. Sec. 47d. TRAINING CAMPS.—The Secretary of War is hereby authorized to maintain, upon military reservations or elsewhere, schools or camps for the military instruction and training, with a view to their appointment as reserve officers or

noncommissioned officers, of such warrant officers, enlisted men, and civilians as may be selected upon their own application; to use for the purpose of maintaining said camps and imparting military instruction and training thereat, such arms, ammunition, accoutrements, equipments, tentage, field equipage, and transportation belonging to the United States as he may deem necessary; to furnish at the expense of the United States uniforms, subsistence, transportation by the most usual and direct route within such limits as to territory as the Secretary of War may prescribe, or in lieu of furnishing such transportation and subsistence to pay them travel allowances at the rate of 5 cents per mile, or, at the option of the Secretary of War, ^{10:442 (Sup. II).} transportation in kind may be furnished, and in addition thereto candidates may be paid a subsistence allowance at the rate of 1 cent a mile within such limits as to territory as the Secretary of War may prescribe for the distance by the shortest usually traveled route from the places from which they are authorized to proceed to the camp, and for the return travel thereto, and to make the payment of travel allowances for the return journey in advance of the actual performance of the same, and medical attendance and supplies to persons receiving instruction at said camps during the period of their attendance thereat, to authorize such expenditures, from proper Army appropriations, as he may deem necessary for water, fuel, light, temporary structures, not including quarters for officers nor barracks for men, screening, and damages resulting from field exercises, and other expenses incidental to the maintenance of said camps, and the theoretical winter instruction in connection therewith; and to sell to persons receiving instructions at said camps, for cash and at cost price, plus 10 per centum, quartermaster and ordnance property, the amount of such property sold to any one person be limited to that which is required for his proper equipment. All moneys arising from such sales shall remain available throughout the fiscal year following that in which the sales are made, for the purpose of that appropriation from which the property sold was authorized to be supplied at the time for the sale. The Secretary of War is authorized further to prescribe the courses of theoretical and practical instruction to be pursued by persons attending the camps authorized by this section; to fix the periods during which such camps shall be maintained; to prescribe rules and regulations for the government thereof; and to employ thereat officers, warrant officers, and enlisted men of the Regular Army in such numbers and upon such duties as he may designate. As amended by act of March 9, 1928 (45 Stat. 251).

NOTES.—For medical and hospital treatment and transportation of members of such camps injured in line of duty, see section 6, act of March 4, 1923, as twice amended, set forth as cognate act under section 14, Pay Readjustment Act, page 106, post.

Recent War Department appropriation acts have prohibited the enrollment in the first year, or lowest course of any person who has reached his twenty-fourth birthday before the date of enrollment. Such acts also provide for uniforms, etc., from surplus stocks of the War Department, travel, medical and hospital treatment of members of training camps injured in line of duty, etc.

None of the funds appropriated in recent War Department appropriation acts, except for printing and binding and pay and allowances of officers and enlisted men of the Regular Army, shall be used, under a provision therein, for expenses in connection with citizens' military training camps.

COGNATE ACT

10:445.

That the service of graduates of the Military Academy may be utilized during the months of June, July, August, and September of the year in which they graduate as instructors at the citizens' military training camps, and their graduation leave may be taken at the termination of their services as instructors at these camps. Chapter XVIII, Act of July 9, 1918 (40 Stat. 892).

SEC. 48. [Superseded by sec. 47a ante. Sec. 34, act of June 4, 1920 (41 Stat. 777). Amended by act of June 5, 1920 (41 Stat. 906)].

SEC. 49. [Superseded by sec. 47b. Sec. 34, act of June 4, 1920 (41 Stat. 777)].

SEC. 50. [Superseded by sec. 47c. Sec. 34, act of June 4, 1920 (41 Stat. 777)].

SEC. 51. [Stricken out by sec. 34, act of June 4, 1920 (41 Stat. 777)].

SEC. 52. [Stricken out by sec. 34, act of June 4, 1920 (41 Stat. 777)].

SEC. 53. [Superseded by sec. 47b. Sec. 34, act of June 4, 1920 (41 Stat. 777)].

SEC. 54. [Superseded by sec. 47d. Sec. 34, act of June 4, 1920 (41 Stat. 777)].

10:421.

SEC. 55. **THE ENLISTED RESERVE CORPS.**—The Enlisted Reserve Corps shall consist of persons voluntarily enlisted therein. The period of enlistment shall be three years, except in the case of persons who served in the Army, Navy, or Marine Corps at some time between April 6, 1917, and November 11, 1918, who may be enlisted for one-year periods and who, in time of peace, shall be entitled to discharge within ninety days if they make application therefor. Enlistment shall be limited to persons eligible for enlistment in the Regular Army who have had such military or technical training as may be prescribed by regulations of the Secretary of War, *except that for original enlistments in railway operating units the maximum age limit shall be forty-five years.* All enlistments in force at the outbreak of war, or entered into during its continuation, whether in the Regular Army or the Enlisted Reserve Corps, shall continue in force until six months after its termination unless sooner terminated by the President. *As amended by Act of June 8, 1926 (44 Stat. 704).*

10:424.

10:423.

10:425.

10:422.

SEC. 55a. **ORGANIZATION OF THE ENLISTED RESERVE CORPS.**—The President may form any or all members of the Enlisted Reserve Corps into tactical organizations similar to those of the Regular Army, similarly armed, uniformed, and equipped, and composed so far as practicable of men residing in the same locality, may officer them by the assignment of reserve officers or officers of the Regular Army, active or retired, and may detail such personnel of the Army as may be necessary for the administration of such organizations and the care of Government property issued to them.

10:426.

SEC. 55b. **RESERVISTS ON ACTIVE DUTY.**—Members of the Enlisted Reserve Corps may be placed on active duty, as individuals or organizations, in the discretion of the President,

but except in time of a national emergency expressly declared by Congress no reservist shall be ordered to active duty in excess of the number permissible under appropriations made for this specific purpose, nor for a longer period than fifteen days in any one calendar year without his own consent. While on active duty they shall receive the same pay and allowances as other enlisted men of like grades and length of service.

10:427.

NOTES.—For pay for service less than one month and for 31st day of month, see section 3, Act of September 14, 1922, as amended, set forth as cognate act under section 3, Pay Readjustment Act, page 98, post.

For hospitalization, transportation, etc., while injured in aerial flights or at camps of instruction, see section 6, Act of March 4, 1923, as amended, set forth as cognate act under section 14, Pay Readjustment Act, page 106, post.

Sec. 55c. MILITARY EQUIPMENT AND INSTRUCTORS AT OTHER SCHOOLS AND COLLEGES.—The Secretary of War is hereby authorized, under such regulations as he may prescribe, to issue such arms, tentage, and equipment as he shall deem necessary for proper military training to schools and colleges, other than those provided for in section 40 of this Act, having a course of military training prescribed by the Secretary of War and having not less than one hundred physically fit male students above the age of fourteen years; and the Secretary of War is hereby authorized to detail such available active or retired officers, warrant officers, and enlisted men of the Regular Army as he may deem necessary to said schools and colleges, other than those provided for in section 40 of this Act: *Provided*, That while so detailed they shall receive active pay and allowances: *Provided further*, That in time of peace retired officers, warrant officers, or enlisted men shall not be detailed under the provisions of this section without their consent.

10:1180.

10:1181.

NOTE.—For status of retired officers detailed at educational institutions, see act of March 3, 1925, set forth as cognate act under section 40b, ante.

SEC. 56. [Superseded by sec. 55c. See sec. 35, act of June 4, 1920 (41 Stat. 780)].

SEC. 57. COMPOSITION OF THE MILITIA.—The militia of the United States shall consist of all able-bodied male citizens of the United States and all other able-bodied males who have or shall have declared their intention to become citizens of the United States, who shall be more than eighteen years of age and, except as hereinafter provided, not more than forty-five years of age, and said militia shall be divided into three classes, the National Guard, the Naval Militia, and the Unorganized Militia.

10:1.

COURT DECISION.—Congress can by conscription organize the militia, as defined by this section, for foreign warfare, and as incident thereto provide for enforced registration of those liable to service; the limit on the constitutional power, by which the militia may be called forth only to execute the laws, suppress insurrections, and repel invasions, relating only to the organized State militia as such. *United States v. Stephens* (D. C. 1917), 245 Fed. 956.

Sec. 58. Composition of the National Guard.—The National Guard shall consist of regularly enlisted men who upon original enlistment shall be not less than eighteen nor more than forty-five years of age, or who in subsequent enlistments shall not be more than sixty-four years of age, organized, armed, and equipped

32:4.

as hereinafter provided, and of commissioned officers and warrant officers between the ages of twenty-one and sixty-four years: *Provided, That in cases of appointments of warrant officers or enlistments made in accordance with National Guard regulations, no payments heretofore made to such warrant officers and enlisted men for participating in exercises or performing the duties described in sections 92, 94, 97, and 99 of the National Defense Act of June 3, 1916, as amended, or any bona fide claim therefor, shall be held or considered invalid because such warrant officer or enlisted man was of an age greater than forty-five years at the time of his appointment or enlistment or at the time of the performance of such duties. As amended by sec. 1, act of February 28, 1925 (43 Stat. 1075).*

NOTE.—For pay of the National Guard, see sections 109 and 110, post, and section 14, Pay Readjustment Act, page 106, post.

32:2

SEC. 59. EXEMPTIONS FROM MILITIA DUTY.—The Vice President of the United States; the officers, judicial and executive, of the Government of the United States and of the several States and Territories; persons in the military or naval service of the United States; customhouse clerks; persons employed by the United States in the transmission of the mail; artificers and workmen employed in the armories, arsenals, and navy yards of the United States; pilots; mariners actually employed in the sea service of any citizen or merchant within the United States, shall be exempt from militia duty without regard to age, and all persons who because of religious belief shall claim exemption from military service, if the conscientious holding of such belief by such person shall be established under such regulations as the President shall prescribe, shall be exempted from militia service in a combatant capacity; but no person so exempted shall be exempt from militia service in any capacity that the President shall declare to be noncombatant.

32:5.

SEC. 60. ORGANIZATION OF NATIONAL GUARD UNITS.—Except as otherwise specifically provided herein, the organization of the National Guard, including the composition of all units thereof, shall be the same as that which is or may hereafter be prescribed for the Regular Army, subject in time of peace to such general exceptions as may be authorized by the Secretary of War. And the President may prescribe the particular unit or units, as to branch or arm of service, to be maintained in each State, Territory, or the District of Columbia in order to secure a force which, when combined, shall form complete higher tactical units.

32:5.

[Until July 1, 1921, companies and corresponding units of the National Guard may be recognized at a minimum enlisted strength of fifty:] *Provided, That the National Guard of any State, Territory, and the District of Columbia may include such detachments or parts of units as may be necessary in order to form complete tactical units when combined with troops of other States.*

NOTE.—Recent War Department appropriation acts prohibit the use of funds therein appropriated for "mounted, motorized, air, medical, and tank units and motor transport, military police, wagon and service companies" of the National Guard.

COGNATE ACT

* * * *Provided, That the National Guard of any State, Territory, or the District of Columbia, shall include such officers and enlisted men of the Staff Corps and Departments, corresponding to those of the Regular Army, as may be authorized by the Secretary of War. Army appropriation act of May 12, 1917 (40 Stat. 68).* 32:9.

NOTE.—This provision was repeated in the Army appropriation act of July 9, 1918 (40 Stat. 875).

SEC. 61. MAINTENANCE OF OTHER TROOPS BY THE STATES.—No State shall maintain troops in time of peace other than as authorized in accordance with the organization prescribed under this Act: *Provided, That nothing contained in this Act shall be construed as limiting the rights of the States and Territories in the use of the National Guard within their respective borders in time of peace: Provided further, That nothing contained in this Act shall prevent the organization and maintenance of State police or constabulary.* 32:194.

SEC. 62. NUMBER OF THE NATIONAL GUARD.—The number of enlisted men of the National Guard to be organized under this Act within one year from its passage shall be for each State in the proportion of two hundred such men for each Senator and Representative in Congress from such State, and a number to be determined by the President for each Territory and the District of Columbia, and shall be increased each year thereafter in the proportion of not less than fifty per centum until a total peace strength of not less than eight hundred enlisted men for each Senator and Representative in Congress shall have been reached: *Provided, That in States which have but one Representative in Congress such increase shall be at the discretion of the President: Provided further, That this shall not be construed to prevent any State, Territory, or the District of Columbia from organizing the full number of troops required under this section in less time than is specified in this section, or from maintaining existing organizations if they shall conform to such rules and regulations regarding organization, strength, and armament as the President may prescribe: And provided further, That nothing in this Act shall be construed to prevent any State with but one Representative in Congress from organizing one or more regiments of troops, with such auxiliary troops as the President may prescribe; such organizations and members of such organizations to receive all the benefits accruing under this Act under the conditions set forth herein: Provided further, That the word Territory as used in this Act and in all laws relating to the land militia and National Guard shall include and apply to Hawaii, Alaska, Porto Rico, and the Canal Zone, and the militia of the Canal Zone shall be organized under such rules and regulations, not in conflict with the provisions of this Act, as the President may prescribe.* 32:121. 32:121 (Sup. II).

