

Opinion No. 47-4987

February 24, 1947

BY: C. C. McCULLOH, Attorney General

TO: Hon. Calvin Horn, Member House of Representatives Eighteenth Legislature Santa Fe, New Mexico

{*14} You have asked my opinion as to whether the Legislature may lawfully limit a soldier's exemption to disabled veterans. Article 8, Section 5. of the Constitution, authorizing the exemption to soldiers, is not self-executing. Rather, it merely authorizes the Legislature to grant exemptions to soldiers: "The Legislature may exempt from taxation * * * the property of every honorably discharged soldier * *."

Heretofore the Legislature has seen fit to limit the class of soldiers entitled to the exemption by defining the time within which residence must be acquired. This classification has never been attacked and was apparently upheld in the case of John A. Flaska v. State of New Mexico, recently decided by the Supreme Court. It would, therefore, seem that if the classification of disabled soldiers is reasonable, that the Legislature could carve out this class of soldiers from the general class and grant the exemption solely to them. In the case of Macon v. Samples, 167 Ga. 150, 145 S. E. 57, and in the case of State v. Montgomery, 92 Me. 433, 43 Atl. 13, it was held that an exemption to disabled and indigent soldiers was a reasonable classification. It is therefore my opinion that the Legislature can limit the soldiers' exemption to disabled soldiers.

Care should, however, be taken to carefully define what is meant by "Disabled", as there are all classes and degrees of disablement. If this is not done, it will lead to endless controversies and litigation.

By ROBERT W. WARD,

Asst. Atty. General