

§ 197. Discharge for good of service; payments. Persons discharged from the naval service by dishonorable discharge, bad-conduct discharge, or any other discharge for the good of the service, may, upon discharge, be paid a sum not to exceed \$25: *Provided*, That the said sum shall be fixed by, and in the discretion of, the Secretary of the Navy, and shall be paid only in cases where the person so discharged would otherwise be without funds to meet his immediate needs. (Mar. 4, 1925, c. 536, § 10, 43 Stat. 1274.)

§ 198. New rating or promotion as not effecting discharge. The rating of an enlisted man as a mate, or his appointment as a warrant officer, shall not discharge him from his enlistment. (R. S. § 1409.)

From Act May 17, 1864, c. 89, § 3, 13 Stat. 79; Act Mar. 3, 1865, c. 124, § 3, 13 Stat. 539.

§ 199. Temporary home for discharged seamen. The Secretary of the Navy is hereby authorized to permit any person receiving the honorable discharge authorized by section 194 of this title to elect a home on board of any of the United States receiving ships, during any portion of the three months granted by law as the limit of time within which to receive the pecuniary benefit of such discharge, the men so choosing a home to be entitled to one ration per day for their keeping while furnished with such home, but not to pay, other than the enlistment allowance authorized by section 16 of Title 37, upon reenlistment: *Provided*, That the persons so furnished with a home shall be amenable to such regulations as may be prescribed by the Secretary of the Navy or other competent authority. (Feb. 8, 1889, c. 115, 25 Stat. 657; Aug. 22, 1912, c. 335, 37 Stat. 331.)

§ 200. Refund of bounty on discharge. The Secretary of the Navy may, in his discretion, require the whole or a part of the bounty allowed upon enlistment to be refunded in cases where men are discharged during the first year of enlistment by request, for inaptitude, as undesirable, or for disability not incurred in line of duty. (Mar. 2, 1907, c. 2512, 34 Stat. 1176.)

§ 201. Disposition of enlisted men at expiration of term of enlistment. It shall be the duty of the commanding officer of any fleet, squadron, or vessel acting singly, when on service, to send to an Atlantic or to a Pacific port of the United States, as their enlistment may have occurred on either the Atlantic or Pacific coast of the United States, in some public or other vessel, all petty officers and persons of inferior ratings desiring to go there at the expiration of their terms of enlistment, or as soon thereafter as may be, unless, in his opinion, the detention of such persons for a longer period should be essential to the public interests, in which case he may detain them, or any of them, until the vessel to which they belong shall return to such Atlantic or Pacific port. All persons enlisted without the limits of the United States may be discharged, on the expiration of their enlistment, either in a foreign port or in a port of the United States, or they may be detained as above provided beyond the term of their enlistment. All persons sent home, or detained by a commanding officer, according to the provisions of this section, shall be subject in all respects to the laws and regulations for the government of the Navy until their return to an Atlantic or Pacific port and their regular discharge; and all persons so detained by such officer, or reentering to serve until the return to an Atlantic or Pacific port of the vessel to which they belong, shall in no case be held in service more than thirty days after their arrival in said port. All persons who shall be so detained beyond their terms of enlistment or who shall, after the termination of their enlistment, voluntarily reenter to serve until the return to an Atlantic or Pacific port of the vessel to which they belong, and their regular discharge therefrom, shall receive for the time during which they are so detained, or shall so serve beyond their original terms of enlistment, an addition of one-fourth of their former pay: *Provided*, That the shipping articles

shall contain the substance of this section. (R. S. § 1422; Mar. 3, 1875, c. 155, 18 Stat. 484.)