SEC. 63. Any corps of Artillery, Cavalry, or Infantry existing in any of the States on the passage of the Act of May eighth, seventeen hundred and ninety-two, which by the laws, customs, or usages of said States has been in continuous existence since 32:192.

the passage of said Act, under its provisions and under the provisions of section two hundred and thirty-two and sections sixteen hundred and twenty-five to sixteen hundred and sixty, both inclusive, of title sixteen of the Revised Statutes of eighteen hundred and seventy-three, and the Act of January twenty-first, nineteen hundred and three, relating to the militia, shall be allowed to retain its ancient privileges, subject, nevertheless, to all duties required by law of militia: *Provided*, That said organizations may be a part of the National Guard and entitled to all the privileges of this Act, and shall conform in all respects to the organization, discipline, and training of the National Guard in time of war: *Provided further*, That for purposes of training and when on active duty in the service of the United States they may be assigned to higher units, as the President may direct, and shall be subject to the orders of officers under whom they shall be serving.

32: 8.

SEC. 64. ASSIGNMENT OF NATIONAL GUARD TO BRIGADES AND DIVISIONS.—For the purpose of maintaining appropriate organization and to assist in instruction and training, the President may assign the National Guard of the several States and Territories and the District of Columbia to divisions, brigades, and other tactical units, and may detail officers either from the National Guard or the Regular Army to command such units: *Provided*, That where complete units are organized within a State, Territory, or the District of Columbia the commanding officers thereof shall not be displaced under the provisions of this section.

32: 10.

SEC. 65. CHIEFS OF STAFF OF NATIONAL GUARD DIVISIONS.—The President may detail one officer of the Regular Army as chief of staff and one officer of the Regular Army or the National Guard as assistant to the chief of staff of any division of the National Guard in the service of the United States as a National Guard organization: *Provided*, That in order to insure the prompt mobilization of the National Guard in time of war or other emergency, the President may, in time of peace, detail an officer of the Regular Army to perform the duties of chief of staff for each fully organized tactical division of the National Guard.

32: 13.

SEC. 66. ADJUTANTS GENERAL OF STATES, AND SO FORTH.—The adjutants general of the States, Territories, and the District of Columbia, and the officers of the National Guard shall make such returns and reports to the Secretary of War, or to such officers as he may designate, at such times and in such form as the Secretary of War may from time to time prescribe: *Provided*, That the adjutants general of the Territories and of the District of Columbia shall be appointed by the President with such rank and qualifications as he may prescribe, and each adjutant general for a Territory shall be a citizen of the Territory for which he is appointed.

32: 12.

32: 21.

SEC. 67. APPROPRIATION, APPORTIONMENT, AND DISBURSEMENT OF FUNDS FOR THE NATIONAL GUARD.—A sum of money shall hereafter be appropriated annually, to be paid out of any money in the Treasury not otherwise appropriated, for the support of the National Guard, including the expenses of providing arms, ordnance stores, quartermaster stores, and camp equipage, and all

other military supplies for issue to the National Guard, and such other expenses pertaining to said guard as are now or may hereafter be authorized by law.

The appropriation provided for in this section shall be apportioned among the several States and Territories under just and equitable procedure to be prescribed by the Secretary of War and in direct ratio to the number of enlisted men in active service in the National Guard existing in such States and Territories at the date of apportionment of said appropriation, and to the District of Columbia, under such regulations as the President may prescribe: Provided, That the sum so apportioned among the several States, Territories, and the District of Columbia shall be available under such rules as may be prescribed by the Secretary of War for the actual and necessary expenses incurred by officers and enlisted men of the Regular Army when traveling on duty in connection with the National Guard; for actual and necessary expenses incurred by officers of the Regular Army, and Reserve Officers holding commissions in the National Guard on active duty in the Militia Bureau or the War Department General Staff, while traveling in attending the annual convention of the National Guard Association of the United States and The Adjutants General Association; for the transportation of supplies furnished to the National Guard for the permanent equipment thereof; for office rent and necessary office expenses of officers of the Regular Army on duty with the National Guard; for the expenses of the Militia Bureau, including clerical services; for expenses of enlisted men of the Regular Army on duty with the National Guard, including an allowance for quarters and subsistence provided in section 11 of the Pay Readjustment Act of June 16, 1922, medicine, and medical attendance; and such expenses shall constitute a charge against the whole sum annually appropriated for the support of the National Guard, and shall be paid therefrom and not from the allotment duly apportioned to any particular State, Territory, or the District of Columbia; for the promotion of rifle practice, including the acquisition, construction, maintenance, and equipment of shooting galleries, and suitable target ranges; for the hiring of horses and draft animals for use of mounted troops, batteries, and wagons for forage for the same; and for such other incidental expenses in connection with lawfully authorized encampments, maneuvers, and field instruction as the Secretary of War may deem necessary, and for such other expenses pertaining to the National Guard as are now or may hereafter be authorized by law.

32:22.

The governor of each State and Territory and the commanding general of the National Guard of the District of Columbia shall appoint, designate, or detail, subject to the approval of the Secretary of War, the Adjutant General, or (As amended by the act of July 9, 1918, 40 Stat. 878) an officer of the National Guard of the State, Territory, or District of Columbia, who shall be regarded as property and disbursing officer of the United States. He shall receipt and account for all funds and property belonging to the United States in possession of the National Guard of his State, Territory, or District, and shall make such returns and reports concerning the same as may be required by the Secretary of War.

32:49.

The Secretary of War is authorized, on the requisition of the governor of a State or Territory or the commanding general of the National Guard of the District of Columbia, to pay to the property and disbursing officer thereof so much of its allotment out of the annual appropriation for the support of the National Guard as shall, in the judgment of the Secretary of War, be necessary for the purposes enumerated therein. He shall render, through the War Department, such accounts of Federal funds intrusted to him for disbursement as may be required by the Treasury Department. Before entering upon the performance of his duties as property and disbursing officer he shall be required to give good and sufficient bond to the United States, the amount thereof to be determined by the Secretary of War, for the faithful performance of his duties and for the safe-keeping and proper disposition of the Federal property and funds intrusted to his care. He shall, after having qualified as property and disbursing officer, receive pay for his services at a rate to be fixed by the Secretary of War, and such compensation shall be a charge against the whole sum annually appropriated for the support of the National Guard: *Provided*, That when traveling in the performance of his official duties under orders issued by the proper authorities he shall be reimbursed for his actual necessary traveling expenses, the sum to be made a charge against the allotment of the State, Territory, or District of Columbia: *Provided further*, That the Secretary of War shall cause an inspection of the accounts and records of the property and disbursing officer to be made by an inspector general of the Army at least once each year: *And provided further*, That the Secretary of War is empowered to make all rules and regulations necessary to carry into effect the provisions of this section. As amended by section 3, act of September 22, 1922 (42 Stat. 1034), as amended by act of April 6, 1928 (45 Stat. 406).

NOTES.—Recent War Department appropriation acts have provided that the Secretary of War shall issue to the National Guard organized under the provisions of the National Defense Act, without charge against militia appropriations, except for actual expenses incident to such issue, "articles of clothing and equipment and Field Artillery, Engineer, and Signal material and ammunition." This provision has been changed somewhat in form from year to year.

The Judge Advocate General has held, in passing on the matter of traveling expenses of property and disbursing officers of the National Guard, that the Subsistence Expense Act of 1926 (act of June 3, 1926, 44 Stat. 688) is amendatory of section 67. (Ops. J. A. G., 325.11, November 22, 1926.)

COGNATE ACTS

32:50.

Under such regulations as may be prescribed by the Secretary of War, property and disbursing officers of the National Guard accountable for public moneys may intrust money to other officers of the National Guard for the purpose of having them make disbursements as their agents, and the officers to whom the money is intrusted, as well as the officer intrusting the same to him, shall be held pecuniarily responsible therefor to the United States, and the agent officer shall be subject for his official misconduct to all the liabilities and penalties prescribed by law in like cases for the officer for whom he acts as agent. Act of June 3, 1924 (43 Stat. 365).

Not in Code.

That the Comptroller General of the United States be and he is hereby authorized and directed to adjust and settle claims for pay

for services rendered during the fiscal years 1917, 1918, and 1919, or any portion thereof, for which appropriations are now being made pursuant to sections 67 and 92 of the National Defense Act, approved June 3, 1916, as amended, and certify such settlements to Congress from time to time. Act of May 22, 1928 (45 Stat. 704).

SEC. 68. LOCATION OF UNITS.—The States and Territories shall have the right to determine and fix the location of the units and headquarters of the National Guard within their respective borders: *Provided*, That no organization of the National Guard, members of which shall be entitled to and shall have received compensation under the provisions of this Act, shall be disbanded without the consent of the President, nor, without such consent, shall the commissioned or enlisted strength of any such organization be reduced below the minimum that shall be prescribed therefor by the President.

32:6.
32:16.

Sec. 69. *Original enlistments in the National Guard shall be for a period of three years, and subsequent enlistments for periods of one year or three years each. As amended by section 4, Act of June 6, 1924 (43 Stat. 470).*

32:124.

SEC. 70. Men enlisting in the National Guard of the several States, Territories, and the District of Columbia, shall sign an enlistment contract and subscribe to the following oath of enlistment: "I do hereby acknowledge to have voluntarily enlisted this — day of —, 19—, as a soldier in the National Guard of the United States and of the State of —, for the period of three (or one) year—, under the conditions prescribed by law, unless sooner discharged by proper authority. And I do solemnly swear that I will bear true faith and allegiance to the United States of America and to the State of —, and that I will serve them honestly and faithfully against all their enemies whomsoever, and that I will obey the orders of the President of the United States and of the Governor of the State of —, and of the officers appointed over me according to law and the rules and Articles of War."

32:123.

COURT DECISION.—A member of the Organized Militia who refused to take the dual oath was held nevertheless subject to being called into active service to repel invasion, to put down insurrections, etc., until the expiration of the term for which he had contracted. *Sweetser v. Emerson* (C. C. A., 1916), 236 Fed. 161.

SEC. 71. [Stricken out by sec. 39, act of June 4, 1920 (41 Stat. 781).]

SEC. 72. DISCHARGE OF ENLISTED MEN FROM THE NATIONAL GUARD.—An enlisted man discharged from service in the National Guard, except when drafted into the military service of the United States under the provisions of section 111 of this Act, shall receive a discharge in writing in such form and with such classification as is or shall be prescribed for the Regular Army, and in time of peace discharges may be given prior to the expiration of terms of enlistment under such regulations as the President may prescribe.

32:165.

SEC. 73. FEDERAL OATH FOR NATIONAL GUARD OFFICERS.—Commissioned officers of the National Guard of the several States, Territories, and the District of Columbia now serving under com-

32:112.

missions regularly issued shall continue in office, as officers of the National Guard, without the issuance of new commissions: *Provided*, That said officers have taken, or shall take and subscribe to the following oath of office: "I, ———, do solemnly swear that I will support and defend the Constitution of the United States and the constitution of the State of ——— against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will obey the orders of the President of the United States and of the governor of the State of ———; that I make this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office of ——— in the National Guard of the United States and of the State of ——— upon which I am about to enter, so help me God."

32:111.

Sec. 74. QUALIFICATIONS FOR NATIONAL GUARD OFFICERS.—Persons hereafter commissioned as officers of the National Guard shall not be recognized as such under any of the provisions of this Act unless they shall have been selected from the following classes, and shall have taken and subscribed to the oath of office prescribed in the preceding section of this Act; officers or enlisted men of the National Guard; officers, active or retired, reserve officers, and former officers of the Army, Navy, or Marine Corps, enlisted men and former enlisted men of the Army, Navy, or Marine Corps who have received an honorable discharge therefrom; graduates of the United States Military and Naval Academies; and graduates of schools, colleges, universities, and officers' training camps, where they have received military instruction under the supervision of an officer of the Regular Army who certified their fitness for appointment as commissioned officers; and for the technical branches or Staff Corps and departments, such other civilians as may be specially qualified for duty therein.

