

906. Deposit of soldiers' savings.—

Deposits as subject to claims of United States, see section 906a of this title.

906a. Deposits as subject to claims of United States.—No part of section 906 of this title, of sections 933 to 935 of Title 34, or of section 975 of Title 34, or of any other law, shall be so construed as to authorize the recovery in any manner of any indebtedness to the United States or to any of its instrumentalities from either the amounts deposited with the Government pursuant to law by any depositor in the military or naval service, or from the interest thereon. (Feb. 28, 1931, c. 320, 46 Stat. 1448.)

★ 914. Free tuition in schools for children of officers and men.—

The War Department recommends the omission of this section from the Code as it is temporary legislation repeated from year to year in Appropriation Acts.

916. Disposition of remains of military personnel and civilian employees; appropriation to pay expenses.—There is hereby authorized to be appropriated from time to time such sums as may be necessary for expenses of interment, cremation (only upon request from relatives of the deceased), or of preparation and transportation to their homes or to such national cemeteries as may be designated by proper authority, in the discretion of the Secretary of War, of the remains of officers on the active list and retired officers who die while on active duty, cadets, United States Military Academy, acting assistant surgeons, members of the Army Nurse Corps, and enlisted men in active service and retired enlisted men who die while on active duty, and accepted applicants for enlistment; for interment or preparation and transportation to their homes of the remains of civilian employees of the Army in the employ of the War Department who die abroad, in Alaska, in the Canal Zone, or on Army transports, or who die while on duty in the field; for interment of military prisoners who die at military posts; for the interment and shipment to their homes of remains of enlisted men who are discharged in hospitals in the United States and continue as inmates of said hospitals to the date of their death; for interment of prisoners of war and interned alien enemies who die at prison camps in the United States; for recovery of bodies of the above-mentioned military personnel; for removal of remains from abandoned posts to permanent military posts or national cemeteries, including the remains of Federal soldiers, sailors, or marines interred in fields, abandoned graves, or abandoned private and city cemeteries; and for expenses of the segregation of bodies in permanent American cemeteries in Great Britain and France: *Provided*, That in any case where the expenses of burial or shipment of the remains of officers or enlisted men of the Army who die on the active list, or retired officers or enlisted men who die while on active duty, or of any of the military or civil personnel mentioned above, are borne by individuals, where such expenses would have been lawful claims against the Government, reimbursement to such individuals may be made of the amount allowed by the Government for such services, but no reimbursement shall be made of such expenses incurred prior to July 1, 1910. (Mar. 9, 1928, c. 102, 45 Stat. 251.)

The Act cited to the text was entitled "An Act to authorize appropriations to be made for the disposition of remains of military personnel and civilian employees of the Army."

The words "acting assistant surgeons" in line 10 of this section although appearing in the source act were obviously intended to mean "contract surgeons."

917. Expense of recovery of bodies of officers, cadets, nurses, enlisted men, and civilian employees; appropriation.—There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sum as may be necessary to pay the expenses incident to the recovery of bodies of officers, cadets, United States Military

Academy, acting assistant surgeons, members of the Army Nurse Corps, warrant officers, enlisted men and civilian employees, under such regulations as the Secretary of War may prescribe. (Mar. 8, 1928, c. 151, 45 Stat. 248.)

The words "acting assistant surgeons" in line 7 of this section while appearing in the source act was obviously intended to mean "contract surgeons."

Chapter 26.—RETIREMENT.**CROSS REFERENCES**

Right of retired officers and men to hold other lucrative offices; see sections 62, 63, and 64 of Title 5, EXECUTIVE DEPARTMENTS AND GOVERNMENT OFFICERS AND EMPLOYEES.

Uniform date for retirement of Federal personnel, see § 47a of Title 5.