R. S. § 1422 from Act July 17, 1862, c. 204, § 17, 12 Stat. 610.

§ 202. Discharge of men under twenty-one. Upon the presentation of satisfactory evidence as to his age and upon application for discharge by his parent or guardian presented to the Secretary within ninety days after the date of his enlistment, any man enlisted in the naval service, including the Marine Corps, under twenty-one years of age, who was enlisted without the written consent of his parent or guardian, if any, shall be discharged for his own convenience. (May 28, 1924, c. 203, 43 Stat. 194; Mar. 4, 1925, c. 536, § 19, 43 Stat. 1276; June 11, 1930, c. 463, 46 Stat. 567.)

§ 203. Discharge of men under eighteen. In cases provided for in section 162 of this title where it is afterwards found, upon evidence satisfactory to the Navy Department, that recruit has sworn falsely as to age, and is under eighteen years of age at the time of enlistment, he shall, upon request of either parent, or, in case of their death, by the legal guardian, be released from service in the Navy, upon payment of full cost of first outfit, unless, in any given case, the Secretary, in his discretion, shall relieve said recruit of such payment. (Mar. 3, 1915, c. 83, 38 Stat. 931.)

§ 204. Discharge for fraudulent enlistment during World War; misrepresentation of age; honorable discharge. In the administration of any laws conferring rights, privileges, or benefits upon honorably discharged members of the military or naval forces of the United States, their widows and dependent children, a member of the Navy or Marine Corps who was enlisted 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 after January 19, 1929, be held and considered to have been honorably discharged from the Navy or Marine Corps on the date of his actual separation therefrom, if his service otherwise was such as would have entitled him to a discharge under honorable conditions. No back pay or allowances shall accrue by reason of this section. In any such case the Secretary of the Navy shall, upon request, grant to such individual or his widow or next of kin a discharge certificate showing that such former member of the Navy or Marine Corps is held and considered to have been honorably discharged under the provisions of this section. (Jan. 19, 1929, c. 80, 45 Stat. 1084.)

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Section 211. Citizenship. The officers of vessels of the United States shall in all cases be citizens of the United States. (R. S. § 1428.)

From Act June 28, 1864, c. 170, § 1, 13 Stat. 201.

§ 212. Designation of officers for command of fleets; number and rank. The President is authorized to designate six officers of the Navy for the command of fleets or subdivisions thereof, and, after being so designated, from the date of assuming such command until relinquishing thereof, not more than three of such officers shall each have the rank and pay of an Admiral, and the others shall each have the rank and pay of a Vice Admiral; and the grades of Admiral and Vice Admiral are hereby authorized and continued for the purpose of this section. (May 22, 1917, c. 20, § 18, 40 Stat. 89.)

§ 213. From what grades designated. In time of war the selections under the provisions of section 212 of this title shall be made from the grades of rear admiral or captain on the active list of the Navy. In time of peace officers for the command of fleets and subdivisions thereof, as authorized in the preceding section, shall be designated from among the rear admirals on the active list of the Navy. (May 22, 1917, c. 20, § 18, 40 Stat. 89.)

§ 214. Designation as not creating vacancies in grades or increasing number of officers. Nothing contained in sections 212 and 213 of this title shall create any vacancy in any grade in the Navy or increase the total number of officers authorized by law. (May 22, 1917, c. 20, § 18, 40 Stat. 89.)

§ 215. Detachment from command; return to former rank. When an officer with the rank of Admiral or Vice Admiral is detached from the command of a fleet or subdivision thereof, as authorized in this chapter, he shall return to his regular rank in the list of officers of the Navy and shall thereafter receive only the pay and allowances of such rank. (May 22, 1917, c. 20, § 18, 40 Stat. 89.)

§ 216. Commanding officer of squadron; rank and title; authority. The President may select any officer not below the grade of commander on the active list of the Navy, and assign him to the command of a squadron, with the rank and title of "flag officer"; and any officer so assigned shall have the same authority and receive the same obedience from the commanders of ships in his squadron, holding commissions of an older date than his, that he would be entitled to receive if his commission were the oldest. (R. S. § 1434; May 22, 1917, c. 20, § 18, 40 Stat. 89.)

