

authority as an incident to their military training, shall, under regulations prescribed as aforesaid, be entitled, from the date such injury was sustained, to the same medical and hospital treatment at Government expense, pay and allowances, and transportation to their homes, as if such injury had occurred while on active duty under proper orders. (June 3, 1924, c. 244, § 4, 43 Stat. 364.)

453. Pay and allowances in hospital limited to six months.—Any person described in sections 451 and 452 of this title, injured as aforesaid, who shall remain disabled for more than six months, shall, during the period of disability in excess of six months and until fit for transportation to his home, be entitled to medical and hospital treatment and to subsistence at Government expense, and when fit for transportation shall be entitled to transportation to his home at Government expense, but shall not during such period in excess of six months be entitled to other compensation. Any expenditures heretofore made by the Government in caring for persons injured under the conditions specified herein are hereby validated. (June 3, 1924, c. 244, § 4, 43 Stat. 364.)

454. Hospital treatment, etc., in cases of injury at training camps.—Members of the Reserve Officers' Training Corps and members of the civilian military training camps injured in line of duty while at camps of instruction under the provisions of sections 441 and 442 of this title, shall be entitled to medical and hospital treatment and transportation to their homes as in the case of persons described in sections 451 and 452 of this title, and subsistence at Government expense until furnished such transportation, under such regulations as the President may prescribe. (June 3, 1924, c. 244, § 4, 43 Stat. 364.)

455. Burial expenses of persons dying in hospitals.—If the death of any person mentioned in sections 451 and 452 of this title occurs while he is undergoing the training or medical and hospital treatment contemplated in this section, the United States shall pay for burial expenses and the return of the body to his home a sum not to exceed \$100, as may be fixed in regulations prescribed by the President. (June 3, 1924, c. 244, § 4, 43 Stat. 364.)

Chapter 21.—COMMISSIONED OFFICERS.

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GENERAL PROVISIONS

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Section 481. Authorized number of officers in Army.—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. (Sept. 14, 1922, c. 307, § 1, 42 Stat. 840.)

482. Authorized number of officers in the several grades.—On and after January 1, 1923, there shall be twenty-one major generals and forty-six brigadier generals of the line; 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; professors as authorized by chapter 28 of this title, and the military storekeeper,

who shall have the rank, pay and allowances of major; and the numbers herein prescribed shall not be exceeded, and 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. (June 4, 1920, c. 227, subchapter I, § 4, 41 Stat. 760; June 30, 1922, c. 253, Title I, 42 Stat. 721.)

483. General officers of line and staff.—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. (June 4, 1920, c. 227, subchapter I, § 4, 41 Stat. 760.)

484. Appointments in grade of second lieutenant.—Except as otherwise provided in sections 61, 92, and 122 of this title, appointments shall be made in the grade of second lieutenant, first, from graduates of the United States 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. (June 4, 1920, c. 227, subchapter I, § 24, 41 Stat. 774.)

485. Reappointment of former officers.—Former officers of the Regular Army 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 553 of this title. (June 4, 1920, c. 227, subchapter I, § 24, 41 Stat. 774.)

486. Commissioning graduates of Military Academy.—When any cadet of the United States Military Academy has gone through all its classes and received a regular diploma from the academic staff, he may be promoted and commissioned as a second lieutenant in any arm or corps of the Army in which there may be a vacancy and the duties of which he may have been judged competent to perform; and in case there shall not at the time be a vacancy in such arm or corps, he may, at the discretion of the President, be promoted and commissioned in it as an additional second lieutenant, with the usual pay and allowances of a second lieutenant until a vacancy shall happen. (May 17, 1880, c. 338, 24 Stat. 50.)

487. Officers permanently commissioned in branches of service or detailed for duty therein.—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 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. (June 4, 1920, c. 227, subchapter I, § 4, 41 Stat. 760.)

488. Posthumous commissions for persons dying after appointment or completion of training for commissioned grade.—That the President be, and he is hereby, authorized to issue, or cause to be issued, an appropriate commission in the name of any person who, while in the military service of the United States during the war between the United States and Germany and Austria-Hungary, had been duly appointed to a com-

missioned grade, or had successfully completed the course at a training school for officers and had been recommended for appointment to a commissioned grade by the officer commanding or in charge of such school and, through no fault of his own, was unable to accept the commission for such grade by reason of his death in line of duty; and any such commission shall issue as of the date of such appointment, and any such person's name shall be carried upon the records of the War Department as of the grade and branch of the service to which he would have been promoted by such commission, from the date of such appointment to the date of his death. (Mar. 3, 1925, c. 484, § 1, 43 Stat. 1255.)