32:113.

Sec. 75. The provisions of this Act shall not apply to any person hereafter appointed an officer of the National Guard unless he first shall have successfully passed such tests as to his physical, moral, and professional fitness as the President shall prescribe. The examination to determine such qualifications for commission shall be conducted by a board of three commissioned officers appointed by the Secretary of War from the Regular Army or the National Guard, or both.

32:115.

Sec. 76. FILLING OF VACANCIES WHEN DRAFTED INTO FEDERAL SERVICE.—All vacancies occurring in any grade of commissioned officers in any organization in the military service of the United States and composed of persons drafted from the National Guard under the provisions of this Act shall be filled by the President, as far as practicable, by the appointment of persons similarly taken from said guard, and in the manner prescribed by law for filling similar vacancies occurring in the volunteer forces.

32:114.

Sec. 77. ELIMINATION AND DISPOSITION OF OFFICERS.—At any time the moral character, capacity, and general fitness for the service of any National Guard officer may be determined by an efficiency board of three commissioned officers, senior in rank to the officer whose fitness for service shall be under investigation,

and if the findings of such board be unfavorable to such officer and be approved by the official authorized to appoint such an officer, he shall be discharged. Commissions of officers of the National Guard may be vacated upon resignation, absence without leave for three months, upon the recommendation of an efficiency board, or pursuant to sentence of a court-martial. Officers of said guard rendered surplus by the disbandment of their organization shall be placed in the National Guard Reserve. Officers may, upon their own application, be placed in the said reserve.

SEC. 78. *Men duly qualified for enlistment in the active National Guard may enlist in the National Guard Reserve for a period of one or three years, under such regulations as the Secretary of War shall prescribe, and on so enlisting they shall subscribe to the following enlistment contract and take the oath therein specified: "I do hereby acknowledge to have voluntarily enlisted this — day of —, 19—, as a soldier in the National Guard of the United States and of the State of —, to serve in the Reserve thereof, or in the active National Guard of the United States and said State if transferred thereto, for a period of one (or three) year—, unless sooner discharged by proper authority, and I do solemnly swear that I will bear true faith and allegiance to the United States of America and to the State of —, and that I will serve them honestly and faithfully against all their enemies whomsoever and that I will obey the orders of the President of the United States and the Governor of the State of —, and of the officers appointed over me according to law and the rules and Articles of War." Under such regulations as the Secretary of War may prescribe, enlisted men of the active National Guard may be transferred to the National Guard Reserve; likewise enlisted men hereafter enlisted in or transferred to the National Guard Reserve may be transferred to the active National Guard: Provided, That no enlisted man shall be required to serve under any enlistment for a longer time than the period for which he enlisted in the active National Guard or National Guard Reserve, as the case may be. Members of said Reserve, officers and enlisted men, when engaged in field or coast defense training with the active National Guard, shall receive the same Federal pay and allowances as those occupying like grades on the active list of said guard when likewise engaged: Provided further, That except as otherwise specifically provided in this Act no commissioned or enlisted reservist shall receive any pay or allowances out of any appropriation made by Congress for National Guard purposes. As amended by sec. 2, act of February 28, 1925 (43 Stat. 1076).*

32: 132.

32: 133.

32: 134.

NOTE.—For pay to which members of National Guard entitled, when engaged in field or coast-defense training, see section 14, Pay Readjustment Act, page 106, post, and cognate acts set forth thereunder.

SEC. 79. [Stricken out by sec. 43, act of June 4, 1920 (41 Stat. 782)].

SEC. 80. LEAVES OF ABSENCE FOR CERTAIN GOVERNMENT EMPLOYEES.—All officers and employees of the United States and of the District of Columbia who shall be members of the National

32: 75.

Guard shall be entitled to leave of absence from their respective duties, without loss of pay, time, or efficiency rating, on all days during which they shall be engaged in field or coast-defense training ordered or authorized under the provision of this Act.

32:171.

Sec. 81. Militia Bureau of the War Department.—The Militia Division of the War Department shall hereafter be known as the Militia Bureau of the War Department. The Chief of the Militia Bureau shall be appointed by the President, by and with the advice and consent of the Senate, by selection from lists of active Federally recognized National Guard officers, recommended by the governors of the several States and Territories as suitable for such appointment, who have had ten or more years' commissioned service in the active National Guard, at least five of which have been in the line, and who have attained at least the grade of major. The Chief of the Militia Bureau shall hold office for four years unless sooner removed for cause, shall be eligible to succeed himself, and when he is sixty-four years of age he shall cease to hold such office. Upon accepting his office the Chief of the Militia Bureau shall also be appointed a major general in the Officers' Reserve Corps and shall be commissioned in the Army of the United States, which appointment and commission shall terminate when he ceases to hold such office. The Chief of the Militia Bureau shall have the rank, pay, and allowances of a major general provided in section 8 of the Pay Readjustment Act of June 10, 1922, during his tenure of office, but shall not be entitled to retirement or retired pay. For duty in the Militia Bureau and for instruction of the National Guard, the President shall assign such number of officers and enlisted men of the Regular Army as he may deem necessary. The President may also assign, with their consent, to duty in the Militia Bureau three officers who, at the time of their initial assignment, are active Federally recognized National Guard officers and who are reserve officers, and any such officer while so assigned shall receive the pay and allowances provided in the Pay Readjustment Act of June 10, 1922, as amended, for officers of the National Guard when authorized by law to receive Federal pay. The President may also assign, with their consent and within the limits of the appropriations previously made for this specific purpose, not exceeding five hundred officers of the active Federally recognized National Guard, and who are reserve officers, to duty with the Regular Army, in addition to those attending service schools, and while so assigned they shall receive the pay and allowances authorized in the preceding sentence. In case the office of Chief of the Militia Bureau becomes vacant or the incumbent, because of disability, is unable to discharge the powers and duties of the office, the reserve officer, senior in rank on duty in the Militia Bureau, appointed from the National Guard, shall act as chief of said bureau until the incumbent is able to resume his duties or the vacancy in the office is regularly filled. The pay and allowances provided in this section for the Chief of the Militia Bureau and for the reserve officers

32:172.

32:174, 66.

32:175.

32:70.

32:147.

32:173.

32:176.

assigned to duty from the National Guard shall be paid out of the whole fund appropriated for the support of the National Guard. [The age limitations herein prescribed shall not apply to the existing Chief of the Militia Bureau during his present term of office.] As amended by section 3, act of February 28, 1925 (43 Stat. 1076).

Not in Code.

NOTE.—The age limitations prescribed by this section are now effective.

SEC. 82. ARMAMENT, EQUIPMENT, AND UNIFORM OF THE NATIONAL GUARD.—The National Guard of the United States shall, as far as practicable, be uniformed, armed, and equipped with the same type of uniforms, arms, and equipments as are or shall be provided for the Regular Army.

32:31.

SEC. 83. The Secretary of War is hereby authorized to procure, under such regulations as the President may prescribe, by purchase or manufacture, within the limits of available appropriations made by Congress, and to issue from time to time to the National Guard, upon requisition of the governors of the several States and Territories or the commanding general of the National Guard of the District of Columbia, such number of United States service arms, with all accessories, field-artillery matériel, engineer, coast artillery, signal, and sanitary matériel, accoutrements, field uniforms, clothing, equipage, publications, and military stores of all kinds, including public animals, as are necessary to arm, uniform, and equip for field service the National Guard in the several States, Territories, and the District of Columbia: *Provided*, That as a condition precedent to the issue of any property as provided for by this Act, the State, Territory, or the District of Columbia desiring such issue shall make adequate provision, to the satisfaction of the Secretary of War, for the protection and care of such property: *Provided further*, That, whenever it shall be shown to the satisfaction of the Secretary of War that the National Guard of any State, Territory, or the District of Columbia is properly organized, armed, and equipped for field service, funds allotted to that State, Territory, or District for the support of its National Guard may be used for the purchase, from the War Department, of any article issued by any of the supply departments of the Army.

32:33.

NOTE.—See also sections 62 and 67, ante, and note to latter.

SEC. 84. Under such regulations as the President may prescribe, whenever a new type of equipment, small arm, or field gun shall have been issued to the National Guard of the several States, Territories, and the District of Columbia, such equipment, small arms, and field guns, including all accessories, shall be furnished without charging the cost or value thereof or any expense connected therewith against the appropriations provided for the support of the National Guard.

32:35.

SEC. 85. Each State, Territory, and the District of Columbia shall, on the receipt of new property issued to replace obsolete or condemned prior issues, turn in to the War Department or otherwise dispose of, in accordance with the directions of the Secretary of War, all property so replaced or condemned, and shall not receive any money credit therefor.

32:46.

32: 39.

Sec. 86. Any State, Territory, or the District of Columbia may, with the approval of the Secretary of War, purchase for cash from the War Department for the use of the National Guard, including the officers thereof, any stores, supplies, material of war, and military publications furnished to the Army, in addition to those issued under the provisions of this Act, at the price at which they shall be listed to the Army, with cost of transportation added. The funds received from such sale shall be credited to the appropriation to which they shall belong, shall not be covered into the Treasury, and shall be available until expended to replace therewith the supplies sold to the States in the manner herein authorized: *Provided*, That stores, supplies, and matériel of war so purchased by a State, Territory, or the District of Columbia may, in time of actual or threatened war, be requisitioned by the United States for use in the military service thereof, and when so requisitioned by the United States and delivered credit for the ultimate return of such property in kind shall be allowed to such State, Territory, or the District of Columbia.

32: 47.

Sec. 87. Disposition and replacement of damaged property, and so forth.—All military property issued to the National Guard as herein provided shall remain the property of the United States. Whenever any such property issued to the National Guard in any State or Territory or the District of Columbia shall have been lost, damaged, or destroyed, or become unservicable or unsuitable by use in service or from any other cause, it shall be examined by a disinterested surveying officer of the Regular Army or the National Guard, detailed by the Secretary of War, and the report of such surveying officer shall be forwarded to the Secretary of War, or to such officer as he shall designate to receive such reports; and if it shall appear to the Secretary of War from the record of survey that the property was lost, damaged, or destroyed through unavoidable causes, he is hereby authorized to relieve the State or Territory or the District of Columbia from further accountability therefor. If it shall appear that the loss, damage, or destruction of property was due to carelessness or neglect, or that its loss, damage, or destruction could have been avoided by the exercise of reasonable care, the money value of such property shall be charged to the accountable State, Territory, or District of Columbia to be paid from State, Territory, or District funds, or any funds other than Federal. If the articles so surveyed are found to be unservicable or unsuitable, the Secretary of War shall direct what disposition by sale or otherwise shall be made of them; and if sold, the proceeds of such sale, as well as stoppages against officers and enlisted men, and the net proceeds of collections made from any person or from any State, Territory, or District to reimburse the Government for the loss, damage, or destruction of any property, shall be deposited in the Treasury of the United States as a credit to said State, Territory, or the District of Columbia, accountable for said property, and shall remain available throughout the then current fiscal year and throughout the fiscal year following that in which the sales, stoppages, and collec-

tions were effected, for the purposes provided for in that portion of its allotment set aside for the purchase of similar supplies, stores, or material of war: *Provided, That if any State or Territory, or the District of Columbia, shall neglect or refuse to pay, or to cause to be paid, the money equivalent of any loss, damage, or destruction of property charged against such State, Territory, or the District of Columbia by the Secretary of War after survey by a disinterested officer appointed as hereinbefore provided, the Secretary of War is hereby authorized to debar such State, Territory, or the District of Columbia from further participation in any and all appropriations for the National Guard until such payment shall have been made: Provided further, That property issued to the National Guard and which has become unserviceable through fair wear and tear in service, may, after inspection thereof and finding to that effect made by an officer of the Regular Army designated by the Secretary of War, be sold or otherwise disposed of, and the State, Territory, or District of Columbia accountable shall be relieved from further accountability therefor; such inspection, and sale or other disposition, to be made under regulations prescribed by the Secretary of War, and to constitute as to such property a discretionary substitute for the examination, report, and disposition provided for elsewhere in this section. As amended by section 4, act of February 28, 1925 (43 Stat. 1077).*

Sec. 88. The net proceeds of the sale of condemned stores issued to the National Guard and not charged to State allotments shall be covered into the Treasury of the United States, as shall also stoppages against officers and enlisted men, and the net proceeds of collections made from any person to reimburse the Government for the loss, damage, or destruction of said property not charged against the State allotment issued for the use of the National Guard.

32:45.

