

Calendar No. 1043

69TH CONGRESS }
1st Session }

SENATE

{ REPORT
No. 1025

FOREIGN SERVICE OF UNITED STATES

JUNE 9, 1926 — Ordered to be printed

Mr. BORAH, from the Committee on Foreign Relations, submitted the following

REPORT

[To accompany H. R. 11203]

The Committee on Foreign Relations, to whom was referred the bill (H. R. 11203), having considered the same, report favorably and recommend that the bill do pass. The House Report 890, together with several communications regarding this bill, are appended hereto and made a part of this report.

[House Report No. 890, Sixty-ninth Congress, first session]

This bill has a twofold purpose, (1) to correct an ambiguity in subsection (c) of section 18 of the act of May 24, 1924, and stipulating that for the purpose of computing deductions as well as for calculating annuities all basic salaries in excess of \$9,000 per annum shall be treated as \$9,000; and (2) to extend the benefits of the retirement provisions of the act to certain persons not now entitled to them.

In regard to the first purpose mentioned, subsection (c) of section 18 of the act of May 24, 1924, provides that all basic salaries in excess of \$9,000 per annum shall be treated as \$9,000, but fails to specify whether that proviso applies alone to computing deductions from salary or also to calculation of annuities. It is believed to be important that there should be no doubt upon this subject and this bill, therefore, proposes to amend subsection (c) and make it specific.

In regard to the second purpose of the bill, when the act of May 24, 1924, was considered by the Congress there were in the Foreign Service a number of ambassadors and ministers and several Assistant Secretaries of State who had entered the lower grades of the Foreign Service and had been advanced to the offices then held as the result of meritorious service. They were deemed to be entitled to the benefit of the provisions of the retirement act in the same manner as the members of the service who had not been fortunate enough to be advanced beyond the grade of Foreign Service officer in the classified service. In order that they should not lose their retirement status through being advanced to the higher positions of ambassador or minister or through being appointed to a position in the Department of State, it was provided in subsection (c) of section 18 of the act that they should be entitled to all of the benefits of the Foreign Service retirement and disability system in the same manner and under the same conditions as Foreign Service officers.

Subsection (c) provides that the promotion should be from the classified service. The Comptroller General has held that the classified service, within the meaning of the act of May 24, 1924, was created by the act of February 5, 1915, classifying and grading the salaries of diplomatic secretaries and consular officers. Several ambassadors and ministers who were promoted to those grades prior to February 5, 1915, are thus not entitled to the benefits of the retirement provisions of the act notwithstanding the fact that they were in the service as secretaries in the Diplomatic Service or as consular officers a number of years before their promotion to the grade of ambassador or minister. Subsection (c) also provides that in order to have the benefits of the retirement and disability system the officer must have been a diplomatic secretary or consular officer or a Foreign Service officer at the time of his promotion to the grade of ambassador or minister or appointment to his position in the Department of State. Several officers now in the service are by this stipulation denied the benefits of the retirement provisions. It was undoubtedly the intention of the Congress at the time the act of May 24, 1924, was under consideration to provide for all of these persons, and it is therefore the unanimous opinion of the committee that the act should be amended to carry out the original intention of Congress in this regard. The following is a list of members of the Foreign Service, with biographical sketches, to whom the bill (H. R. 11203) would, if enacted, give the benefit of the Foreign Service retirement and disability system in the same manner and under the same conditions as Foreign Service officers:

Name of officer	Years of service	Status when appointed ambassador, minister, or assistant secretary	Date of original appointment as ambassador, minister, or assistant secretary
William W. Russell, minister to Siam.	29	Secretary of legation, Panama.....	Mar. 17, 1904.
H. Percival Dodge, minister to Denmark.	26	Secretary of embassy, Tokyo.....	July 1, 1907.
Edwin V. Morgan, ambassador to Brazil.	26	Consul at Dalny.....	Mar. 18, 1905.
Lewis Einstein, minister to Czechoslovakia.	18	Secretary of legation, Peking.....	July 6, 1911.
Henry P. Fletcher, ambassador to Italy.	23	do.....	Dec. 21, 1909.
Fred M. Dearing, minister to Portugal.	18	Assistant Secretary of State.....	Feb. 10, 1922.
Irwin Laughlin, minister to Greece.	17	Retired secretary of embassy.....	Mar. 24, 1924.
J. Butler Wright, Assistant Secretary of State.	17	Commissioner to Brazilian Exposition.....	Jan. 30, 1923.
William Phillips, ambassador to Belgium.	19½	Assistant Secretary of State.....	Mar. 3, 1920.