489. Posthumous commissions for persons in service in World War dying after recommendation for appointment or promotion.—That the President be, and he is hereby, authorized to issue, or cause to be issued, an appropriate commission in the name of any person who, while in the military service of the United States during the war between the United States and Germany and Austria-Hungary, may have been officially recommended for appointment or for promotion to a commissioned grade, which recommendation shall have been duly approved by the Secretary of War, or by the commanding general American Expeditionary Forces, as the case may be, and who shall have been unable to receive and accept such commission by reason of his death in line of duty; and any such commission shall issue as of the date of such approval, and any such person's name shall be carried upon the records of the War Department as of the grade and branch of the service to which he would have been promoted by such commission, from the date of such approval to the date of his death. (Mar. 3, 1925, c. 484, § 2, 43 Stat. 1255.)

490. Posthumous commissions for officers dying after passing examination for promotion.—That the President be, and he is hereby, authorized to issue, or cause to be issued, an appropriate commission in the name of any officer of the Army of the United States who, after having been examined and found duly qualified for promotion, died or shall die, in line of duty after the occurrence of the vacancy entitling him, by virtue of seniority, to such promotion and before the issue or acceptance of a commission therefor; and any such commission shall issue with rank as of the date of said vacancy, and any such officer's name shall be carried upon the records of the War Department as of the grade and branch of the service shown in such commission, from the date of such vacancy to the date of his death. (Mar. 3, 1925, c. 484, § 3, 43 Stat. 1255.)

491. Posthumous commissions as affecting right to gratuity, pay, etc.—No person shall be entitled to receive any bonus, gratuity, pay, or allowances by virtue of any provision of sections 488, 489, or 490 of this chapter. (Mar. 3, 1925, c. 484, § 4, 43 Stat. 1256.)

492. Assignments to regiments.—Officers of grades in each arm of the service shall be assigned to regiments, and transferred from one regiment to another, as the interests of the service may require, by orders from the War Department. (Oct. 1, 1890, c. 1241, § 2, 26 Stat. 502.)

493. 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. (June 4, 1920, c. 227, subchapter I, § 24, 41 Stat. 774.)

494. Officers carried as additional numbers.—Any officer 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. (June 4, 1920, c. 227, subchapter I, § 51, 41 Stat. 785.)

495. Civil employment interfering with military duties.—No officer of the Army shall be employed on civil works or internal improvements, or be allowed to engage in the service of any

incorporated company, or be employed as acting paymaster or disbursing agent of the Indian department, if such extra employment requires that he shall be separated from his company, regiment, or corps, or if it shall otherwise interfere with the performance of the military duties proper. (R. S. § 1224; Feb. 27, 1877, c. 69, § 1, 19 Stat. 243.)

496. Length of tour of duty in Philippines or Canal Zone.—No officer or enlisted man of the Army shall, except upon his own request, be required to serve in a single tour of duty for more than two years in the Philippine Islands, nor more than three years in the Panama Canal Zone, except in case of insurrection or of actual or threatened hostilities: *Provided*, That the foregoing provision shall not apply to the organization known as the Philippine Scouts. (Mar. 4, 1915, c. 143, § 1, 38 Stat. 1078.)

497. Superintendence of cooking.—The line officers of the Army shall superintend the cooking done for the enlisted men. (R. S. § 1234.)

498. Aides of general officers.—Each major general shall have three aides, who may be selected by him from captains or lieutenants of the Army, and each brigadier general shall have two aides, who may be selected by him from lieutenants of the Army. (R. S. § 1098.)

499. Disabled emergency officers retained in service during treatment.—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. (June 4, 1920, c. 227, subchapter I, § 51, 41 Stat. 786.)

500. Record of service in Army Register.—In every Official Army Register issued, the lineal rank of all officers of the line of the Army shall be given separately for the different arms of the service; and if the officer be promoted from the ranks, or shall have served in the Volunteer Army, either as an enlisted man or officer, his service as a private and noncommissioned officer shall be given, and in addition thereto the record of his service as volunteer. (June 18, 1878, c. 203, § 2, 20 Stat. 149.)

501. Length of service; time spent as cadet at Military or Naval Academy.—In computing for any purpose the length of service of any officer of the Army who was appointed to the United States Military Academy or the United States Naval Academy after August 24, 1912, the time spent at either academy shall not be counted. (June 7, 1924, c. 291, Title I, 43 Stat. 481; Feb. 12, 1925, c. 225, Title I, 43 Stat. 896.)