Sec. 89. **ANIMALS FOR NATIONAL GUARD.**—Funds allotted by the Secretary of War for the support of the National Guard shall be available for the purchase, under such regulations as the Secretary of War may prescribe, of animals conforming to the Regular Army standards for the training of the National Guard, said animals to remain the property of the United States and to be used solely for military purposes.

32:40.

The number of animals so issued shall not exceed thirty-two for each battery of Field Artillery or troop of Cavalry, and a proportionate number for other mounted organizations, under such regulations as the Secretary of War may prescribe; and the Secretary of War is further authorized to issue, in lieu of purchase, for the training of such organizations, condemned Army animals which are no longer fit for service, but which may be suitable for the purposes of instruction, such animals to be sold as now provided by law when said purposes shall have been served.

Sec. 90. That funds allotted by the Secretary of War for the support of the National Guard shall be available for the purchase and issue of forage, bedding, shoeing, and veterinary services, and supplies for the Government animals issued to any organization,

32:42 (and
Sup. II).

and for animals owned or hired by any State, Territory, District of Columbia, or National Guard organization, not exceeding the number of animals authorized by Federal law for such organization and used solely for military purposes, and for the compensation of competent help for the care of material, animals, armament, and equipment of organizations of all kinds, under such regulations as the Secretary of War may prescribe: *Provided*, That the men to be so compensated shall not exceed five for each organization, except heavier-than-air squadrons, for each of which a maximum of ten to be so compensated is hereby authorized, and shall, save as otherwise provided in the next succeeding proviso, be duly enlisted therein and detailed by the organization commander, and shall be paid by the United States disbursing officer in each State, Territory, and the District of Columbia: *Provided further*, That in each heavier-than-air squadron one caretaker may be a commissioned officer not above the grade of first lieutenant: And *provided further*, That in any organization whenever it shall be found impracticable to secure the necessary competent caretakers for the materials, animals, armament, or equipment thereof from the personnel of such organization, the organization commander may employ civilians for any or all except one of the caretakers authorized for the organization, and such civilians shall be entitled to such compensations as may be fixed by the Secretary of War: *Provided further*, That nothing in this section shall be held to increase the number of commissioned officers authorized by law. As amended by section 1, act of May 28, 1926 (44 Stat. 673), as amended by act of April 21, 1928 (45 Stat. 440).

NOTE.—The second amendatory act merely permitted the organization commander to employ more than one civilian caretaker, as had previously been the limitation.

32:161.

SEC. 91. DISCIPLINE TO CONFORM TO THAT OF REGULAR ARMY.—The discipline (which includes training) of the National Guard shall conform to the system which is now or may hereafter be prescribed for the Regular Army, and the training shall be carried out by the several States, Territories, and the District of Columbia so as to conform to the provisions of this Act.

Sec. 92. Training of the National Guard.—Under such regulations as the Secretary of War shall prescribe, each company, troop, battery, and detachment in the National Guard shall assemble for drill and instruction, including indoor target practice, not less than forty-eight times each year, and shall, in addition thereto, participate in encampments, maneuvers, or other exercises, including outdoor target practice, at least fifteen days in training each year, including target practice, unless such company, troop, battery, or detachment shall have been excused from participation in any part thereof by the Secretary of War: *Provided*, That an assembly for drill and instruction may consist of a single duly ordered formation of a company, troop, battery, or detachment, or when so authorized by the Secretary of War of a series of duly ordered formations of subdivisions or parts thereof, but in the latter case the series of formations of subdivisions or groups must comprehend and include the entire organization, and must be included within the time limit of seven consecutive days within a

32:62.

calendar month. The sum total of the attendance at all the separate consecutive formations announced as constituting that assembly shall be counted as the attendance at the actual military assembly for the required period of time; but no officer, warrant officer, or enlisted man shall be counted more than once, nor receive credit for more than one required period of actual military attendance even though he may have attended more than one of the formations which constitute the assembly for the required period of time: Provided further, That credit for an assembly for drill or for indoor target practice shall not be given unless the number of officers and enlisted men present for duty at such assembly shall equal or exceed a minimum to be prescribed by the President nor unless the period of actual military duty and instruction participated in by each officer and enlisted man at each such assembly at which he shall be credited as having been present shall be of at least one and one-half hours' duration and the character of training such as may be prescribed by the Secretary of War. As amended by section 2, Act of June 3, 1924 (43 Stat. 363).

NOTE.—For pay of members of the National Guard for drills and instructions, see sections 109 and 110, post, and sections 14 and 20, Pay Readjustment Act, pages 106 and 112, respectively, post.
See for settlement of claims for services rendered during the fiscal years 1917-1919, act of May 22, 1928, referring to this section, set forth as cognate act under section 67, ante.

SEC. 93. INSPECTIONS OF THE NATIONAL GUARD.—The Secretary of War shall cause an inspection to be made at least once each year by inspectors general, and if necessary by other officers, of the Regular Army, detailed by him for that purpose, to determine whether the amount and condition of the property in the hands of the National Guard is satisfactory; whether the National Guard is organized as hereinbefore prescribed; whether the officers and enlisted men possess the physical and other qualifications prescribed; whether the organization and the officers and enlisted men thereof are sufficiently armed, uniformed, equipped, and being trained and instructed for active duty in the field or coast defense, and whether the records are being kept in accordance with the requirements of this Act. The reports of such inspections shall serve as the basis for deciding as to the issue to and retention by the National Guard of the military property provided for by this Act, and for determining what organizations and individuals shall be considered as constituting parts of the National Guard within the meaning of this Act. 32: 15.

SEC. 94. ENCAMPMENTS AND MANEUVERS.—Under such regulations as the President may prescribe the Secretary of War is authorized to provide for the participation of the whole or any part of the National Guard in encampments, maneuvers, or other exercises, including outdoor target practice, for field or coast-defense instructions, either independently or in conjunction with any part of the Regular Army, and there may be set aside from the funds appropriated for that purpose and allotted to any State, Territory, or the District of Columbia, such portion of said funds as may be necessary for the payment, subsistence, transportation, and other proper expenses of such portion of the National Guard of such 32: 63.

the commanding or other officer of the National Guard temporarily engaged in the encampments, maneuvers, or other exercises.

32:67.

SEC. 96. USE OF REGULAR ARMY PERSONNEL.—The Secretary of War may detail one or more officers and enlisted men of the Regular Army to attend any encampment, maneuver, or other exercise for field or coast-defense instruction of the National Guard, who shall give such instruction and information to the officers and men assembled for such encampment, maneuver, or other exercise as may be directed by the Secretary of War or requested by the governor or by the commanding officer of the National Guard there on duty.

32:64 (Sup.
II).

SEC. 97. *Under such regulations as the President may prescribe the Secretary of War may provide for assemblages of officers, warrant officers, and enlisted men of the National Guard for the purpose of attending schools to be conducted by officers of the Regular Army detailed by the Secretary of War for that purpose, or for the purpose of participating in small-arms competitions. Such assemblages may be held either within or without the State, Territory, or District of Columbia, to which the members of the National Guard designated to attend them shall belong. Officers and warrant officers attending such assemblages shall be entitled to pay, allowances, and transportation, and enlisted men to pay, transportation, and subsistence at the same rates as for encampments for maneuvers for field or coast-defense instruction. As amended by section 2, act of May 28, 1926 (44 Stat. 674).*

32:45.

NOTE.—For pay, allowances, hospitalization, etc., of members of the National Guard, see section 14, Pay Readjustment Act, page 106, post.

32:158.

SEC. 98. When any portion of the National Guard shall participate in encampments, maneuvers, or other exercises, including outdoor target practice for field or coast-defense instruction, under the provisions of this Act, it may, after being duly mustered, be paid at any time after such muster for the period from the date of leaving the home rendezvous to date of return thereto as determined in advance, both dates inclusive; and such payment, if otherwise correct, shall pass to the credit of the disbursing officer making the same.

Sec. 99. *National Guard officers, warrant officers, and enlisted men at service schools, and so forth: Under such regulations as the President may prescribe, the Secretary of War may, upon the recommendation of the governor of any State or Territory, or the commanding general of the National Guard of the District of Columbia, authorize a limited number of selected officers, warrant officers, or enlisted men of the National Guard to attend and pursue a regular course of study at any military-service school of the United States, except the United States Military Academy, or to be attached to an organization of the same arm, corps, or department to which such officer or enlisted man shall belong, for routine practical instruction at or near any Army post during a period of field training or other outdoor exercises; and any such officer, or warrant officer, shall receive, out of any National Guard allotment of funds available for the purpose, the pay and allowances provided in the Pay Readjustment Act of June 10, 1922, for officers and warrant officers of the National Guard when authorized by law to receive Federal pay and the travel allowances provided in section 12 thereof, and any such enlisted man shall receive therefrom, except as otherwise provided in section 14 of the Pay Readjustment Act of June 10, 1922, the same pay and allowances, including allowances for quarters, subsistence, and travel to which an enlisted man of the Regular Army of like grade would be entitled for attending such school, college, or practical course of instruction under orders from proper military authority, while in actual attendance at such school, college, or practical course of instruction, and for the necessary period of travel from and to his home station: Provided, That all pay and allowances accruing to any officer, warrant officer, or enlisted man, including that for the period of travel to home stations, may be paid prior to departure from the post or other place at which such service is performed: [Provided further, That an officer, warrant officer, or enlisted man who becomes sick in line of duty while undergoing the training provided for by this section or the training provided for by section 94 or section 97 of this Act shall, while he is so sick during the period he is authorized to engage in such training, be entitled to pay and allowances the same as if he were actually participating in such training.] As amended by section 3, act of May 28, 1926 (44 Stat. 674).*

NOTES.—For pay, allowances, hospitalization, etc., of members of the National Guard at service schools, etc., see section 14, Pay Readjustment Act, page 106, post.

The last proviso of this section seems superseded by the broader provisions of the first sentence of section 6, act of March 4, 1923, as twice amended, which is set forth as a cognate act under section 14, Pay Readjustment Act, page 106, post.

SEC. 100. *DETAIL OF OFFICERS OF REGULAR ARMY TO DUTY WITH THE NATIONAL GUARD.—The Secretary of War shall detail officers of the active list of the Army to duty with the National Guard in each State, Territory, or District of Columbia, and officers so detailed may accept commissions in the National Guard, with the permission of the President and terminable in his discretion, without vacating their commissions in the Regular Army or being prejudiced in their relative or lineal standing therein. The Secretary of War may, upon like application, detail one or more*

32:65 (Sup. II).

32:146 (Sup. II).

32:68.

32:69.

32:68.

enlisted men of the Regular Army with each State, Territory, or District of Columbia for duty in connection with the National Guard. But nothing in this section shall be so construed as to prevent the detail of retired officers as now provided by law.

32:82.

SEC. 101. NATIONAL GUARD, WHEN SUBJECT TO LAWS GOVERNING REGULAR ARMY.—The National Guard when called as such into the service of the United States shall, from the time they are required by the terms of the call to respond thereto, be subject to the laws and regulations governing the Regular Army, so far as such laws and regulations are applicable to officers and enlisted men whose permanent retention in the military service, either on the active list or on the retired list, is not contemplated by existing law.

COGNATE ACT

32:81a (Sup.
II).

Sec. 4. That whenever the United States is invaded or in danger of invasion from any foreign nation, or of rebellion against the authority of the Government of the United States, or the President is unable with the regular forces at his command to execute the laws of the Union, it shall be lawful for the President to call forth such number of the militia of the State or of the States or Territories or of the District of Columbia as he may deem necessary to repel such invasion, suppress such rebellion, or to enable him to execute such laws, and to issue his orders for that purpose, through the governor of the respective State or Territory, or through the commanding general of the militia of the District of Columbia, from which State, Territory, or District such troops may be called, to such officers of the militia as he may think proper.

Not in Code.

Sec. 5. That whenever the President calls forth the organized militia of any State, Territory, or of the District of Columbia, to be employed in the service of the United States, he may specify in his call the period for which such service is required, and the militia so called shall continue to serve during the term so specified, either within or without the Territory of the United States, unless sooner relieved by order of the President: Provided, That no commissioned officer or enlisted man of the organized militia shall be held to service beyond the term of his existing commission or enlistment: Provided further, That when the military needs of the Federal Government arising from the necessity to execute the laws of the Union, suppress insurrection, or repel invasion, can not be met by the regular forces, the organized militia shall be called into the service of the United States in advance of any volunteer force which it may be determined to raise. Act of January 21, 1903 (32 Stat. 776), as amended by act of May 27, 1908 (35 Stat. 400).

Not in Code.

Sec. 6. That when the militia of more than one State is called into the actual service of the United States by the President he may, in his discretion, apportion them among such States and Territories or to the District of Columbia according to representative population. Section 6, act of January 21, 1903 (32 Stat. 776).