SERVICE HISTORY OF THE PERSONS AFFECTED BY THE BILL

RUSSELL, WILLIAM W.

Appointed secretary of the legation at Caracas, November 15, 1895; secretary of the legation at Panama City, February 5, 1904; chargé d'affaires ad interim from February 13, 1904; appointed envoy extraordinary and minister plenipotentiary to Colombia, March 17, 1904; envoy extraordinary and minister plenipotentiary to Venezuela, June 21, 1905; appointed commissioner to the National Exposition in Quito, Ecuador, and served from August 19, 1908, to January 12, 1909; appointed minister resident and consul general to the Dominican Republic, June 24, 1910; envoy extraordinary and minister plenipotentiary to the Dominican Republic, July 6, 1911; retired August, 1913; reappointed August 16, 1915.

DODGE, H. PERCIVAL

Appointed third secretary of the embassy at Berlin, February 16, 1899; second secretary of the embassy, July 9, 1900, to take effect September 1, 1900; secretary of the embassy, October 13, 1902; secretary of the embassy at Tokyo, August 8, 1906; envoy extraordinary and minister plenipotentiary to Honduras and Salvador, July 1, 1907; continued as minister to Honduras until February 6, 1909; appointed envoy extraordinary and minister plenipotentiary to Salvador,

July 1, 1908; envoy extraordinary and minister plenipotentiary to Morocco, May 12, 1909; resident diplomatic officer and chief of the division of Latin-American Affairs, Department of State, June 22, 1910; envoy extraordinary and minister plenipotentiary to Panama, July 6, 1911; on May 12, 1912, designated chairman of the committee to supervise the Panaman municipal and presidential elections of 1912; retired from the diplomatic service, August 25, 1913; designated secretary to the special commission of the United States at Niagara Falls Mediation Conference, May 16, 1914; special agent of the Department of State to assist the American ambassador at Paris, August 4, 1914; special agent of the Department of State in Serbia, June 28, 1917; envoy extraordinary and minister plenipotentiary to the Kingdom of the Serbs, Croats, and Slovenes, July 17, 1919.

MORGAN, EDWIN V.

Appointed secretary of the legation of Seoul, January 4, 1900; vice deputy consul general at Seoul, March 15, 1900; second secretary of the embassy at Petrograd, March 9, 1901; confidential clerk to the Third Assistant Secretary of State, April 7, 1902; consul at Dalny, January 22, 1904; envoy extraordinary and minister plenipotentiary to Korea, March 18, 1905; envoy extraordinary and minister plenipotentiary to Cuba, November 29, 1905; envoy extraordinary and minister plenipotentiary to Paraguay and Uruguay, December 21, 1909; envoy extraordinary and minister plenipotentiary to Portugal, May 24, 1911, ambassador extraordinary and plenipotentiary to Brazil, January 18, 1912.

EINSTEIN, LEWIS

Appointed third secretary of the embassy at Paris, June 5, 1903; third secretary of the embassy at London, March 10, 1905; secretary of the United States Commission at the Moroccan Conference, November 24, 1905; second secretary of the legation at Constantinople, March 1, 1906; second secretary of the embassy, June 28, 1906; secretary of the embassy, November 13, 1908; secretary of the legation at Peking, December 21, 1909; envoy extraordinary and minister plenipotentiary to Costa Rica, July 6, 1911; retired, June, 1913; special agent of the Department of State to assist the American ambassador at Constantinople, February–September, 1915; special agent of the Department of State to assist the American minister at Bucharest in caring for British interests in Bulgaria, October 27, 1915; appointed envoy extraordinary and minister plenipotentiary to Czechoslovakia, October 8, 1921.