RETIREMENT FOR INCAPACITY

★ Section 932. Failure of officer to pass physical examination for promotion.—Except as provided in sections 102, 103, 125, and 143a of this title, should an officer fail in his physical examination for promotion and be found incapacitated for service by reason of physical disability contracted in line of duty, he shall be retired with the rank to which his seniority entitled him to be promoted; but if he should fail in such examination for any other reason he shall be suspended from promotion for one year, when he shall be reexamined, and in case of failure on such reexamination he shall be honorably discharged with one year's pay from the Army. (Oct. 1, 1890, c. 1241, § 3, 26 Stat. 562; June 3, 1910, c. 134, § 24c, as added June 4, 1920, c. 227, § 24, 41 Stat. 774.)

This section has been restated to express existing law.

★ 935. Periodical examination of officers retired for disability.—

This section is recommended by the War Department for repeal as the officers affected by the provision were retired many years ago. The "list" required to be made relates to officers placed on the "retired list" before the passage of the Act of 1910, cited thereto, and not before the passage of the Code.

★ 936. Restoration of retired officers to active list.—

"554" in line 5 of this section should read "553."

It is the opinion of the War Department that this section has been impliedly repealed by Acts June 30, 1922, c. 253, 42 Stat. 721, and Sept. 14, 1922, c. 307, 42 Stat. 840 (see §§ 481 and 482 of this title).

937. Nurses of Army and Navy.—Pursuant to regulations to be prescribed by the Secretary of War or the Secretary of the Navy, as the case may be, when a member of the Army Nurse Corps or of the Navy Nurse Corps shall be found by a board of medical officers to have become disabled in line of duty from performing the duties of a nurse, and such findings are approved by the head of the department concerned, she shall be retired from active service and placed upon the Nurse Corps retired list of the appropriate department in the grade to which she belonged at the time of her retirement and with retired pay at the rate of 75 per centum of the active service pay received by her at the time of her transfer to the retired list. (June 20, 1930, c. 554, 46 Stat. 790.)

The Act cited to the text was entitled "An Act to provide for the retirement of disabled nurses of the Army and the Navy."

938. Same; basis of computing retired pay.—Section 937 of this title shall be construed, from June 20, 1930, as authorizing the pay of members of the Army Nurse Corps and the Navy Nurse Corps retired thereunder to be computed upon the basis of the entire amount of the active-service pay received by each, respectively, at the time of her transfer to the retired list, including in the cases of superintendents of Nurses Corps, assistant superintendents, directors, assistant directors and chief nurses the money allowance prescribed as part of their compensation by section 22 of Title 37. (June 20, 1930, c. 554, as amended Mar. 3, 1931, c. 429, 46 Stat. 1502.)

★ 938a. Officers wholly retired from service; one year's pay and allowances.—Officers wholly retired from the service shall be entitled to receive, upon their retirement, one year's pay and allowances of the highest rank in the Regular Army held by them at the time of their retirement. (R. S. § 1275.)

This section omitted from the Code appears to be still in force. The words "whether by staff or regimental commission" appeared in the source statute after the words "held by them." These words have been omitted because they were apparently intended to exclude brevet commissions, and as there are now no regimental commissions this wording has become inapplicable.

RETIREMENT FOR AGE OR LENGTH OF SERVICE

941. Right to retirement after forty years of commissioned service.—[Repealed.]

This section was repealed by Act Dec. 16, 1930, c. 14, § 1, 46 Stat. 1028.

★ 947a. Retirement of enlisted men in Army or Marine Corps; length and character of service; rank on retirement.—When an enlisted man has served as such thirty years in the United States Army or Marine Corps, either as private or non-commissioned officer, or both, he shall by application to the President, be placed on the retired list heretofore created, with the rank held by him at the date of retirement. (Feb. 14, 1885, c. 67, 23 Stat. 305; Sept. 30, 1890, c. 1125, 26 Stat. 504.)

This section omitted from the Code appears to be still in force. The source statute of this section contained a provision following the word "retirement" reading "and he shall receive thereafter seventy-five per centum of the pay and allowances of the rank upon which he was retired." This provision has been superseded by section 982 of this title. A further provision relating to credit for double the time of service in certain cases is obsolete.

SERVICE COUNTED IN DETERMINING RIGHT TO RETIREMENT

CROSS REFERENCE

Service credits for purposes of retirement, see sections 145a, 270, 540, 595, and 596 of this title.