502. System of examining enlisted men for promotion.—The President is authorized to prescribe a system of examination of enlisted men of the Army, by such boards as may be established by him, to determine their fitness for promotion to the grade of second lieutenant. (July 30, 1892, c. 328, § 1, 27 Stat. 336.)

503. Examining boards.—The members and recorder of such boards as may be established by the President, under the provisions of the preceding section, shall be sworn in every case to discharge their duties honestly and faithfully; and the boards may examine witnesses, and take depositions, for which purpose they shall have such powers of a court of inquiry as may be necessary. (July 30, 1892, c. 328, § 2, 27 Stat. 336.)

504. Certification and appointment of candidates.—The vacancies in the grade of second lieutenant authorized by section 484 of this title to be filled by appointments from the Army, shall be filled by the appointment of competitors favorably recommended under this and the two next preceding sections, in the order of merit established by the final examinations. Each man who passes the final examination shall receive a certificate of eligibility, setting forth the subjects in which he is proficient and the especial grounds upon which the recommendation is based: *Provided*, That not more than two examinations

shall be accorded to the same competitor. (July 30, 1892, c. 328, § 3, 27 Stat. 336.)

RANK AND PRECEDENCE GENERALLY

511. Determination of relative rank in line of Army.—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 63, 64 and 65 of Title 32 of which 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. (Feb. 28, 1925, c. 371, § 5, 43 Stat. 1078.)

512. Service credits in determining relative rank in Army.—In determining relative rank, 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. (June 4, 1920, c. 227, subchapter I, § 51, 41 Stat. 785.)

513. Temporary rank in time of war.—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. (June 4, 1920, c. 227, subchapter I, § 51, 41 Stat. 785.)

514. Detail, rating, or assignment as affecting rank of officer.—No detail, rating, or assignment of an officer shall carry advanced rank, except as otherwise specifically provided herein. (June 4, 1920, c. 227, subchapter I, § 51, 41 Stat. 785.)

BREVET RANK

521. Authority to issue brevet commissions.—The President, by and with the advice and consent of the Senate, may, in time of war, confer commissions by brevet upon commissioned officers of the Army, for distinguished conduct and public service in presence of the enemy. (R. S. § 1209.)

522. Dating brevet commissions.—Brevet commissions shall bear date from the particular action or service for which the officers were brevetted. (R. S. § 1210.)

523. Precedence and right of command.—Brevet rank shall be considered strictly honorary, and shall confer no privilege of precedence or command not provided for in the statutes which embody the rules and articles governing the Army of the United States. (Feb. 27, 1890, c. 20, § 3, 26 Stat. 14.)

524. Authority to assign officer to command according to brevet rank.—Officers may be assigned to duty or command according to their brevet rank by special assignment of the President. (R. S. § 1211.)

525. Conditions of assignment to command according to brevet rank.—Officers of the Army shall only be assigned to duty or command according to their brevet rank when actually engaged in hostilities. (Mar. 3, 1883, c. 93, § 1, 22 Stat. 457.)

526. Brevet rank for service against Indians.—The President of the United States is authorized and empowered, at his discretion, to nominate, and by and with the advice and consent of the Senate, to appoint to brevet rank all officers of the United

States Army, on the active or retired list on February 27, 1890, who by their department commander, and with the concurrence of the commanding general of the Army, have been or may be recommended for gallant service in action against hostile Indians since January 1, 1867. (Feb. 27, 1890, c. 20, § 1, 26 Stat. 13.)

527. Date of brevet commission for service against Indians.—Such brevet commissions as may be issued under section 521 of this title shall bear date only from the 27th day of February, 1890: *Provided, however,* That the date of the particular heroic act for which the officer is promoted shall appear in his commission. (Feb. 27, 1890, c. 20, § 2, 26 Stat. 13.)

528. Uniform and official title of brevet officers.—No officer shall be entitled, on account of having been brevetted, to wear, while on duty, any uniform other than that of his actual rank; and no officer shall be addressed in orders or official communications by any title other than that of his actual rank. (R. S. § 1212.)

DETACHED DUTY

CROSS REFERENCES

Details to Bureau of Budget limited; see section 818 of this title.

Details to duty at educational institutions; see section 1181 of this title.

Details to office of Assistant Secretary of War; see section 1194 of this title.

531. Officers carried on detached officers' list.—All officers authorized by law and not assigned to duty with any branch or bureau herein provided for shall be carried on the Detached Officers' List. (June 4, 1920, c. 227, subchapter I, § 25, 41 Stat. 775.)