FLETCHER, HENRY P.

Appointed second secretary of the legation at Habana, May 22, 1902; second secretary of the legation at Peking, April 29, 1903; secretary of the legation at Lisbon, March 10, 1905; secretary of the legation at Peking, April 26, 1907; envoy extraordinary and minister plenipotentiary to Chile, December 21, 1909; ambassador extraordinary and plenipotentiary to Chile, October 1, 1914; ambassador extraordinary and plenipotentiary to Mexico, February 25, 1916; ordered to return February 20, 1919, for duty in the Department of State; resigned as ambassador to Mexico, February 15, 1920; appointed Undersecretary of State, March 7, 1921; ambassador extraordinary and plenipotentiary to Belgium, March 6, 1922; also envoy extraordinary and minister plenipotentiary to Luxembourg, March 5, 1923; chairman of the delegation of the United States to the Fifth International Conference of American States held at Santiago, Chile, March, 1923; returned to his post, June 23, 1923; appointed ambassador extraordinary and plenipotentiary to Italy, February 19, 1924.

DEARING, FRED M.

Appointed, after examination, second secretary of the legation at Habana, July 30, 1906; second secretary of the legation at Peking, April 6, 1907; secretary of the legation at Habana, January 14, 1909; second secretary of the embassy at London, February 18, 1910; secretary of the embassy at Mexico City, August 12, 1910; assistant chief of the division of Latin-American affairs, December 21, 1911; secretary of the legation at Brussels, July 2, 1913; secretary of the embassy at Madrid, February 11, 1914; secretary of embassy or legation of class 1 by act approved February 5, 1915; assigned to Petrograd, February 2, 1916; retired April, 1919; appointed Assistant Secretary of State, March 11, 1921; envoy extraordinary and minister plenipotentiary to Portugal, February 10, 1922.

LAUGHLIN, IRWIN BOYLE

Appointed second secretary of the legation at Tokyo, January 13, 1905; secretary of legation and consul general at Bangkok, June 28, 1906; second secretary of the legation at Peking, March 9, 1907; second secretary of the embassy at Petrograd, June 17, 1907; secretary of the legation to Greece and Montenegro, July 30, 1908; second secretary of the embassy at Paris, August 4, 1909; secretary of the embassy at Berlin, December 11, 1909; detailed as secretary of the special mission to the Ottoman Empire, October 7, 1910; secretary of the embassy at London, September 12, 1912; secretary of embassy or legation of class 1 by act approved February 5, 1915; unassigned from April, 1919; assigned to duty with the American delegation, Conference on the Limitation of Armament, November 1, 1921, to March 30, 1922; appointed envoy extraordinary and minister plenipotentiary to Greece, March 24, 1924.

WRIGHT, J. BUTLER

Appointed, after examination (May 17, 1909), secretary of the legation at Tegucigalpa, August 4, 1909; secretary of the legation and consul general to Rumania, Serbia, and Bulgaria, February 1, 1912; assigned to special duty in the Department of State; appointed secretary of the legation at Habana, September 12, 1912; appointed secretary of the legation at Brussels, October 4, 1912; secretary of the American delegation to the Opium Conference at The Hague, June 14, 1913; secretary of the embassy at Rio de Janeiro, July 2, 1913; secretary of class 1 by act approved February 5, 1915; assigned to the Division of Latin-American Affairs, Department of State, July 28, 1915; designated acting chief, Division of Latin-American Affairs, October 8, 1915; assigned to the embassy at Petrograd, October 2, 1916; assigned to the Department of State, May 14, 1918; assigned to the embassy at London, September 19, 1918; assigned to the Department of State, October 4, 1921, for duty in connection with the Conference on the Limitation of Armament; designated expert assistant, Conference on the Limitation of Armament, November 3, 1921; appointed a commissioner to represent the United States at the Brazilian Centennial Exposition, July 17, 1922; secretary of the American delegation to the Fifth International Conference of American States at Santiago, Chile, February-May, 1923; appointed Third Assistant Secretary of State, January 30, 1923; title "Third Assistant Secretary of State" changed to "Assistant Secretary of State," July 1, 1924.