951a. Active duty by Regular Army officer as officer of Philippine Constabulary.—In determining the pay period and rights of retirement in the case of officers of the Regular Army, active duty performed as an officer of the Philippine Constabulary shall be credited to the same extent as service under a Regular Army commission or other active duty recognized under the provisions of section 951 of this title. (May 23, 1928, c. 716, 45 Stat. 720.)

The Act cited to the text was entitled "An Act to recognize commissioned service in the Philippine Constabulary in determining rights of officers of the Regular Army."

952. Period of cadetship at Military or Naval Academy.—

This section was repealed in the War Department Appropriation Act of Apr. 15, 1926, c. 146, Title I, 44 Stat. 267.

See section 684 of this title.

★ 953. Service credits of officers discharged and recommissioned in lower grade.—The discharge and recommission of officers in the next lower grade pursuant to the provisions of the Act of June 30, 1922 (42 Stat. 721) or of September 14, 1922 (42 Stat. 840) shall not operate to deprive them of credit for service which on September 14, 1922, counted for purposes of retirement. (Sept. 14, 1922, c. 307, § 1, 42 Stat. 841.)

This section has been restated to express existing law.

953a. Officers of Medical Corps.—In computing length of service, for purposes of retirement in the case of an officer of the Medical Corps of the Army, active duty performed as a member of the Medical Reserve Corps or as a contract surgeon, acting assistant surgeon, or contract physician, under a general contract obligating him to serve full time and to take station and change station as ordered, shall be credited to the same

extent as service under a Regular Army commission. (May 29, 1928, c. 902, 45 Stat. 996.)

The Act cited to the text was entitled "An Act to authorize officers of the Medical Corps to account certain service in computing their rights for retirement, and for other purposes."

★ 954. Service by enlisted men as commissioned officers of Philippine Scouts.—

The War Department is of the opinion that this section is now unnecessary. It says: "So far as retirement is concerned, the field was wholly covered by § 1 of the Act of Mar. 2, 1907 (34 Stat. 1217; 10 U. S. C. 947). All provisions relating to continuous service pay have been repealed (41 Stat. 761; 42 Stat. 629). All that remains is the bare requirement that the service referred to shall be counted as if it had been rendered as enlisted men. This does not appear to serve any useful purpose not served by the statute quoted in § 955 of Title 10."

★ 955. Temporary commissioned service by enlisted men.—

The figures "632" in line 3 of this section should read "631."

★ 956. Double credits for foreign service by enlisted men.—In computing length of service for retirement, credit shall be given soldiers for double the time of their actual service in China, Porto Rico, Cuba, the Philippine Islands, the Island of Guam, Alaska, and Panama, but double credit shall not be given for service rendered subsequent to April 23, 1904, in Porto Rico or the Territory of Hawaii, nor shall credit for double time for foreign service be given to those who enlisted after August 24, 1912: *Provided*, That nothing herein shall be so construed as to forfeit credit for double time accrued prior to August 24, 1912. (May 25, 1900, c. 586, 31 Stat. 209; Mar. 2, 1903, c. 975, 32 Stat. 933; Apr. 23, 1904, c. 1485, 33 Stat. 264; Aug. 24, 1912, c. 391, § 1, 37 Stat. 575.)

This section has been restated to express existing law.

RETIRED PAY

★ 970. Pay of General of the Armies.—The General of the Army, when retired, shall be retired without reduction in his current pay and allowances. (June 30, 1882, c. 254, § 1, 22 Stat. 118.)

This section omitted from the Code appears to be still in force. The Act cited to the text is the Army Appropriation Act. As to the rate of pay of the General while on the active list, see § 671a of this title.

★ 971a. Pay of certain officers appointed to fill vacancies created by increase of commissioned personnel.—Any person originally appointed to fill a vacancy created by the increase of the commissioned personnel of the Army in 1920 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. (June 4, 1920, c. 227, § 24, 41 Stat. 771; May 10, 1926, c. 333, 44 Stat. 564.)