32:157.

Sec. 11. That when the militia is called into the actual service of the United States, or any portion of the militia is called forth

under the provisions of this Act, their pay shall commence from the day of their appearance at the place of company rendezvous, but this provision shall not be construed to authorize any species of expenditure previous to arriving at such places of rendezvous which is not provided by existing laws to be paid after their arrival at such places of rendezvous. Section 11, act of January 21, 1903 (32 Stat. 776), as amended by act of May 27, 1908 (35 Stat. 401).

Court Decision.—The constitutional power to call forth the militia (Art. I, sec. 8, clause 15), with which the above provisions are concerned, is to be distinguished from the draft of the National Guard under section 111, post. *United States v. Sugar* (D. C. 1917), 243 Fed. 423, 437.

SEC. 102. SYSTEM OF COURTS-MARTIAL FOR NATIONAL GUARD.—Except in organizations in the service of the United States, courts-martial in the National Guard shall be of three kinds, namely, general courts-martial, special courts-martial, and summary courts-martial. They shall be constituted like, and have cognizance of the same subjects, and possess like powers, except as to punishments, as similar courts provided for by the laws and regulations governing the Army of the United States, and the proceedings of courts-martial of the National Guard shall follow the forms and modes of procedure prescribed for said similar courts.

SEC. 103. General courts-martial of the National Guard not in the service of the United States may be convened by orders of the President, or of the governors of the respective States and Territories, or by the commanding general of the National Guard of the District of Columbia, and such courts shall have the power to impose fines not exceeding \$200; to sentence to forfeiture of pay and allowances; to a reprimand; to dismissal or dishonorable discharge from the service; to reduction of noncommissioned officers to the ranks; or any two or more of such punishments may be combined in the sentences imposed by such courts.

SEC. 104. In the National Guard, not in the service of the United States, the commanding officer of each garrison, fort, post, camp, or other place, brigade, regiment, detached battalion, or other detached command, may appoint special courts-martial for his command; but such special courts-martial may in any case be appointed by superior authority when by the latter deemed desirable. Special courts-martial shall have power to try any person subject to military law, except a commissioned officer, for any crime or offense made punishable by the military laws of the United States, and such special courts-martial shall have the same powers of punishment as do general courts-martial, except that fines imposed by such courts shall not exceed \$100.

SEC. 105. In the National Guard, not in the service of the United States, the commanding officer of each garrison, fort, post, or other place, regiment or corps, detached battalion, company, or other detachment of the National Guard may appoint for such place or command a summary court to consist of one officer, who shall have power to administer oaths and to try the enlisted men of such place or command for breaches of discipline and violations of law governing such organizations; and said court, when satisfied of the guilt of such soldier, may impose fines not exceeding \$25 for any single offense; may sentence noncommissioned officer

32:91.

32:92.

32:93.

32:94.

to reduction to the ranks; may sentence to forfeiture of pay and allowances. The proceedings of such court shall be informal, and the minutes thereof shall be the same as prescribed for summary courts of the Army of the United States.

32:95.

SEC. 106. All courts-martial of the National Guard, not in the service of the United States, including summary courts, shall have power to sentence to confinement in lieu of fines authorized to be imposed: *Provided*, That such sentences of confinement shall not exceed one day for each dollar of fine authorized.

32:96.

SEC. 107. No sentence of dismissal from the service or dishonorable discharge imposed by a National Guard court-martial, not in the service of the United States, shall be executed until approved by the governor of the State or Territory concerned, or by the commanding general of the National Guard of the District of Columbia.

32:97.

SEC. 108. In the National Guard, not in the service of the United States, presidents of courts-martial and summary court officers shall have power to issue warrants to arrest accused persons and to bring them before the court for trial whenever such persons shall have disobeyed an order in writing from the convening authority to appear before such court, a copy of the charge or charges having been delivered to the accused with such order, and to issue subpoenas and subpoenas duces tecum and to enforce by attachment attendance of witnesses and the production of books and papers, and to sentence for a refusal to be sworn or to answer as provided in actions before civil courts.

All processes and sentences of said courts shall be executed by such civil officers as may be prescribed by the laws of the several States and Territories, and in any State where no provision shall have been made for such action, and in the Territories and the District of Columbia, such processes and sentences shall be executed by a United States marshal or his duly appointed deputy, and it shall be the duty of any United States marshal to execute all such processes and sentences and make return thereof to the officer issuing or imposing the same.

32:143.

SEC. 109. *Pay for the National Guard officers.*—Under such regulations as the Secretary of War may prescribe, captains, lieutenants, and warrant officers belonging to organizations of the National Guard shall receive compensation at the rate of one-thirtieth of the monthly base pay prescribed for them in sections 3 and 9 of the Pay Readjustment Act of June 10, 1922, for each regular drill or other period of instruction authorized by the Secretary of War, not exceeding eight in any one calendar month and not exceeding sixty in one year, at which they shall have been officially present for the entire required period of not less than one and one-half hours. Officers above the grade of captain shall receive not more than \$500 a year, and officers below the grade of major, not belonging to organizations, shall receive not more than four-thirtieths of the monthly base pay prescribed for them in section 3 of said Pay Readjustment Act for satisfactory performance of their appropriate duties under such regulations as the Secretary of War may prescribe. In addition to pay herein-

32:148.

before provided officers commanding organizations less than a brigade and having administrative functions connected therewith, shall, whether or not such officers belong to such organizations, receive not more than \$240 a year for the faithful performance of such administrative functions under such regulations as the Secretary of War may prescribe; and for the purpose of determining how much shall be paid to such officers so performing such functions, the Secretary of War may, from time to time, divide them into classes and fix the amount payable to the officers in each class. Pay under the provisions of this section shall not accrue to any officer during a period when he shall be entitled under any provision of law to the full rate of his base pay prescribed in section 3 or section 9, as the case may be, of the Pay Readjustment Act of June 10, 1922: *Provided, That* section 9 of an Act amending the Act entitled 'An Act to authorize the President to increase temporarily the Military Establishment of the United States,' approved May 18, 1917, approved August 31, 1918, shall also apply to the purchase of uniforms, accouterments, and equipment for cash by officers of the National Guard and National Guard Reserve, whether in State or Federal service, on proper identification and under such rules and regulations as the Secretary of War may prescribe. As amended by section 3, act of June 3, 1924 (Stat. 364).

32:143, 148.

32:156.

NOTE.—For sections 3 and 9, Pay Readjustment Act, see pages 98 and 101, post, respectively, and see, for other provisions respecting pay of National Guard officers, section 14 of said act, page 106, post.

On the pay of warrant officers, see note to section 14, Pay Readjustment Act, page 106, post.

Sec. 110. Pay for National Guard enlisted men.—Each enlisted man belonging to an organization of the National Guard, other than enlisted men of the sixth and seventh grades, shall receive compensation at the rate of one-thirtieth of the initial monthly pay of his grade in the Regular Army, and each of those of the sixth and seventh grades shall receive compensation as is provided in section 14 of the Pay Readjustment Act of June 10, 1922, for each drill ordered for his organization where he is officially present and in which he participates for not less than one and one-half hours, not exceeding eight in any one calendar month and not exceeding sixty drills in one year: *Provided, That* the proviso contained in section 92 of this Act shall not operate to prevent the payment of enlisted men actually present at any duly ordered drill or other exercise: *Provided, further, That* periods of any actual military duty equivalent to the drills herein prescribed (except those periods of service provided for in sections 94, 97, 99, and 101 of the National Defense Act, as amended) may be accepted as service in lieu of such drills when so provided by the Secretary of War: And provided further, That any enlisted man shall, under such regulations as the Secretary of War may prescribe, receive compensation under the provisions of this section for any drill had in accordance with such provisions where he is officially present and in which he participates for not less than one and one-half hours with a National Guard organization within the same State at a station other than his own, upon presentation of a certificate in form prescribed in said regulations from the

32:154.

organization commander to the commanding officer of the organization of which he is a member showing such drill participation. As amended by section 7, act of June 6, 1924 (43 Stat. 471).

32:154 (Sup.
II).

All amounts appropriated for the purpose of this and the last preceding section shall be disbursed and accounted for by the officers and agents of the Finance Department of the Army, and effective as soon as practicable after July 1, 1928, all disbursements under the foregoing provisions of this section shall be made for such three-months periods for the various units of the National Guard as shall be prescribed in regulations issued by the Secretary of War and on pay rolls prepared and authenticated in the manner prescribed in said regulations: Provided, That for the period necessary to put in to operation the payment plan herein provided for, the Secretary of War is authorized to fix initial pay periods of less than three months for such number of units as he may deem necessary: And provided further, That stoppages may be made against the compensation payable to any officer or enlisted man hereunder to cover the cost of public property lost or destroyed by, and chargeable to, such officer or enlisted man. As amended by section 6, act of September 22, 1922 (42 Stat. 1035), as amended by act of April 6, 1928 (45 Stat. 407).

32:154 (Sup.
II).

Except as otherwise specifically provided herein no money appropriated under the provisions of this or the last preceding section shall be paid to any person not on the active list, nor to any person over sixty-four years of age, nor to any person who shall fail to qualify as to fitness for military service under such regulations as the Secretary of War shall prescribe. As amended by section 6, act of September 22, 1922 (42 Stat. 1035), as amended by act of May 12, 1928 (45 Stat. 500).

NOTE.—For other provisions affecting pay of National Guard enlisted men, see section 14, Pay Readjustment Act, page 106, post.

32:81.

Sec. 111. NATIONAL GUARD WHEN DRAFTED INTO FEDERAL SERVICE.—When Congress shall have authorized the use of the armed land forces of the United States for any purpose requiring the use of troops in excess of those of the Regular Army, the President may, under such regulations, including such physical examination, as he may prescribe, draft into the military service of the United States, to serve therein for the period of the war or emergency, unless sooner discharged, any or all members of the National Guard and of the National Guard Reserve. All persons so drafted shall, from the date of their draft, stand discharged from the militia, and shall be subject to such laws and regulations for the government of the Army of the United States as may be applicable to members of the Army, whose permanent retention in the military service is not contemplated by law, and shall be organized into units corresponding as far as practicable to those of the Regular Army or shall be otherwise assigned as the President may direct. The commissioned officers of said organizations shall be appointed from among the members thereof; officers with rank not above that of colonel to be appointed by the President alone, and all other officers to be

appointed by the President by and with the advice and consent of the Senate. Officers and enlisted men while in the service of the United States under the terms of this section shall have the same pay and allowances as officers and enlisted men of the Regular Army of the same grades and the same prior service. On the termination of the emergency all persons so drafted shall be discharged from the Army, shall resume their membership in the militia, and, if the State so provide, shall continue to serve in the National Guard until the dates upon which their enlistments entered into prior to their draft would have expired if uninterrupted.

NOTES.—The pay and allowances of officers of the National Guard when entitled to receive Federal pay are prescribed by sections 3, 5, 6, and 14, Pay Readjustment Act, pages 98, 99, 100, and 106, post, respectively.

The provision of this section that officers and enlisted men of the National Guard, while in the service of the United States under the terms of this section, should be entitled to the same pay and allowances as officers and enlisted men of the Regular Army of the same grades and the same prior service, was construed, during the World War, to mean the same length of service in the Organized Militia or the National Guard. (24 Comp. Dec. 120.) Conversely, those persons who had had previous service in the Organized Militia or National Guard, but were not in the Federal service by way of draft under this section, were held not entitled to compute their longevity pay under this section. (24 Comp. Dec. 560.) Hence Regular Army personnel has never been so entitled (24 Comp. Dec. 292), and persons neither belonging to the Regular Army nor draftees under this section were not entitled to count their previous service of this nature until the passage of the act of July 9, 1918, set forth as a cognate act, following.

COURT DECISION.—The constitutional power to call forth the militia (Art. I, sec. 8, clause 15) is to be distinguished from the draft of the National Guard under this section. *United States v. Sugar* (D. C., 1917), 243 Fed. 423, 437. For call of militia, see section 101, ante, and cognate act thereunder.

COGNATE ACT

Longevity Pay for Men other than the Regular Army: That officers and enlisted men of the forces of the Army of the United States other than the Regular Army who have had service in the National Guard and Organized Militia of any State, Territory, or District, but who have entered the service in the forces of the Army of the United States, otherwise than through draft under the provisions of section one hundred and eleven of the Act of June third, nineteen hundred and sixteen, known as the national defense Act, shall be upon the same footing as to pay and allowance as the members of said forces who were drafted under the provisions of said section. Act of July 9, 1918 (40 Stat. 875).