PHILLIPS, WILLIAM

Appointed to second secretary of the legation at Peking, March 10, 1905; transferred from the Diplomatic Service to the Department of State as assistant to the Third Assistant Secretary on Far Eastern Affairs, June 1, 1907; designated chief of the division of Far Eastern Affairs, March 20, 1908; appointed Third Assistant Secretary of State, January 11, 1909; secretary of the embassy at London, September 25, 1909; retired November 16, 1912; appointed Third Assistant Secretary of State, March 13, 1914; appointed Assistant Secretary of State, January 24, 1917; envoy extraordinary and minister plenipotentiary to the Netherlands and Luxemburg, March 3, 1920; Undersecretary of State, March 31, 1922; ambassador extraordinary and plenipotentiary to Belgium, February 29, 1924; also envoy extraordinary and minister plenipotentiary to Luxemburg, February 29, 1924.

DEPARTMENT OF STATE,
Washington, June 2, 1926.

MY DEAR SENATOR BORAH: Some days ago I mentioned to Senator Moses, a member of your committee whom I have known many years, the desirability of the passage of the bill now before the committee known as H. R. 11203, and asked him, as a former member of the Foreign Service, if the bill should be taken up for consideration if he would be good enough to interest himself in it. I received a letter from him, under date of May 27, 1926, raising several questions in connection with the bill and asking me for a memorandum further explaining it. I am inclosing, for your information, a copy of my reply to Senator Moses and of the memorandum which I have sent him hoping that you may find it useful in the consideration of the measure.

I am, my dear Senator Borah,
Yours sincerely,

WILBUR J. CARR.

JUNE 2, 1926.

HON. GEORGE H. MOSES,
United States Senate.

MY DEAR SENATOR: In compliance with your letter of May 27, 1926, I send you herewith a memorandum in regard to the bill H. R. 11203.

It is entirely true, as you say, that a number of the officers who would benefit by the bill if it were enacted, would not be dependent upon any retired pay which might come to them. That can not be said, however, of Dearing and Russell, and probably not of Dodge and Butler Wright. Nevertheless, to my mind, the matter is one of principle. The exact question was not discussed in the meeting of the Foreign Relations Committee when the Rogers bill was under consideration. It was discussed at length, however, in the hearings and executive sessions of the Committee on Foreign Affairs, and it was the view of that committee that an officer whose service was so meritorious as to justify promotion to the grade of minister or ambassador, or appointment to a responsible position in the department, should not be denied the retirement benefits which he would have had had he not accepted promotion. It was thought that to deny officers retirement benefits would not only be unjust but would place an obstacle in the way of the Government's ability to utilize in the highest offices in the service, the most capable men developed in the lower grades.

It seems to me there is a clear distinction with respect to conditions of retirement between chiefs of mission who come from the outside and those who come up through the grades. The former have no claim of any description to retirement upon an annuity. The men who have come up through the subordinate grades of the service have been paying in the retirement fund 5 per cent of their annual compensation and have a legal claim to the retirement privileges so long as they remain in the classified service. If their training in these subordinate grades of the service is to be of greatest possible value to the Government, it seems to me it should be utilized wherever feasible in the grade of chief of mission, and if so utilized the officer should not be compelled to relinquish the retirement benefits to which he has claim by years of service and contribution to the retirement fund. At any rate, the law as it now stands insures the retention of these benefits to all officers promoted from the ranks to the grade of ambassador or minister, except the small group mentioned in the accompanying memorandum, who are denied retirement benefits solely because the exact facts with relation to them were not foreseen and provided for when the Rogers Act was under consideration. With reference to the practice of other countries, every country with whose diplomatic service I am acquainted, provides for the retention of the retirement benefits of officers after they have reached the grade of minister or ambassador. For example, the British regulations provide as follows:

"Heads of missions on attaining the age of 70 years shall be retired on the pension for which their services may qualify them."