This section omitted from the Code appears to be still in force.

★ 972. Basis for computing retired pay of officers and warrant officers; change of base pay as affecting previous retirements.—

This section should be omitted from the Code, in view of the more comprehensive treatment in §§ 3 and 26 of Title 37. It is a part only of section 17 of Act June 10, 1922, c. 212, 42 Stat. 632, as amended by Act May 31, 1924, c. 224, § 6, 43 Stat. 252. Section 17 as thus amended is set forth in toto as § 26 of Title 37 of the Code, and as amended by Act May 26, 1928, c. 787, 45 Stat. 774, constitutes § 26 of Title 37, PAY AND ALLOWANCES.

★972a. Retired pay of officers and warrant officers retired prior to July 1, 1922.—

This section is duplicated as section 20a of Title 37 and the War Department recommends its omission.

973. Pay and allowances of retired officers, warrant officers, and men on active duty.—

This section should be omitted from the Code to avoid redundancy, as it is duplicated in section 26 of Title 37.

★973a. Pay and allowances of retired officers of grade of brigadier general or above assigned to active duty.—Except as provided in sections 970, 992, 994, 995, or 1181, of this title, retired officers of the Army, of the grade of brigadier general or above, assigned to active duty, shall receive their full retired pay and shall receive no further pay or allowances from the United States. (Mar. 2, 1905, c. 1307, 33 Stat. 831; June 3, 1916, c. 134, § 40b, as added June 4, 1920, c. 227, subchapter I, § 33, 41 Stat. 777; June 10, 1922, c. 212, § 17, 42 Stat. 632.)

This section omitted from the Code appears to be still in force.

★976. Ratification of administrative action as to pay of officers on duty mentioned in next preceding section.—

This section should be omitted from the Code as one of a special and temporary nature.

★979. Retired pay of person retired with rank of warrant officer in lieu of discharge with one year's pay.—There shall be paid to each person who was retired with the rank of warrant officer pursuant to his own election in lieu of discharge with one year's pay in the reduction of the commissioned personnel of the Army in the year 1922, retired pay at the rate of two per centum of the pay of a warrant officer multiplied by the number of years of service which was, at the time of his retirement, accredited to him, as a commissioned officer, toward retirement or for increased pay for length of service. (June 30, 1922, c. 253, Title I, 42 Stat. 725.)

This section has been restated to read as above with the approval of the Secretary of War. As here set forth it is a correct restatement of existing law.

★980. Rate of pay of retired enlisted men.—An enlisted man who has been, or shall have been, placed on the retired list pursuant to law, shall, subject, as to his pay, to the provisions of section 981 of this title, and of section 18 of Title 37, receive 75 per centum of the pay and allowances he may be in receipt of at the time of his retirement, and said allowances shall be as follows: \$0.50 per month in lieu of rations and clothing and \$0.25 per month in lieu of quarters, fuel, and light. (Mar. 2, 1907, c. 2515, § 1, 34 Stat. 1217.)

This section has been restated to express existing law.

★982. Computation of retired pay of enlisted men.—

This section should be omitted from the Code. It is superfluous as it duplicates part of § 18 of Title 37.

ACTIVE DUTY BY RETIRED OFFICERS

CROSS REFERENCES

Detail on active duty of certain officers retired with less than thirty years' service, see section 571 of this title.

★990. Assignment of retired officers to duty.—A retired officer shall not be assignable to duty except as provided by law. (R. S. § 1250.)

This section omitted from the Code appears to be still in force.

★991. Duties to which retired officers may be assigned generally.—The Secretary of War may assign retired officers of the Army, with their consent, to active duty in recruiting, for service in connection with the Organized Militia in the several States and Territories upon the request of the governor thereof, as military attachés, upon courts-martial, courts of inquiry and boards,

and to staff duties not involving service with troops. (Apr. 23, 1904, c. 1485, 33 Stat. 204.)

This section has been restated to express existing law.

