

Opinion No. 43-4258

March 24, 1943

BY: EDWARD P. CHASE, Attorney General

TO: Mr. Quincy D. Adams, Acting District Attorney, Albuquerque, New Mexico

I am in receipt of your letter of March 20, 1943, in which you ask whether or not Sections 76-111 to 117 inclusive apply to veterans of the present war. You suggest that this act can apply only to wars previous to the date of the enactment of such sections, since the sections are written in the past tense.

The only place I find where the past tense is used is in Section 76-111, wherein it is provided

"Soldiers' shall mean every honorably discharged soldier * * * resident of New Mexico, and **who served** in the armed forces of the United States for thirty days or more at any time in which the United States **was** officially engaged in any war."

It appears to me that the reason that the past tense was used here is because a soldier must be honorably discharged before he becomes entitled to such exemption, and he must have first served in the armed forces while the United States was at war before he could be discharged.

Further, it is noted that by this section, it is provided that any person who served in the armed forces for thirty days or more "at any time in which the United States was officially engaged in any war," is entitled to an exemption. It thus appears to me that by the language "at any time" and "in any war" the Legislature intended to include all wars, both past and future. It is therefore my opinion that veterans of the present war are entitled to the exemption provided in these sections if they meet the other qualifications.

As to the matter of the importance of this question, it has caused a great deal of discussion here in the Legislature in connection with certain bills that have been introduced for the purpose of granting the exemption to soldiers prior to their actual discharge. All the Legislators appear to assume that the present law will become applicable to veterans of this war when the war is terminated and they are discharged. For this reason, I would be inclined to leave the matter in their discretion.

If you have any further comments on the question, I should be glad to see them and take them under consideration.

I am enclosing herewith a copy of an opinion written by Mr. McCulloh covering a related question.

By ROBERT W. WARD,

Asst. Atty. General