Not in Code.

SEC. 112. RIGHTS TO PENSIONS.—When any officer or enlisted man of the National Guard drafted into the service of the United States in time of war is disabled by reason of wounds or disability received or incurred while in the active service of the United States in time of war, he shall be entitled to all the benefits of the pension laws existing at the time of his service, and in case such officer or enlisted man dies in the active service of the United States in time of war or in returning to his place of residence after being mustered out of such service, or at any other time in consequence of wounds or disabilities received in such active service, his widow and children, if any, shall be entitled to all the benefits of such pension laws.

§2:160.

SEC. 113. ENCOURAGEMENT OF RIFLE PRACTICE.—The Secretary of War shall annually submit to Congress recommendations and estimates for the establishment and maintenance of indoor and

Not in Code.

32:183.

Not in Code.

outdoor rifle ranges, under such a comprehensive plan as will ultimately result in providing adequate facilities for rifle practice in all sections of the country. And that all ranges so established and all ranges which may have already been constructed, in whole or in part, with funds provided by Congress shall be open for use by those in any branch of the military or naval service of the United States and by all able-bodied males capable of bearing arms, under reasonable regulations to be prescribed by the controlling authorities and approved by the Secretary of War. That the President may detail capable officers and non-commissioned officers of the Regular Army and National Guard to duty at such ranges as instructors for the purpose of training the citizenry in the use of the military arm. Where rifle ranges shall have been so established and instructors assigned to duty thereat, the Secretary of War shall be authorized to provide for the issue of a reasonable number of standard military rifles and such quantities of ammunition as may be available for use in conducting such rifle practice.

COGNATE ACTS

32:181.

Hereafter the Secretary of War shall, within the limits of appropriations made from time to time by Congress and in accordance with reasonable rules and regulations approved by him upon the recommendation of the National Board for the Promotion of Rifle Practice, authorize and provide for—

(a) *Construction, equipment, maintenance, and operation of indoor and outdoor rifle ranges and their accessories and appliances;*

(b) *Instruction of able-bodied citizens of the United States in marksmanship and, in connection therewith, the employment of necessary instructors;*

(c) *Promotion of practice in the use of rifle arms, the maintenance and management of matches or competitions in the use of such arms, and the issuance in connection therewith of the necessary arms, ammunition, targets, and other necessary supplies and appliances, and the award to competitors of trophies, prizes, badges, and other insignia;*

(d) *Sale to members of the National Rifle Association, at cost to the Government, and issue to clubs organized, for practice with rifled arms, under the direction of the National Board for the Promotion of Rifle Practice, of arms, ammunition, targets, and other supplies and appliances necessary for target practice;*

(e) *Maintenance of the National Board for the Promotion of Rifle Practice, including provision for the necessary expenses thereof and of its members;*

(f) *Procurement of necessary materials, supplies, appliances, trophies, prizes, badges, and other insignia, clerical and other services, and labor;*

(g) *Transportation of employees, instructors, and civilians to give or undergo instruction or to assist or engage in practice in the use of rifled arms, and the transportation and subsistence, or commutations in lieu of subsistence, of members of teams espe-*

cially authorized by the Secretary of War to participate in matches or competitions in the use of rifled arms, making a full report of all things done hereunder annually to Congress. Act of June 7, 1924 (43 Stat. 510).

That for the purpose of furnishing a national trophy and medals and other prizes to be provided and contested for annually, under such regulations as may be prescribed by the Secretary of War, said contest to be open to the Army, Navy, Marine Corps, and the National Guard or Organized Militia of the several States, Territories, and the District of Columbia, members of rifle clubs, and civilians, and for the cost of trophy, prizes, and medals herein provided for, and for the promotion of rifle practice throughout the United States, including the reimbursement of necessary expense of members of the National Board for the Promotion of Rifle Practice to be expended for the purpose hereinbefore prescribed, under the direction of the Secretary of War, the sum of \$7,500 is hereby authorized to be appropriated annually: Provided, That no competitor shall be entitled to commutation of rations in excess of \$1.50 per day, and when meals are furnished no greater expense than that sum per man per day for the period the contest is in progress. Act of February 14, 1927 (44 Stat. 1095).

That the Act entitled "An Act for the promotion of rifle practice throughout the United States," approved February 14, 1927 (Forty-fourth Statutes, page 1095), which adds an additional paragraph to section 113 of the National Defense Act, is hereby amended to read as follows: "That there shall be held an annual competition, known as the national matches, for the purpose of competing for a national trophy, medals, and other prizes to be provided, together with a small-arms firing school, which competition and school shall be held annually under such regulations as may be prescribed by the Secretary of War."

Sec. 2. The national matches contemplated in this Act shall consist of rifle and pistol matches for the national trophy, medals, and other prizes mentioned in section 1 above, to be open to the Army, Navy, Marine Corps, National Guard, or Organized Militia of the several States, Territories, and District of Columbia, the Reserve Officers' Training Corps, and the citizens' military training camps, rifle clubs, and civilians, together with a small-arms firing school to be connected therewith and competitions for which trophies and medals are provided by the National Rifle Association of America; and for the cost and expenditures required for and incident to the conduct of the same, including the personal expenses of the members of the National Board for the Promotion of Rifle Practice, the sum necessary for the above-named purposes is hereby authorized to be appropriated annually as a part of the total sum appropriated for national defense: Provided, That no competitor shall be entitled to commutation of rations in excess of \$1.50 per day, and when meals are furnished no greater expenses than that sum per man per day for the period the contest is in progress: Provided further, That in lieu of traveling expense and computation of rations while traveling the sum of 5 cents per mile may be paid to civilian competitors, and such travel pay for

the return trip may be paid in advance of the performance of the travel.

32:181c (Sup.
II).

Sec. 3. For the incidental expenses of the National Board for the Promotion of Rifle Practice, including books, pamphlets, badges, trophies, prizes, and medals to be expended for such purposes, the sum of not more than \$7,500 is hereby authorized to be appropriated annually. Act of May 28, 1928 (45 Stat. 786).

NOTES.—The Judge Advocate General has expressed the opinion that the act of June 7, 1924, above set forth, is comprehensive and supersedes earlier legislation concerning rifle practice. (Ops. J. A. G. 300.3, Feb. 14, 1928.)

The act of May 28, 1928, above set forth, incorrectly describes the act of February 14, 1927, as adding an additional paragraph to section 113 of the National Defense Act. Section 1 of said act of May 28, 1928, ends with quotation marks, as above indicated. Its precise effect on the act of February 14, 1927, which it amends, not being clear, that act is also set forth above.

SEC. 114. [Stricken out by sec. 50, Act of June 4, 1920 (41 Stat. 785).]

32:83.

SEC. 115. PHYSICAL EXAMINATION.—Every officer and enlisted man of the National Guard who shall be called into the service of the United States as such shall be examined as to his physical fitness under such regulations as the President may prescribe without further commission or enlistment: *Provided*, That immediately preceding the muster out of an officer or enlisted man called into the active service of the United States he shall be physically examined under rules prescribed by the President of the United States, and the record thereof shall be filed and kept in the War Department.

32:24.

SEC. 116. NONCOMPLIANCE WITH FEDERAL ACT.—Whenever any State shall, within a limit of time to be fixed by the President, have failed or refused to comply with or enforce any requirement of this Act, or any regulation promulgated thereunder and in aid thereof by the President or the Secretary of War, the National Guard of such State shall be debarred, wholly or in part, as the President may direct, from receiving from the United States any pecuniary or other aid, benefit, or privilege authorized or provided by this Act or any other law.

32:2.
Not in Code.

SEC. 117. APPLICABLE TO LAND FORCES ONLY.—The provisions of this Act in respect to the militia shall be applicable only to militia organized as a land force [and not to the Naval Militia, which shall consist of such part of the militia as may be prescribed by the President for each State, Territory, or District: *Provided*, That each State, Territory, or District maintaining a Naval Militia as herein prescribed may be credited to the extent of the number thereof in the quota that would otherwise be required by section sixty-two of this Act.]

NOTE.—By the act of July 1, 1918 (40 Stat. 708), all laws relating to the Naval Militia and the National Naval Volunteers were repealed.

32:17 (Sup.
II).

SEC. 118. NECESSARY RULES AND REGULATIONS.—The President shall make all necessary rules and regulations and issue such orders as may be necessary for the thorough organization, discipline, and government of the militia provided for in this Act.

32:25.

SEC. 119. ANNUAL ESTIMATES REQUIRED.—The Secretary of War shall cause to be estimated annually the amount necessary for carrying out the provisions of so much of this Act as relates to

the militia, and no money shall be expended under said provisions except as shall from time to time be appropriated for carrying them out.

NOTE.—Recent War Department appropriation acts have provided that when approved by the Secretary of War, 10 per cent of each of the amounts under the appropriation for "Arming, equipping, and training the National Guard," shall be available interchangeably for expenditure on the objects named, but no one item shall be increased by more than 10 per cent, and have prescribed a report to Congress on such transfers.

SEC. 120. PURCHASE OR PROCUREMENT OF MILITARY SUPPLIES IN TIME OF ACTUAL OR IMMINENT WAR.—The President, in time of war or when war is imminent, is empowered, through the head of any department of the Government, in addition to the present authorized methods of purchase or procurement, to place an order with any individual, firm, association, company, corporation, or organized manufacturing industry for such product or material as may be required, and which is of the nature and kind usually produced or capable of being produced by such individual, firm, company, association, corporation, or organized manufacturing industry. 50:80.

Compliance with all such orders for products or material shall be obligatory on any individual, firm, association, company, corporation, or organized manufacturing industry or the responsible head or heads thereof and shall take precedence over all other orders and contracts theretofore placed with such individual, firm, company, association, corporation, or organized manufacturing industry, and any individual, firm, association, company, corporation, or organized manufacturing industry or the responsible head or heads thereof owning or operating any plant equipped for the manufacture of arms or ammunition or parts of ammunition, or any necessary supplies or equipment for the Army, and any individual, firm, association, company, corporation, or organized manufacturing industry or the responsible head or heads thereof owning or operating any manufacturing plant, which, in the opinion of the Secretary of War shall be capable of being readily transformed into a plant for the manufacture of arms or ammunition, or parts thereof, or other necessary supplies or equipment, who shall refuse to give to the United States such preference in the matter of the execution of orders, or who shall refuse to manufacture the kind, quantity, or quality of arms or ammunition, or the parts thereof, or any necessary supplies or equipment, as ordered by the Secretary of War, or who shall refuse to furnish such arms, ammunition, or parts of ammunition, or other supplies or equipment, at a reasonable price as determined by the Secretary of War, then, and in either such case, the President, through the head of any department of the Government, in addition to the present authorized methods of purchase or procurement herein provided for, is hereby authorized to take immediate possession of any such plant or plants, and through the Ordnance Department of the United States Army to manufacture therein in time of war, or when war shall be imminent, such product or material as may be required, and any individual, firm, company, association, or corporation, or organized manufacturing industry, or the responsible head or heads thereof, failing to comply with the pro-

visions of this section shall be deemed guilty of a felony, and upon conviction shall be punished by imprisonment for not more than three years and by a fine not exceeding \$50,000.

The compensation to be paid to any individual, firm, company, association, corporation, or organized manufacturing industry for its products or material, or as rental for use of any manufacturing plant while used by the United States, shall be fair and just.

The Secretary of War shall also make, or cause to be made, a complete list of all privately owned plants in the United States equipped to manufacture arms or ammunition, or the component parts thereof. He shall obtain full and complete information regarding the kind of arms or ammunition, or the component parts thereof, manufactured or that can be manufactured by each such plant, the equipment in each plant, and the maximum capacity thereof. He shall also prepare, or cause to be prepared, a list of privately owned manufacturing plants in the United States capable of being readily transformed into ammunition factories, where the capacity of the plant is sufficient to warrant transforming such plant or plants into ammunition factories in time of war or when war shall be imminent; and as to all such plants the Secretary of War shall obtain full and complete information as to the equipment of each such plant, and he shall prepare comprehensive plans for transforming such plant into an ammunition factory, or a factory in which to manufacture such parts of ammunition as in the opinion of the Secretary of War such plant is best adapted.

The President is hereby authorized, in his discretion, to appoint a Board on Mobilization of Industries Essential for Military Preparedness, nonpartisan in character; and to take all necessary steps to provide for such clerical assistance as he may deem necessary to organize and coordinate the work hereinbefore described.

COURT DECISIONS.—Under this section, the President, as Commander in Chief of the Army and Navy, has the constitutional power in war time, in cases of immediate and pressing exigency, to appropriate private property to public uses, the Government being bound to make just compensation therefor. *United States v. McFarland* (C. C. A., 1926), 15 F. (2d) 823.