★994. Assignment to duty as road commissioners for Alaska.—The Secretary of War may, in his discretion, assign suitable retired officers of the Army, with their consent, to active duty as members of the Board of Road Commissioners for Alaska, and such officers while so assigned shall receive the full pay and allowances of their respective grades. (Mar. 3, 1911, c. 209, 30 Stat. 1052.)

This section has been restated to express existing law.

★995. Assignment to command of post temporarily without officers.—When by reason of the movement of troops a post is temporarily left without its regular garrison and with no commissioned officer on duty thereat, the Secretary of War may assign a retired officer of the Army, with his consent, to active duty in charge of such post. The officer so assigned shall perform the duties of commanding officer and also any necessary staff duties at such post. A retired brigadier general, major general, or lieutenant general, while in the performance of such duties shall receive the same pay and allowances as a retired major would receive under a like assignment. (Mar. 2, 1905, c. 1307, 33 Stat. 831; June 12, 1906, c. 3078, 34 Stat. 245; June 3, 1916, c. 134, § 37, 39 Stat. 190; Aug. 29, 1916, c. 418, § 1, 39 Stat. 627.)

This section has been restated to express existing law.

PROMOTION OF OFFICERS ON RETIRED LIST

★1011. Active duty performed by retired officers.—Except as provided in the next following section 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. (June 3, 1916, c. 134, § 127a, as added June 4, 1920, c. 227, subchapter I, § 51, 41 Stat. 785.)

This section has been restated to express existing law.

★1012. Active duty performed after June 30, 1922.—

The citation to this section should read "June 10, 1922, c. 212, § 17, 42 Stat. 632."

MISCELLANEOUS PROVISIONS

★1026a. Rank on retirement after service as chief of staff corps.—Any officer who on February 2, 1901, held office in any corps or department, and who, since said date, has served or shall have served as chief of a staff corps or department and who shall subsequently be retired, shall be retired with the rank, pay, and allowances authorized by law for the retirement of such corps or department chief. (Feb. 2, 1901, c. 192, § 20, 31 Stat. 755.)

This section omitted from the Code appears to be still in force.

1028a. Commissioned officers of Army, Navy, Marine Corps, and Coast Guard serving in World War; war time rank on retirement or death; effect of increased rank on pay and allowances.—All commissioned officers who served in the Army, Navy, Marine Corps, and/or Coast Guard of the United States during the World War, and who have been or may be hereafter retired according to law, except those retired under the provisions of section 571 of this title, shall, on June 21, 1930, or upon retirement in the case of those on that date on the active list of the Army, Navy, Marine Corps and/or Coast Guard, be advanced in rank on the retired list to the highest grade held by them during the World War: *Provided*, That any such officer

on the active or retired list who died prior to June 21, 1930, or on the active list who may hereafter die before retirement, shall be advanced in rank to said higher grade as of the date of death: *Provided further*, That no increase of active or retired pay or allowances shall result from the provisions of this section. (June 21, 1930, c. 563, § 1, 46 Stat. 793.)

The Act cited to the text was entitled "An Act to give war-time rank to retired officers and former officers of the Army, Navy, Marine Corps, and/or Coast Guard of the United States."

1028b. Persons serving in Army, Navy, Marine Corps and Coast Guard during war; right to use of war time title; right to wear uniform of war time grade.—All persons who have served honorably in the Army, Navy, Marine Corps, and/or Coast Guard of the United States during war shall, when not in the active military and/or naval service of the United States, be entitled to bear the official title and upon occasions of ceremony, to wear the uniform of the highest grade held by them during their war service. (June 21, 1930, c. 563, § 2, 46 Stat. 793.)

For title of Act see note to § 1028a.

ARMY AND NAVY NURSE CORPS

1029. Retirement of Army and Navy nurses.—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. (May 13, 1926, c. 289, § 1, 44 Stat. 531.)

The Act cited to the text was entitled "An Act to provide retirement for the Nurse Corps of the Army and Navy."

