

H. F. Arthur Schoenfeld, [redacted]

Department of State
Washington

In reply refer to
Le/A

October 24, 1947 [redacted]

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My dear Mr. Schoenfeld:

The receipt is acknowledged of your letter of
October 1, 1947, in which you ask the following question:

"Am I, as a retired Officer of the American
Foreign Service who is entitled to receive an
annuity following my retirement from the Foreign
Service under the provisions of Section 636 of the
Foreign Service Act of 1946, also entitled to re-
ceive compensation, either as salary or as per diem
or otherwise, from the United States Government upon
my employment by the Government in a capacity other
than that of a Foreign Service Officer on active duty?"

In the case of William W. Brunswick v. The United
States (90 Ct. Cls. 285) decided January 8, 1940, the
court held that a Foreign Service Officer retired for
disability and receiving an annuity may be employed by
the Executive branch of the Government and receive salary
for such employment simultaneously with the receipt of the
annuity. Although the Comptroller General did not appeal
the Brunswick case it has adopted the position that this
decision is binding only in this particular case, and is
not controlling in other cases of retirement on an annuity.
Acting in accordance with this theory of law, the Comptroller
General has recently ordered the suspension of annuities of
all retired Foreign Service Officers who are presently
employed by the Government.

The Department of State is, of course, bound to comply
with the Comptroller General's interpretation of the law.

Sincerely yours,

For the Secretary of State;

Belton O. Bryan
Assistant Legal Adviser

The Honorable
H. F. Arthur Schoenfeld,
care of Mail Room,
Department of State.

Handwritten initials and scribbles