

OGG HAS REVIEWED

MEMORANDUM FOR THE FILES

Subject: "Officer of the United States"; defined

1. The Constitution of the United States, Article 2, Section 2 provides that the President, by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not therein otherwise provided for and which shall be established by law, but that Congress may by law vest the appointment of such inferior officers in the President alone, in the courts of law, or in the heads of departments.

2. An individual in the service of the United States who has not been appointed in one of the modes prescribed in Article 2 of the Constitution may not be deemed to be an officer of the United States.

- (a) Burnap v. U.S.
252 U.S. 512; 64 L.E. 692 (1920)
- (b) U.S. v. Mouat
124 U.S. 303; 31 L.E. 463 (1888)
- (c) U.S. v. Germaine
99 U.S. 508; 25 L.E. 432 (1879)
- (d) U.S. v. Hartwell
73 U.S. 390; 18 L.E. 830 (1868)
- (e) Cain v. U.S.
73 F. Supp 1019 (1947)
- (f) Hoeppe v. U.S.
85 F. 2d 237 (1936)
- (g) Scully v. U.S.
193 Fed. 185 (1910)
- (h) Martin v. U.S.
168 Fed. 198 (1909)
- (i) U.S. v. Schlierholz
137 Fed. 616 (1905)


Office of General Counsel

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