This section imposes a duty on a manufacturer to comply with an order of the United States for war supplies, although such order may prevent him carrying out earlier contracts with private persons. *Moore & Tierney (Inc.) v. Roxford Knitting Co.* (D. C., 1918), 250 Fed. 278; certiorari denied (1919), 253 U. S. 498.

Not in Code.

SEC. 121. INVESTIGATION AS TO GOVERNMENT MANUFACTURE OF ARMS, AND SO FORTH.—[The Secretary of War is hereby authorized to appoint a board of five citizens, two of whom shall be civilians and three of whom shall be officers of the Army, to investigate and report to him the feasibility, desirability, and practicability of the Government manufacturing arms, munitions, and equipment, showing in said report the comparative prices of the arms, munitions, and equipment manufactured in Government plants and those manufactured in private plants, the amount of money necessary to build and operate Government plants for the manufacture of arms, munitions, and equipment; showing also what the Government plants and arsenals are now doing in the way of manufacturing arms, munitions, and equipment, and what saving has accrued to

the Government by reason of its having manufactured a large part of its own arms, munitions, and equipment for the last four years. And the Secretary of War is hereby directed to transmit said report to Congress on or before January first, nineteen hundred and seventeen.]

SEC. 122. INVESTIGATION CONCERNING MEDALS OF HONOR.—[A board to consist of five general officers on the retired list of the Army shall be convened by the Secretary of War, within sixty days after the approval of this Act, for the purpose of investigating and reporting upon past awards or issues of the so-called congressional medal of honor by or through the War Department; this with a view to ascertain what medals of honor, if any, have been awarded or issued for any cause other than distinguished conduct by an officer or enlisted man in action involving actual conflict with an enemy by such officer or enlisted man or by troops with which he was serving at the time of such action.] And in any case in which said board shall find and report that said medal was issued for any cause other than that hereinbefore specified the name of the recipient of the medal so issued shall be stricken permanently from the official medal of honor list. It shall be a misdemeanor for him to wear or publicly display said medal, and, if he shall still be in the Army, he shall be required to return said medal to the War Department for cancellation. [Said board shall have full and free access to and use of all records pertaining to the award or issue of medals of honor by or through the War Department. The actual and necessary expenses of said board and its members shall be paid out of any appropriations available for contingent expenses of the Army of the War Department.]

Not in Code.

10:1419.

Not in Code.

50:78.

SEC. 123. PROCUREMENT OF GAUGES, DIES, JIGS, AND SO FORTH, NECESSARY FOR MANUFACTURE OF ARMS, AND SO FORTH.—The Secretary of War be, and he is hereby, authorized to prepare or cause to be prepared, to purchase or otherwise procure, such gauges, dies, jigs, tools, fixtures, and other special aids and appliances, including specifications and detailed drawings, as may be necessary for the immediate manufacture, by the Government and by private manufacturers, of arms, ammunition, and special equipment necessary to arm and equip the land forces likely to be required by the United States in time of war: *Provided*, That in the expenditure of any sums appropriated to carry out the purposes of this section the existing laws prescribing competition in the procurement of supplies by purchase shall not govern, whenever in the opinion of the Secretary of War such action will be for the best interest of the public service.

50:79.

SEC. 124. NITRATE SUPPLY.—The President of the United States is hereby authorized and empowered to make, or cause to be made, such investigation as in his judgment is necessary to determine the best, cheapest, and most available means for the production of nitrates and other products for munitions of war and useful in the manufacture of fertilizers and other useful products by water power or any other power as in his judgment is the best and cheapest to use; and is also hereby authorized and empowered to designate for the exclusive use of the United States, if in his judgment such means is best and cheapest, such site or sites, upon

any navigable or nonnavigable river, or rivers or upon the public lands, as in his opinion will be necessary for carrying out the purposes of this Act; and is further authorized to construct, maintain, and operate, at or on any site or sites so designated, dams, locks, improvements to navigation, power houses, and other plants and equipment or other means than water power as in his judgment is the best and cheapest, necessary or convenient for the generation of electrical or other power and for the production of nitrates or other products needed for munitions of war and useful in the manufacture of fertilizers and other useful products.

The President is authorized to lease, purchase, or acquire, by condemnation, gift, grant, or devise, such lands and rights of way as may be necessary for the construction and operation of such plants, and to take from any lands of the United States, or to purchase or acquire by condemnation materials, minerals, and processes, patented or otherwise, necessary for the construction and operation of such plants and for the manufacture of such products.

The products of such plants shall be used by the President for military and naval purposes to the extent that he may deem necessary, and any surplus which he shall determine is not required shall be sold and disposed of by him under such regulations as he may prescribe.

The President is hereby authorized and empowered to employ such officers, agents, or agencies as may in his discretion be necessary to enable him to carry out the purposes herein specified, and to authorize and require such officers, agents, or agencies to perform any and all of the duties imposed upon him by the provisions hereof.

Not in Code.

[The sum of \$20,000,000 is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, available until expended, to enable the President of the United States to carry out the purposes herein provided for.]

50:79.

The plant or plants provided for under this Act shall be constructed and operated solely by the Government and not in conjunction with any other industry or enterprise carried on by private capital.

Not in Code.

[In order to raise the money appropriated by this Act and necessary to carry its provisions into effect, the Secretary of the Treasury, upon the request of the President of the United States, may issue and sell, or use for such purpose or construction hereinabove authorized, any of the bonds of the United States now available in the Treasury of the United States under the Act of August fifth, nineteen hundred and nine, the Act of February fourth, nineteen hundred and ten, and the Act of March second, nineteen hundred and eleven, relating to the issue of bonds for the construction of the Panama Canal, to a total amount not to exceed \$20,000,000: *Provided*, That any Panama Canal bonds issued and sold or used under the provisions of this section may be made payable at such time after issue as the Secretary of the Treasury, in his discretion, may deem advisable, and fix, instead

of fifty years after date of issue, as in said Act of August fifth, nineteen hundred and nine, not exceeding fifty years.]

COURT DECISION.—Nitrate lands may be taken under the sovereign power of eminent domain, as provided in this section, and from such taking there arises an implied promise by the United States to compensate an owner for his loss. *Campbell v. United States* (1924), 266 U. S. 368.

SEC. 125. PROTECTION OF THE UNIFORM.—It shall be unlawful for any person not an officer or enlisted man of the United States Army, Navy, or Marine Corps, to wear the duly prescribed uniform of the United States Army, Navy, or Marine Corps, or any distinctive part of such uniform, or a uniform any part of which is similar to a distinctive part of the duly prescribed uniform of the United States Army, Navy, or Marine Corps: *Provided*, That the foregoing provision shall not be construed so as to prevent officers or enlisted men of the National Guard from wearing, in pursuance of law and regulations, the uniform lawfully prescribed to be worn by such officers or enlisted men of the National Guard; nor to prevent members of the organization known as the Boy Scouts of America, or the Naval Militia, or such other organizations as the Secretary of War or the Secretary of the Navy (*Sec. 8, Navy appropriation act of June 4, 1920, 41 Stat. 836*) may designate, from wearing their prescribed uniforms; nor to prevent persons who in time of war have served honorably as officers of the United States Army, Navy, or Marine Corps, Regular or Volunteer, and whose most recent service was terminated by an honorable discharge, muster out, or resignation, from wearing, upon occasions of ceremony, the uniform of the highest grade they have held by brevet or other commission in such Regular or Volunteer service; nor to prevent any person who has been honorably discharged from the United States Army, Navy, or Marine Corps, Regular or Volunteer, from wearing his uniform from the place of his discharge to his home, within three months after the date of such discharge; nor to prevent the members of military societies composed entirely of honorably discharged officers or enlisted men, or both, of the United States Army, Navy, or Marine Corps, Regular or Volunteer, from wearing, upon occasions of ceremony, the uniform duly prescribed by such societies to be worn by the members thereof; nor to prevent the instructors and members of the duly organized cadet corps of a State university, State college, or public high school offering a regular course in military instruction from wearing the uniform duly prescribed by the authorities of such university, college, or public high school for wear by the instructors and members of such cadet corps; nor to prevent the instructors and members of the duly organized cadet corps of any other institution of learning offering a regular course in military instruction, and at which an officer or enlisted man of the United States Army, Navy, or Marine Corps is lawfully detailed for duty as instructor in military science and tactics, from wearing the uniform duly prescribed by the authorities of such institution of learning for wear by the instructors and members of such cadet corps; nor to prevent civilians attendant upon a course of mili-

10:1393 (and
Sup. II).

tary or naval instruction authorized and conducted by the military or naval authorities of the United States from wearing, while in attendance upon such course of instruction, the uniform authorized and prescribed by such military or naval authorities for wear during such course of instruction; nor to prevent any person from wearing the uniform of the United States Army, Navy, or Marine Corps in any playhouse or theater or in moving-picture films while actually engaged in representing therein a military or naval character not tending to bring discredit or reproach upon the United States Army, Navy, or Marine Corps: *Provided further*, That the uniforms worn by officers or enlisted men of the National Guard, or by the members of the military societies or the instructors and members of the cadet corps referred to in the preceding proviso shall include some distinctive mark or insignia to be prescribed by the Secretary of War to distinguish such uniform from the uniforms of the United States Army, Navy, and Marine Corps: *And provided further*, That the members of the military societies and the instructors and members of the cadet corps hereinbefore mentioned shall not wear the insignia of rank prescribed to be worn by officers of the United States Army, Navy, or Marine Corps, or any insignia of rank similar thereto.

Any person who offends against the provisions of this section shall, on conviction, be punished by a fine not exceeding \$300, or by imprisonment not exceeding six months, or by both such fine and imprisonment: Provided, That hereafter, upon the discharge [or furlough to the reserve] of an enlisted man, all uniform outer clothing then in his possession, except such articles as he may be permitted to wear from the place of termination of his active service to his home, as authorized by this section, will be retained for military use: *Provided further*, That upon the release from Federal service of an enlisted man of the National Guard called as such into the service of the United States, all uniform outer clothing then in his possession shall be taken up and accounted for as property issued to the National Guard of the State to which the enlisted man belongs, in the manner prescribed by section sixty-seven of said Act: *And provided further*, That when an enlisted man is discharged otherwise than honorably, all uniform outer clothing in his possession shall be retained for military use, and, when authorized by regulations prescribed by the Secretary of War, a suit of citizen's outer clothing to cost not exceeding \$15 may be issued to such enlisted man: *And provided further*, That officers and members of the National Home for Disabled Volunteer Soldiers may, regardless of the preceding provisions of said Act, wear such uniforms as the Secretary of War may authorize. As amended by act of July 9, 1918 (40 Stat. 891), as amended by act of July 3, 1926 (44 Stat. 891).

NOTES.—This section has been so repeatedly expressly amended, otherwise affected, or construed, that it is advisable to describe briefly its legislative history. After its original enactment, on June 3, 1916 (39 Stat. 216), it was extended to apply also to the Coast Guard, by the act of August 29, 1916 (39 Stat. 649). It was first expressly amended by the act of July 9, 1918 (40 Stat. 891), which added the last four provisos of the second paragraph, of which provisos the first, requiring under penalty the return of the uniform outer clothing, was nullified by a provision of the act of February 28, 1919 (40 Stat. 1202) which permitted the retention of uniforms by discharged enlisted men. The act of Febru-

ary 28, 1919, in turn was repealed by the act of June 30, 1921 (42 Stat. 82), except as to applications for return of uniforms received at the War Department prior to June 1, 1921. An act of September 29, 1919 (41 Stat. 288), extending the effect of the proviso in the act of February 28, 1919, to retired enlisted men and reservists, naturally fell with it. The latest enactment on this subject of the retention of uniforms is that of the act of July 3, 1926 (44 Stat. 891), set forth as the first proviso of the second paragraph of the text.

The Navy appropriation act of June 4, 1920 (41 Stat. 836) directed the insertion of the words "or the Secretary of the Navy" immediately after the words "the Secretary of War," wherever the latter words appeared in the section, apparently only as originally enacted, and those words are therefore inserted at the one place indicated in the first paragraph of the text.

The same act contained the provision, set forth below as a cognate act, directing that section 125 "should hereafter be in full force and effect as originally enacted." The effect of that provision has never been clearly defined. Later legislation certainly has not treated section 125 as restored thereby to its original form. For example, the act of July 3, 1926 (44 Stat. 891), amends section 125, "as amended," and must refer to an amendment intermediate between the original enactment of June 3, 1916, and the said Navy act of June 4, 1920, viz, that of July 9, 1918 (40 Stat. 891).