R. S. § 1434 from Act Dec. 21, 1861, c. 1, § 4, 12 Stat. 329.

§ 217. Consular powers of commanding officers. The commanding officer of any fleet, squadron, or vessel acting singly, when upon the high seas or in any foreign port where there is no resident consul of the United States, shall be authorized to exercise all the powers of a consul in relation to mariners of the United States. (R. S. § 1433.)

From Act Feb. 20, 1845, c. 17, § 2, 5 Stat. 725.

§ 218. Commanding officers of vessels not required to act as pay officers. No commanding officer of any vessel of the Navy shall be required to perform the duties of a paymaster, passed assistant paymaster, or assistant paymaster. (R. S. § 1432.)

From Act July 17, 1861, c. 4, § 4, 12 Stat. 258.

§ 219. Duty of commanding officer to discourage sale of wages by crew. Every commanding officer of a vessel is required to discourage his crew from selling any part of their wages, and never to attest any power of attorney for the transfer thereof until he is satisfied that the same is not granted in consideration of money given for the purchase of wages. (R. S. § 1430; Mar. 3, 1899, c. 413, § 13, 30 Stat. 1007.)

R. S. § 1430 from Act June 30, 1864, c. 174, § 12, 13 Stat. 310.

§ 220. Duty of commanding officers in granting leave and liberty. It shall be the duty of commanding officers of vessels, in granting temporary leave of absence and liberty on shore, to exercise carefully a

discrimination in favor of the faithful and obedient. (R. S. § 1431.)

From Act Mar. 2, 1855, c. 136, § 3, 10 Stat. 627.

§ 221. Lieutenant commanders; assignment to duty. Lieutenant commanders may be assigned to duty as first lieutenants of naval stations, as navigation and watch officers on board of vessels of war, and as first lieutenants of vessels not commanded by lieutenant commanders. (R. S. § 1435.)

From Act July 16, 1862, c. 183, § 3, 12 Stat. 584; Act July 25, 1866, c. 281, § 5, 14 Stat. 223.

§ 222. Shore duty; employment of officers. No officer of the Navy shall be employed on any shore duty, except in cases specially provided by law, unless the Secretary of the Navy shall determine that the employment of an officer on such duty is required by the public interests, and he shall so state in the order of employment, but need not state the duration of such service. (Mar. 3, 1883, c. 97, § 2, 22 Stat. 481; July 19, 1892, c. 206, 27 Stat. 245.)

§ 223. Eligibility for shore duty. Officers who, prior to March 3, 1915, performed engineering duty on shore only and officers of the Construction Corps shall be eligible for any shore duty compatible with their rank and grade to which the Secretary of the Navy may assign them. (R. S. § 1404; June 30, 1914, c. 130, 38 Stat. 394; Mar. 3, 1915, c. 83, 38 Stat. 930.)

R. S. § 1404 from Act Mar. 3, 1845, c. 77, § 2, 5 Stat. 794.

§ 224. Sea service; what constitutes. No service shall be regarded as sea service except such as shall be performed at sea, under the orders of a department and in vessels employed by authority of law: *Provided*, That when officers are assigned to airships on duty requiring them to participate regularly and frequently in aerial flights the Secretary of the Navy shall determine and certify whether or not, in his judgment, the service to be performed is equivalent to sea duty. If such service is thus determined to be equivalent to sea duty, it shall be considered to be actual sea service on sea-going ships for all purposes. (R. S. § 1571; May 11, 1928, c. 523, 45 Stat. 498.)

R. S. § 1571 from Act June 1, 1860, c. 67, § 3, 12 Stat. 27. See section 6 of Title 37.

§ 225. Staff officers; exemption from sea duty. Any staff officer of the Navy who has performed the duty of a chief of a bureau of the Navy Department for a full term shall thereafter be exempt from sea duty, except in time of war. (R. S. § 1436.)

From Act Mar. 3, 1871, c. 117, § 10, 16 Stat. 537.

