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OGC HAS REVIEWED.

NOTE: See memorandum of 12 Jan 55 forwarded to DCI in lieu of this draft. Keep this for internal use only.

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MEMORANDUM FOR: Director of Central Intelligence  
SUBJECT : Employment of Retired Army Officer  
REFERENCE : Memorandum for DCI from Assistant Director for Personnel dated 16 November 1954

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1. We concur in [redacted] conclusion that [redacted] appointment should be undertaken within the provisions of Public Law 53. The law is not sufficiently explicit to say beyond a doubt that his appointment would be illegal if made other than through PL 53, but we think that the balance of legislative intent would be against any construction that would permit a clear distinction to be made between staff personnel used directly by the Agency and those employed

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2. The so-called dual compensation law is found in several sections of the U. S. Code which must be read together. Section 59a provides for a \$3,000 limitation on an individual's right to receive retired pay when he also holds a "civilian office" or position under the United States Government or under any corporation, "the majority of the stock of which is owned by the United States." He may, however, make an election to accept either the retired pay or the pay of the civilian office or position. An exception is made for commissioned officers "retired for disability incurred in combat with an enemy of the United States or for disabilities resulting from an explosion of an instrumentality of war in line of duty." It seems to us extremely doubtful that Congress would have excluded a non-stock corporation if they had been aware of the possibility. Section 62 is an earlier Act prohibiting the appointment "to any other office" with compensation when such person already holds an office with compensation amounting to \$2,500. It excludes officers "who have been retired for injuries received in battle or for injuries or incapacity incurred in line of duty." No reference is made to Government ownership of corporations. While some argument may be made that the "office" within the limitations imposed upon the Agency by Section 62 is not equivalent to the position held by retired officers in our proprietary corporations, we feel that the more conservative approach should be taken with regard to future personnel, tacitly reserving our argument to the contrary for those we have taken on board in the past. This approach would also provide full assurance to the individual under the personal limitations imposed upon them by Section 59a.

LAWRENCE R. HOUSTON  
General Counsel