I hope the foregoing, in addition to the accompanying memorandum, will clear up any doubts that you may have in regard to the measure, and that it may be possible to obtain action upon it in the Senate before the close of the present session.

Very sincerely yours,

WILBUR J. CARR.

MEMORANDUM EXPLAINING THE BILL (H. R. 11203) TO AMEND "AN ACT FOR THE REORGANIZATION AND IMPROVEMENT OF THE FOREIGN SERVICE, AND FOR OTHER PURPOSES," APPROVED MAY 24, 1924

The main purpose of this bill is to carry out the original intention of Congress with respect to retirement. It was intended by section 18 (o) of the act of May 24, 1924 (Rogers Act), that any diplomatic secretary or consular officer who had already been, or who might thereafter be, promoted from the classified service to the grade of ambassador or minister or appointed to a position in the Department of State, should be entitled to the same benefits with respect to retirement when superannuated or disabled as he would have been entitled to had he not accepted promotion to the grade of ambassador or minister, or appointment to a position in the Department of State.

The Comptroller General has held that the language employed in section 18 (o) does not embrace all of the cases which the section was designed to cover, for the following reasons:

(1) Subsection (o) provides that the promotion to the grade of ambassador or minister, or the appointment to the Department of State, should be from the

classified service. The Comptroller General holds that "classified service" means the service created as a result of classifying and grading salaries of diplomatic secretaries and consular officers which was done by the act of February 5, 1915. Contrary to the clear intention of Congress at the time the act of May 24, 1924, was under consideration, this construction denies the benefits of the retirement system to such officers as William W. Russell, our present Minister to Siam, Percival Dodge, our present Minister to Denmark, Edwin V. Morgan, our present Ambassador to Brazil, Lewis Einstein, our present Minister to Czechoslovakia, and Henry P. Fletcher, our present Ambassador to Italy, because they were promoted to the grade of either ambassador or minister prior to the act of February 5, 1915, although all of them had been regarded as bona fide members of the classified service in the sense that they had entered the service under such regulations as existed at the time and had always been regarded as officers of career.

(2) Subsection (c) also provides that in order to have the benefits of the retirement and disability system an ambassador or minister, or officer of the Department of State, must have been a diplomatic secretary or consular officer at the time of his promotion to the grade of ambassador or minister, or of his appointment in the Department of State. This language has resulted in the denial of retirement privileges to Fred M. Dearing, our present minister to Portugal; William Phillips, our present ambassador to Belgium; and J. Butler Wright, one of the Assistant Secretaries of State. Messrs. Dearing and Phillips, although they had been for years bona fide members of the classified Foreign Service, were at the time of their appointment as ministers Assistant Secretaries of State and not diplomatic secretaries or consular officers. Mr. J. Butler Wright had spent 13 years as a diplomatic secretary and resigned that office temporarily, at the urgent request of the Secretary of State, in order that he might be appointed a commissioner to the Brazilian Centennial Exposition, and in that capacity perform a special service for the Secretary of State. Having been appointed to the office of Assistant Secretary of State while holding the office of commissioner to the exposition instead of his former regular office of diplomatic secretary, he is not, under existing law, entitled to the retirement privileges of the act of May 24, 1924, yet it is entirely true that he separated himself from the office of diplomatic secretary most reluctantly and only at the personal solicitation of the Secretary of State in order that he might perform a special service, which could not be performed while he held the office of diplomatic secretary.

In view of the foregoing, it is believed that not only is the pending bill necessary to carry out the original intention of Congress with respect to the retirement of officers who had accepted promotion, but that failure to pass that bill would work serious injustice to the officers concerned. As the officers named herein are the only officers to whom the pending measure would apply, the enactment of the measure would create no embarrassing precedent.