§ 226. Effect of appointment in Diplomatic Service. If any officer of the Navy accepts or holds an appointment in the Diplomatic or Consular Service of the Government, he shall be considered as having resigned his place in the Navy, and it shall be filled as a vacancy: *Provided, however*, That the foregoing provision shall not apply to any officer of the Navy on the retired list. (R. S. § 1440; Mar. 2, 1929, c. 494, 45 Stat. 1482.)

R. S. § 1440 from Act Mar. 30, 1868, c. 38, § 2, 15 Stat. 58.

§ 227. Effect of dismissal or resignation to escape dismissal. No officer of the Navy who has been dismissed by the sentence of a court-martial, or suffered to resign in order to escape such dismissal, shall ever again become an officer of the Navy. (R. S. § 1441.)

From Act July 16, 1862, c. 183, § 11, 12 Stat. 585.

§ 228. Furlough. The Secretary of the Navy shall have authority to place on furlough any officer on the active list of the Navy. (R. S. § 1442.)

From Act Mar. 3, 1835, c. 27, § 1, 4 Stat. 756, 757; Act Mar. 3, 1845, c. 77, § 6, 5 Stat. 794; Act Feb. 28, 1855, c. 127, § 3, 10 Stat. 617; Act June 1, 1860, c. 67, § 4, 12 Stat. 27.

§ 229. Leave of absence to warrant officers. Warrant officers shall be allowed such leave of absence, with full pay, as is now or may hereafter be allowed other officers of the United States Navy. (Aug. 29, 1916, c. 417, 39 Stat. 578.)

§ 230. Computation of length of service; time spent at Naval or Military Academy excluded. The service

of a midshipman at the United States Naval Academy, or that of a cadet at the United States Military Academy, appointed to the United States Naval Academy, or to the United States Military Academy, after March 4, 1913, shall not be counted in computing for any purpose the length of service of any officer in the Navy or in the Marine Corps. (Mar. 4, 1913, c. 148, 37 Stat. 891; May 28, 1924, c. 203, 43 Stat. 194; Feb. 11, 1925, c. 209, 43 Stat. 872; May 21, 1926, c. 355, 44 Stat. 604.)

§ 231. Credit for all service in Regular or Volunteer Army or Navy. All officers of the Navy shall be credited with the actual time they may have served as officers or enlisted men in the Regular or Volunteer Army or Navy, or both, and shall receive all the benefits of such actual service in all respects in the same manner as if all said service had been continuous and in the regular Navy in the lowest grade having graduated pay held by such officer since last entering the service: *Provided*, That nothing in this section shall be so construed as to authorize any change in the dates of commission or in the relative rank of such officers: *Provided further*, That nothing herein contained shall be so construed as to give any additional pay to any such officer during the time of his service in the Volunteer Army or Navy. (Mar. 3, 1883, c. 97, § 1, 22 Stat. 473.)

See section 4 of Title 37.

§ 232. Officers reappointed; credit for service in different corps. All officers who have been or may be appointed to any corps of the Navy or to the Marine Corps after service in a different corps of the Navy or of the Marine Corps shall have all the benefits of their previous service in the same manner as if said appointments were a reentry into the Navy or into the Marine Corps. (June 10, 1896, c. 399, § 1, 29 Stat. 361.)

§ 233. Examination on foreign station of candidates for appointment, promotion, and retirement. The Secretary of the Navy may authorize the senior officer present, or other commanding officer, on a foreign station to order boards of medical examiners, examining boards, and retiring boards for the examination of such candidates for appointment, promotion, and retirement in the Navy and Marine Corps as may be serving in such officer's command and may be directed to appear before any such board. (Mar. 4, 1917, c. 180, 39 Stat. 1171.)

Chapter 4.—RANK AND PRECEDENCE

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CROSS REFERENCE

Rank of retired warrant officers and enlisted men serving in World War or Spanish-American War, see section 1028c of Title 10.