532. Service with troops; proportionate amount required.—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. (June 4, 1920, c. 227, subchapter I, § 4, 41 Stat. 762.)

533. What constitutes service with troops.—In the administration of the provisions of section 532 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. (June 4, 1920, c. 227, subchapter I, § 4, 41 Stat. 762.)

534. Exception of certain officers from requirement of service with troops.—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 provision of section 532 requiring duty with troops of one or more of the combatant arms. The President is further authorized to except from the provisions of said section requiring duty with troops of one or more of the combatant arms such officers of the Judge Advocate General's Department as were on June 6, 1924, engaged in patent litigation in which the Government is involved. (June 6, 1924, c. 275, § 2, 43 Stat. 470.)

535. Detail of officers as students, observers, and investigators.—The Secretary of War is hereby authorized, in his discretion, to detail not to exceed 2 per centum of the commissioned officers 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 to acquire a knowledge of or experience in the specialties in which it is deemed necessary that such officers 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 the pay and allowances of the officers so detailed, except for the cost of tuition at such technical, professional, and other educational institutions. (June 4, 1920, c. 227, subchapter I, § 51, 41 Stat. 780.)

536. Recruiting service.—No officer on the active list shall be detailed for recruiting service where officers on the retired list can be secured who are competent for such duty. (June 4, 1920, c. 227, subchapter I, § 33, 41 Stat. 777.)

537. Command of Philippine Constabulary.—Officers of the Army of the United States may be detailed for service as chief and assistant chiefs, the said assistant chiefs not to exceed in number four, of the Philippine Constabulary, and that during the continuance of such details the officer serving as chief shall have the rank, pay, and allowances of brigadier general, and the officers serving as assistant chiefs shall have the rank, pay, and allowances of colonel: *Provided,* That the difference between the pay and allowances of brigadier general and colonel, as herein provided, and the pay and allowances of the officers so detailed in the grades from which they are detailed shall be paid out of the Philippine treasury. (Jan. 30, 1903, c. 334, § 1, 32 Stat. 783.)

538. Work on highways.—See section 613 of this title.

539. Details of officers requested by Cuba or Panama.—The consent of Congress is hereby granted to the acceptance by officers of the Army, in the discretion of the President, of such military details under the Governments of Cuba and Panama as may be requested by the Presidents of these Republics: *Provided,* That such details shall not exceed five in number: *And provided further,* That no officer so detailed shall receive any present, emolument, office, or title of any kind whatever from the Government of Cuba or Panama. (Apr. 19, 1910, c. 174, 36 Stat. 324.)

PROMOTION

CROSS REFERENCES

Chaplains; see sections 236, 237 of this title.

Enlisted men promoted to commissioned rank; see section 484 of this title.

Dental Corps; see section 126 et seq. of this title.

Medical Administrative Corps; see section 153 et seq. of this title.

Medical Corps; see section 97 et seq. of this title.

Philippine Scouts; see section 326 of this title.

Reserve officers; see section 360 of this title.

Retired officers, promotion for active service after retirement; see sections 1011-1014 of this title.

Retirement of officer on failure to pass physical examination for promotion; see section 932 of this title.

Veterinary Corps; see section 143 et seq. of this title.

551. Appointment of general officers of the line.—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. (June 4, 1920, c. 227, subchapter I, § 4, 41 Stat. 760.)

552. Rule of promotion in grades below brigadier general.—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. (June 4, 1920, c. 227, subchapter I, § 24, 41 Stat. 774.)

553. 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

store keeper 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 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 June 4, 1920, 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 section 487 of this title, 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 reorganization of the Artillery in the year 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 571 of this title.

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 serv-

ice rendered prior to November 11, 1918, and shall be placed at the foot of the list as prepared to this point.

Fourth, persons appointed as captains or lieutenants to fill vacancies created by the increase of the commissioned personnel in the year 1920, 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 appointed to fill said vacancies, and the latter shall be arranged according to age.

Fifth, persons appointed as lieutenant colonels or majors to fill vacancies created by the increase of the commissioned personnel in the year 1920, shall be placed immediately below all officers of the Regular Army who, on July 1, 1920, were promoted to those grades respectively to fill said vacancies: *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, to fill vacancies as aforesaid, 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 64 of this title.

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. (June 4, 1920, c. 227, subchapter I, § 24, 41 Stat. 771.)

554. Promotions limited to vacancies in grades; exceptions to rule.—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 authorized by this title 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. (June 30, 1922, c. 253, Title I, 42 Stat. 722.)

