



DEPARTMENT OF STATE

Washington, D.C. 20520

COMMITTEE ON

MAY 10 1980

MAY 9 1980 FOREIGN RELATIONS

Dear Mr. Chairman:

I am responding to your letter of May 23 to Horace F. Shamwell of the Legal Adviser's Office, in which you requested certain information on honorary consuls, with reference to H.R. 3956, a private bill on behalf of Professor Hewson A. Ryan, which is now before the Committee on Foreign Relations for its consideration. The following responses relate to the numbered questions in your letter:

1. There are approximately 900 honorary consuls in the United States. The Department has no record of how many of those persons required private bills in order to become eligible for these positions.

2. The Department is aware of the introduction of a number of bills in recent years for the relief of persons wishing to accept employment with foreign governments who are prohibited from doing so because of the provisions of Article I, Section 9, clause 8, of the U.S. Constitution. An example is S.1064, 95th Cong., 1st., Sess., "a bill to authorize Donald G. Carpenter, retired colonel in the United States Air Force, to accept an office or position in King Faisal University in Saudi Arabia" (copy enclosed).

3. The Department has no data on the number of such bills which have been introduced over the past five years.

4. An honorary consul is appointed by the sending country in a manner similar to that employed respecting career consuls. A diplomatic note is transmitted to the Department of State with details of the appointment, such as nationality and biographic data of the appointee, his consular rank and the proposed consular district. If all the credentials are in order and are satisfactory to the Department, a responsive note indicating acceptance is forwarded to the embassy of the sending country. Aside from recognition of the above-cited constitutional limitation, the Department has no specific policy respecting appointment of retired foreign service or military officers as honorary consuls.

5. "Minister" is a term applicable generally to any diplomatic officer of a foreign country. Technically, it is employed to refer to a high-ranking diplomat below the rank of ambassador. If a diplomat is retired, he is no longer considered as possessing a specific functional title; however, by virtue of Section 520 of the Foreign Service Act of 1946 (22 U.S.C. 915), any retired foreign service officer is, at the discretion of the Secretary, subject to recall to active duty "to any appropriate class in his or her former category". The difference between civilian and military retirees lies in the nonapplicability to most civilian employees of the above-cited constitutional prohibition.

6. The rank attained by the retired officer is not a factor affecting the need for Congressional action.

7. The Department is not aware how many times 37 U.S.C. Section 801n (P.L 95-105) has been utilized. Whether or not the Department would favor similar legislation for retired Foreign Service officers would depend upon the terms of such a proposal.

Sincerely,

J. Brian Atwood  
Assistant Secretary for  
Congressional Relations

Enclosure:

§.1064, 95th Cong.  
1st. Sess.

The Honorable  
Frank Church,  
Committee on Foreign Relations,  
United States Senate.