Other provisions affecting section 125, not mentioned in this note, are set forth as cognate acts.

The words in brackets in the first proviso of the second paragraph are without present force, by reason of the nonexistence of a reserve. See section 30, ante.

The amount of \$15 prescribed in the next to the last proviso of the second paragraph has been varied in subsequent Army and War Department appropriation acts, from \$10 to \$40. In the more recent acts, it has been fixed at \$30.

Recent War Department appropriation acts also provide for a donation of \$10 to each prisoner discharged otherwise than honorably upon his release from confinement under court-martial sentence involving dishonorable discharge.

COGNATE ACTS

*That section 125 of the Act entitled "An Act for making further and more effectual provisions for the national defense, and for other purposes," approved June 3, 1916, shall hereafter be in full force and effect as originally enacted, notwithstanding anything contained in the Act entitled "An Act permitting any person who has served in the United States Army, Navy, or Marine Corps in the present war to retain his uniform and personal equipment and to wear the same under certain conditions," approved February 28, 1918 [1919]: * * * Section 8, Navy appropriation act of June 4, 1920 (41 Stat. 836).* 10:1393 (Sup. II).

That under such regulations as the Secretary of War and the Secretary of the Navy may prescribe for their respective departments, exterior articles of uniform may be sold to former members of the military or naval service who have been separated therefrom under honorable conditions: Provided, That nothing in this Act shall be construed as modifying in any way the provisions of section 125 of the Act approved June 3, 1916 (39 Stat. L., p. 216), entitled "An Act making further and more effectual provisions for the national defense, and for other purposes," as amended by section 8 of the Act approved June 4, 1920 (41 Stat. L., p. 836). Any money realized from the sale of articles of uniform under this Act shall be covered into the Treasury to the credit of the appropriation out of which such articles were purchased. Act of February 14, 1927 (44 Stat. 1096). 10:1393 (Sup. II).

That hereafter the wearing, manufacturing, or sale of the congressional medal of honor, distinguished-service cross, distinguished-service medal, distinguished-flying cross, soldier's medal, 10:1425.

or any other decoration or medal which has been, or may be, authorized by Congress for the military forces of the United States, or any of the service medals or badges which have been, or may hereafter be, awarded by the War Department, or the ribbon, button, or rosette of any of the said medals, badges or decorations, of the form as is or may hereafter be prescribed by the Secretary of War, or of any colorable imitation thereof, is prohibited, except when authorized under such regulations as the Secretary of War may prescribe.

Any person who knowingly offends against the provisions of this section shall, on conviction, be punished by a fine not exceeding \$250 or by imprisonment not exceeding six months, or by both such fine and imprisonment. Act of February 24, 1923 (42 Stat. 1286), as amended by act of April 21, 1928 (45 Stat. 437).

10:752.

SEC. 126. Hereafter an enlisted man discharged from the Army, Navy, or Marine Corps, except by way of punishment for an offense, shall receive 5 cents per mile for the distance from the place of his discharge to the place of his acceptance for enlistment, enrollment, or muster into the service: Provided, That for sea travel involved in travel between place of discharge and place of acceptance for enrollment, enlistment, or muster into the service only transportation in kind and subsistence en route shall be allowed: Provided further, [That enlisted men under the age of eighteen discharged on the application of either of their parents or legal guardian shall be furnished with transportation in kind from the place of discharge to the railroad station at or nearest to the place of acceptance for enlistment, or to their home if the distance thereto is no greater than from the place of discharge to the place of acceptance for enlistment, but if the difference be greater they may be furnished transportation in kind for a distance equal to that from the place of discharge to the place of acceptance for enlistment]. As amended by act of September 22, 1922 (42 Stat. 1021).

34:895.

COGNATE ACT

32:753.

That section 126 * * * shall be held to apply to any enlisted man for whom the law authorizes travel allowances as an incident to entry upon and relief from active duty with the Army who has been called into active service during the present emergency, or who shall hereafter be called into active service. Act of September 29, 1919 (41 Stat. 288).

NOTES.—For present provision as to enlisted men discharged under twenty-one years of age, superseding portion of text in brackets, see act of February 12, 1925, set forth as cognate act under section 27, ante.

Recent War Department appropriation acts have provided for the transportation of discharged prisoners and persons discharged from St. Elizabeths Hospital after transfer thereto from the military service, to their homes (or elsewhere as they may elect), with the proviso that the cost in each case shall not be greater than to the place of last enlistment.

Not in Code.

SEC. 127. Nothing in this Act shall be held or construed so as to discharge any officer from the Regular Army or to deprive him of the commission which he now holds therein.

10:514.

10:301.

SEC. 127a. MISCELLANEOUS PROVISIONS.—(1) Hereafter no detail, rating, or assignment of an officer shall carry advanced rank, except as otherwise specifically provided herein:

Provided, That in lieu of the 50 per centum increase of pay provided for in this Act any officer or enlisted man upon whom the rating of junior military aviator, or military aviator, has heretofore been conferred for having specially distinguished himself in time of war in active operations against the enemy, shall, while on duty which requires him to participate regularly and frequently in aerial flights, continue to have the rank, pay, and allowances and additional pay now provided by the Act of June 3, 1916, and the Act of July 24, 1917.

(2) Officers now carried as additional numbers shall be included in the numbers provided for by this Act, and, after June 30, 1920, shall no longer be additional, and any officer hereafter appointed, under the provisions of law, to a grade in which no vacancy exists, shall be an additional number in that grade until absorbed, and no longer.

Not in Code.
10:444.

(3) In time of war retired officers may be employed on active duty in the discretion of the President, and when so employed they shall receive the full pay and allowances of their grades.

10:992.

(4) The President is authorized to detail not more than five officers of the Medical Department for duty with the military relief division of the American National Red Cross.

10:105.

(5) Authority is hereby given to the Secretary of War to grant permission, by revocable license, to the American National Red Cross to erect and maintain on any military reservations within the jurisdiction of the United States buildings suitable for the storage of supplies, or to occupy for that purpose buildings erected by the United States, under such regulations as the Secretary of War may prescribe, such supplies to be available for the aid of the civilian population in case of serious national disaster.

10:1347.

(6) In determining relative rank and increase of pay for length of service, and, in the case of officers of the Regular Army, in determining rights of retirement, active duty performed while under appointment from the United States Government, whether in the Regular, provisional, or temporary forces, shall be credited to the same extent as service under a Regular Army commission.

10:512, 683,
951.

(7) In time of war any officer of the Regular Army may be appointed to higher temporary rank without vacating his permanent commission, such appointments in grades below that of brigadier general being made by the President alone, but all other appointments of officers in time of war shall be in the Officers' Reserve Corps.

10:513.

(8) *Unless special assignment is made by the President under the provisions of the one hundred and nineteenth article of war*, all officers in the active service of the United States in any grade shall take rank according to date, which, in the case of an officer of the Regular Army, is that stated in his commission or letter of appointment, and, in the case of a reserve officer or an officer of the National Guard called into the service of the United States, shall precede that on which he is placed on active duty by a period equal to the total length of active Federal service and service under the provisions of sections 94, 97, and 99 of this Act which

10:511.

he may have performed in the grade in which called or any higher grade. When dates of rank are the same, precedence shall be determined by length of active commissioned service in the Army. When length of such service is the same, officers of the Regular Army shall take rank among themselves according to their places on the promotion list, preceding reserve and National Guard officers of the same date of rank and length of service, who shall take rank among themselves according to age. As amended by act of February 28, 1925 (43 Stat. 1078).

10:1011.

(9) Hereafter any retired officer who has been or shall be detailed on active duty shall receive the [rank,] pay, and allowances of the grade, not above that of colonel, that he would have attained in due course of promotion if he had remained on the active list for a period beyond the date of his retirement equal to the total amount of time during which he has been detailed to active duty since his retirement.

Not in Code.

(10) [Retired enlisted men who have served honorably as commissioned officers of the United States Army at some time between April 6, 1917, and November 11, 1918, including those who have been placed on the retired list during the World War, and who have been or may hereafter be discharged from their temporary commissions, shall receive the retired pay and allowances of warrant officers on the retired list, as provided in this Act.]

Not in Code.

(11) [Cadets graduated from the United States Military Academy during the present calendar year shall be commissioned as second lieutenants to date not earlier than July 2, 1920.]

Not in Code.

(12) [The President is authorized to retain temporarily in service, under their present commission, such emergency officers as he may deem necessary, but the total number so remaining in service, other than those undergoing treatment for physical reconstruction, shall not at any time exceed the total number of vacancies then existing in the Regular Army. Any such officer may be discharged when his services are no longer required, and all such officers shall be discharged not later than December 31, 1920. All officers of the Regular Army holding commissions granted for the period of the existing emergency, in whatever grade, shall be discharged therefrom not later than June 30, 1920.] The President is authorized and directed to retain in service disabled emergency officers until their treatment for physical reconstruction has reached a point where they will not be further benefited by retention in a military hospital or in the military service.

10:499.

(13) The Secretary of War is hereby authorized, in his discretion, to detail not to exceed 2 per centum of the commissioned officers and one-half of 1 per centum of the enlisted men of the Regular Army in any fiscal year as students at such technical, professional, and other educational institutions, or as students, observers, or investigators at such industrial plants, hospitals, and other places as shall be best suited to enable such officers or enlisted men to acquire a knowledge of or experience in the specialties in which it is deemed necessary that such officers or

10:535 (Sup.
II).

enlisted men shall perfect themselves. The number of officers so detailed shall, as far as practicable, be distributed proportionately among the various branches: Provided, That no expense shall be incurred by the United States in addition to pay and allowances of the officers or enlisted men so detailed, except for the cost of tuition at such technical, professional, and other educational institutions: And provided further, That the allowances and tuition for enlisted men during the period of such detail may be paid from any funds appropriated for or allotted to the procurement branches: And provided further, That the Secretary of War may fix the length of enlistments for this purpose at three years or less, and the total length of detail of an enlisted man shall not exceed 50 per centum of his enlistment period. As amended by act of June 8, 1926 (44 Stat. 795).

(14) [Whenever, prior to December 31, 1920, any person shall be nominated to the Senate for appointment to fill any office in the Regular Army provided for by this Act, the President alone is authorized to appoint such person temporarily in the United States Army in the grade pertaining to such Regular Army office, to have rank and pay from the same dates as if such appointment were in the Regular Army. Such temporary appointment shall terminate upon acceptance, after confirmation, of the corresponding office in the Regular Army, or on March 4, 1921, if then still unconfirmed. If any officer of the Regular Army is retired while holding a temporary appointment made under the provisions of this paragraph, he shall have the rank of such temporary grade, and his retired pay shall be computed upon the pay of that grade.]

Not in Code.

Notes.—The numbers given the paragraphs of this section are inserted merely for convenience of reference and are not found in the original text.

(Par. 2.) For opinions holding that former or retired officers may no longer be reappointed and carried as additional numbers, under this paragraph, see note to section 24e, ante.

(Par. 6.) In connection with determining rights of pay and retirement, see, in addition to this paragraph, provisions concerning service at the Military or Naval Academy, or as an officer of the Philippine Constabulary, set forth as cognate acts under section 1, Pay Readjustment Act, page 90, post.

(Par. 6.) See act of May 29, 1928, set forth as cognate act below, for certain service counting towards longevity in the Medical Corps.

(Par. 9.) That active duty performed after June 30, 1922, by an officer on the retired list no longer entitles such officer to promotion, see section 17, Pay Readjustment Act, page 100, post.

(Par. 9.) An earlier provision that retired officers on active detail should be entitled to longevity increases for the time of their service before retirement and on active detail since retirement is found in the act of May 12, 1917 (40 Stat. 48).

(Par. 9.) For pay and allowances of retired officers and warrant officers, in general, see section 17, Pay Readjustment Act, page 100, post, and cognate acts thereunder.

(Par. 10.) This paragraph of the text is superseded by section 8, act of June 6, 1924, set forth as a cognate act, following.

(Par. 10.) For pay of retired enlisted men, in general, see section 17, Pay Readjustment Act, page 100, post; for pay of retired enlisted men who served as commissioned officers during the World War, see section 8, act of June 6, 1924, set forth as cognate act, following.

(Par. 13.) The amendatory act of June 8, 1926, authorized the detail of enlisted men, as well as that of officers.

COGNATE ACTS

That retired enlisted men of the Army heretofore or hereafter retired who served honorably as commissioned officers of the Army of the United States at some time between April 8, 1917, and November 11, 1918, shall be entitled to receive the pay of

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