Section 241. Relative rank of Navy and Army officers. The relative rank between officers of the

Navy, whether on the active or retired list, and officers of the Army, shall be as follows, lineal rank only being considered:

Vice admirals shall rank with lieutenant generals.

Rear admirals with major generals.

Rear admirals of the lower half of the grade with brigadier generals.

Commodores with brigadier generals.

Captains with colonels.

Commanders with lieutenant colonels.

Lieutenant commanders with majors.

Lieutenants with captains.

Lieutenants (junior grade) with first lieutenants.

Ensigns with second lieutenants. (R. S. § 1466; Mar. 3, 1883, c. 97, § 1, 22 Stat. 472; Oct. 6, 1917, c. 105, § 3, 40 Stat. 410.)

R. S. § 1466 from Act July 16, 1862, c. 183, § 13, 12 Stat. 585; Act Dec. 21, 1864, c. 6, § 1, 13 Stat. 420; Act July 25, 1866, c. 231, § 1, 14 Stat. 222; Act Mar. 2, 1867, c. 174, § 1, 14 Stat. 515, 516.

§ 242. Dates of commissions as determining rank; line officers. Line officers shall take rank in each grade according to the dates of their commissions. (R. S. § 1467.)

From Act July 16, 1862, c. 183, § 1, 12 Stat. 583; Act Apr. 21, 1864, c. 63, § 7, 13 Stat. 54; Act Jan. 24, 1865, c. 19, § 1, 13 Stat. 424.

§ 243. Officers of staff corps. Officers shall take rank in each staff corps according to the dates of commission in the several grades, excepting in cases where they have gained or lost numbers. (Aug. 29, 1916, c. 417, 39 Stat. 578.)

See sections 348 to 348t of this title.

§ 244. Precedence between officers of line and staff. The officers of the staff corps of the Navy shall take precedence with officers of the line with whom they hold rank according to length of service in the Navy: *Provided*, That all officers entering the Navy after March 4, 1913, shall take precedence when of the same grade according to their respective dates of commission in that grade. (R. S. § 1485; Mar. 4, 1913, c. 148, 37 Stat. 892; Aug. 29, 1916, c. 417, 39 Stat. 578.)

R. S. § 1485 from Act Mar. 3, 1871, c. 117, § 10, 16 Stat. 537.

See sections 348 to 348t of this title.

§ 244a. Precedence of line officers transferred to staff corps. Any officer of the line of the Navy who, since July 1, 1923, and prior to May 11, 1928, was transferred to, and commissioned in, a staff corps of the Navy in the same rank as formerly held by him in the line, shall take precedence with, but next after, that officer of the line immediately above him in the Navy at the time of such transfer, which officer shall be assigned as his running mate for promotion purposes: *Provided*, That no back pay or allowances shall accrue to any officer by reason of the passage of this section. (May 11, 1928, c. 524, 45 Stat. 498.)

§ 245. Estimating length of service generally. In estimating the length of service under section 244 the several officers of the staff corps shall, respectively, take precedence with those officers of the line of the Navy with whom they hold rank who have been in the naval service six years longer than such officers of said staff corps have been in said service; and officers who have been advanced or lost numbers on the Navy Register shall be considered as having gained or lost length of service accordingly: *Provided*, That nothing in this section shall be so construed as to give to any officer of the staff corps precedence of, or a higher rank than that of, another staff officer in the same grade and corps, and whose commission in such grade and corps antedates that of such officer: *Provided further*, That this section shall not apply in the case of officers entering the Navy after March 4, 1913. (R. S. § 1486; Mar. 3, 1881, c. 150, 21 Stat. 510; Mar. 3, 1899, c. 413, § 7, 30 Stat. 1006; Mar. 4, 1913, c. 148, 37 Stat. 892; Aug. 29, 1916, c. 417, 39 Stat. 578.)

R. S. § 1486 from Act Mar. 3, 1871, c. 117, § 10, 16 Stat. 537.

See sections 348 to 348t of this title.