555. Officers discharged in grade of captain and recommissioned in grade of first lieutenant.—So long as there shall remain in the grade of captain and recommissioned in the grade of first lieutenant any officer discharged in the grade of captain and recommissioned in the grade of first lieutenant who, having served as an officer of the United States Army at any time between April 6, 1917, and June 4, 1920, was appointed in the grade of captain in the Regular Army in filling the vacancies created by the increase of the commissioned personnel in the year 1920, promotions of officers on the promotion list to the grade of captain shall be made solely from such officers. (Mar. 2, 1923, c. 178, Title I, 42 Stat. 1384.)

556. Examination for promotion.—Officers shall be promoted without examination as to their professional fitness, but physical examination shall be required for promotion to all grades below that of brigadier general: *Provided*, That officers of the Medical, Dental, and Veterinary Corps shall be examined for promotion. 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. (June 4, 1920, c. 227, subchapter I, § 24, 41 Stat. 774.)

DISMISSAL OR OTHER TERMINATION OF OFFICE

571. Annual classification; retirement or discharge of officers in class B.—In September of each and every year, 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 section 553 of this title 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 chapter 26 of this title 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 first board convened under this section shall also report the names of those second lieutenants of the Quartermaster Corps who were commissioned on the reorganization of the Quartermaster Corps in 1910, 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. (June 4, 1920, c. 227, subchapter I, § 24, 41 Stat. 773.)

572. Court-martial sentence is prerequisite to dismissal from service.—No officer in the military service shall in time of peace be dismissed from service except upon and in pursuance of the sentence of a court-martial to that effect, or in commutation thereof. (R. S. § 1229.)

573. Trial of officers dismissed by President.—When any officer, dismissed by order of the President, makes, in writing, an application for trial, setting forth, under oath, that he has been wrongfully dismissed, the President shall, as soon as the necessities of the service may permit, convene a court-martial, to try such officer on the charges on which he shall have been dismissed. And if a court-martial is not so convened within six months from the presentation of such application for trial, or if such court, being convened, does not award dismissal or

death as the punishment of such officer, the order of dismissal by the President shall be void. (R. S. § 1230.)

574. Officers dropped for absence without leave.—The President is authorized to drop from the rolls of the Army any officer who is absent from duty three months without leave, or who has been absent in confinement in a prison or penitentiary for more than three months after final conviction by a civil court of competent jurisdiction; and no officer so dropped shall be eligible for reappointment. (Jan. 19, 1911, c. 22, 36 Stat. 894.)

575. Officers dropped for desertion.—The President is authorized to drop from the rolls of the Army for desertion any officer who is absent from duty three months without leave; and no officer so dropped shall be eligible for reappointment. (R. S. § 1229.)

576. Accepting or holding civil office.—No officer of the Army on the active list shall hold any civil office, whether by election or appointment, and every such officer who accepts or exercises the functions of a civil office shall thereby cease to be an officer of the Army, and his commission shall be thereby vacated. (R. S. § 1222.)

577. Accepting or holding diplomatic or consular office.—Any officer of the Army who accepts or holds any appointment in the Foreign Service of the Government shall be considered as having resigned his place in the Army, and it shall be filled as a vacancy. (R. S. § 1223.)

578. Discharge of supernumerary officers.—Any officer who is supernumerary to the permanent organization of the Army as provided by law may, at his own request, be honorably discharged from the Army, and shall thereupon receive one year's pay for each five years of his service, but no officer shall receive more than three years' pay in all. (June 30, 1882, c. 251, § 1, 22 Stat. 118.)

579. Restoration of dismissed officers.—No officer of the Army who has been or may be dismissed from the service by the sentence of a general court-martial, formally approved by the proper reviewing authority, shall ever be restored to the military service, except by a reappointment confirmed by the Senate. (R. S. § 1228.)

Chapter 22.—WARRANT OFFICERS.

Sec.

591. Appointment of warrant officers; number authorized.

592. Restriction on filling of vacancies in grade.

593. Rank of warrant officers.

594. Right to retirement.

CROSS REFERENCES

Army band leader; see section 11 of this title.

Pay and allowances of warrant officers; see chapter 25 of this title.

Warrant officers in Army Mine Planter Service; see sections 274 and 275 of this title.

Section 591. Appointment of warrant officers; number authorized.—In addition to those authorized for the Army Mine Planter Service, there shall be not more than six hundred warrant officers, including band leaders, who shall 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. (June 4, 1920, c. 227, subchapter I, § 4, 41 Stat. 761; June 30, 1922, c. 253, Title I, 42 Stat. 723.)