1030. Pay of retired nurse.—The annual pay of a retired member of the Army Nurse Corps or the Navy Nurse Corps shall be 3 per centum of the annual active base pay which she is receiving at the time of retirement multiplied by the number of complete years of service rendered prior to retirement, but not exceeding 75 per centum of such annual active base pay; and, in addition, supplemental annual retired pay for each complete year of active service rendered prior to retirement in each of the grades hereafter named, as follows: Chief nurse, \$18; assistant superintendent, \$45; director, \$45; assistant director, \$45; superintendent, \$75: *Provided*, That in computing the period of service in any grade for such supplemental retired pay any period less than a year served in any higher grade may be included. (May 13, 1926, c. 289, § 2, 44 Stat. 532.)

For title of Act see note to § 1029.

1031. Service considered in computation.—For the purpose of computing eligibility for retirement and retired pay, there shall be credited active service in the Army Nurse Corps and in the Navy Nurse Corps, active service as contract nurse prior to February 2, 1901, and service as a reserve nurse on active duty since February 2, 1901. (May 13, 1926, c. 289, § 3, 44 Stat. 532.)

For title of Act see note to § 1029.

1032. Title; uniform; employment in emergency.—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 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. (May 13, 1926, c. 289, § 4, 44 Stat. 532.)

For title of Act see note to § 1029.

Chapter 27.—MILITARY ACADEMY.

BOARD OF VISITORS

Section 1052. Composition of board; mode of appointment.—[Superseded.]

This section is superseded by § 1052a which follows.

1052a. Composition of board; mode of appointment.—The Board of Visitors to the United States Military Academy shall consist of five members of the Committee on Military Affairs of the Senate, two members of the Committee on Appropriations of the Senate, seven members of the Committee on Military Affairs of the House of Representatives, and five members of the Committee on Appropriations of the House of Representatives, to be appointed by the respective chairmen thereof. (May 17, 1928, c. 600, 45 Stat. 507.)

The Act cited to the text was entitled "An Act to provide for the membership of the Board of Visitors, United States Military Academy, and for other purposes."

1054. Visitations; expenses of visitors.—[Superseded.]

This section is superseded by § 1054a which follows.

1054a. Visitations; membership on board and visitations as affected by termination of Congress; expenses of visitors.—The members of the board appointed as provided in section 1052a of this title shall visit the United States Military Academy at least once annually at such time or times as the chairmen of said committee shall appoint, and the members from each of said committees may visit said academy together or separately as the respective chairmen of said committees may elect; and the superintendent of the academy and the members of the Board of Visitors shall be notified of such date by the chairmen of the said committees: *Provided*, That members chosen by the respective chairmen of the said committees who have been reelected to the Senate or House of Representatives may continue to serve as members of the Board of Visitors and visit the United States Military Academy, notwithstanding the expiration of Congress. The expenses of the members of the board shall be their actual expenses while engaged upon their duties as members of said board and their actual expenses of travel. (May 17, 1928, c. 600, 45 Stat. 507.)

For title of Act see note to § 1052a.

MILITARY AND ACADEMIC STAFF

★ **1076. Associate professor of mathematics.**—The position of associate professor of mathematics at the Military Academy shall be filled by the detail of an officer from the Army at Large. (Mar. 1, 1803, c. 180, 27 Stat. 515; Mar. 3, 1905, c. 1404, 33 Stat. 850.)

This section has been restated to express existing law.

1077. Professor of English.—The head of the department of English shall have the same status as the professors at the head of the other departments of instruction at the Military Academy, and the President of the United States is authorized, by and with the consent of the Senate, to appoint a civilian in the department of English, United States Military Academy, a professor * * *. (As amended June 8, 1926, c. 492, 44 Stat. 703.)

The Act cited to the text was entitled "An Act to establish a department of economics, government, and history at the United States Military Academy, at West Point, New York, and to amend chapter 174 of the Act of Congress of April 19, 1910, entitled 'An Act making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1911, and for other purposes.'"

The amendment affected only that part of the section set out above.

See section 1077a of this title for the creation of a department of economics, government, and history.

1077a. Department of economics, government, and history created.—A department of economics, government, and history