

OCTOBER 3, 1951.

HONORABLE WALTER T. MARGETTS, JR.,
State Treasurer,
State House,
Trenton, New Jersey.

FORMAL OPINION—1951. No. 31.

DEAR MR. MARGETTS:

We acknowledge receipt of your communication of September 6, last past, in which you advise that there are some officers of the Army, Navy, Air Corps, Marine Corps, etc., who have continuous service in the Armed Forces of our country and have never been released from active duty. These are termed as career men in the armed services. You desire to know whether these officers qualify for an exemption under Article VIII, section 1, paragraph 3 of the New Jersey State Constitution.

Our answer to your inquiry is that they do not qualify for exemption, in accordance with Article VIII, section 1, paragraph 3.

Prior to the adoption of the new Constitution of 1947, the matter of veterans' exemptions was governed and controlled by the provisions of R. S. 54:4-3.12, the benefits of which were extended by R. S. 54:4-3.12 (d) to (h), inclusive.

Article VIII, section 1, paragraph 3 of the New Jersey State Constitution provides as follows:

"3. Any citizen and resident of this State *now or hereafter honorably discharged or released under honorable circumstances from active service in time of war in any branch of the Armed Forces of the United States*, shall be exempt from taxation on real and personal property to an aggregate assessed valuation not exceeding five hundred dollars, which exemption shall not be altered or repealed. Any person hereinabove described who has been or shall be declared by the United States Veterans Administration, or its successor, to have a service-connected disability, shall be entitled to such further exemption from taxation as from time to time may be provided by law. The widow of any citizen and resident of this State who has met or shall meet his death on active duty in time of war in any such service shall be entitled, during her widowhood, to the exemption in this paragraph provided for honorably discharged veterans and to such further exemption as from time to time may be provided by law." (Italics supplied.)

Our Legislature in 1951 has defined what is meant by "honorably discharged or released under honorable circumstances from active service in time of war." Your attention is called to chapter 184, P. L. 1951, page 679, wherein under paragraph "d" the Legislature has used the following language in defining "honorably discharged, etc."

"(d) 'Honorably discharged or released under honorable circumstances from active service in time of war,' means and includes every form of separation from active, full-time duty with military or naval pay and allowances in some branch of the Armed Forces of the United States in time of war, other than those marked 'dishonorable,' 'undesirable,' 'bad conduct,'

'by sentence of general court martial,' 'by sentence of summary court martial' or similar expression indicating that the discharge or release was not under honorable circumstances. A disenrollment certificate or other form of release terminating temporary service in a military or naval branch of the Armed Forces rendered on a voluntary and part-time basis without pay, or a release from or deferment of induction into the active military or naval service shall not be deemed to be included in the aforementioned phrase."

From all of the foregoing, the answer to the question is simple. Unless the officer connected with service in the Army, Navy, Air Corps, Marine Corps or in any of the other services of the Armed Forces can show that he or she was separated from active full-time duty, in accordance with the definition hereinbefore given, advantage may not be taken of the constitutional provision granting exemptions to citizens and residents of this State who have served in the Armed Forces in time of war.

Very truly yours,

THEODORE D. PARSONS,
Attorney General.

By : BENJAMIN M. TAUB,
Deputy Attorney General.

OCTOBER 2, 1951.

THE HONORABLE SANFORD BATES, *Commissioner,*
Department of Institutions and Agencies,
State Office Building,
Trenton, New Jersey.

FORMAL OPINION—1951. No. 32.

MY DEAR COMMISSIONER :

This acknowledges your request of recent date for an interpretation of the provisions of chapter 139, P. L. 1951 which presents three queries.

In your first question you desire to be advised regarding the liability of the several counties to appropriate moneys and make provision for the payment of the county's share of the cost of providing financial assistance to needy persons of the age of 18 years or over who are permanently and totally disabled.

We are of the opinion, and we so advise you, that the provisions of chapter 139, P. L. 1951, do impose a clear responsibility and liability upon the several counties to provide the necessary funds and make same available to the county welfare boards thereof to make payment of the county's share of the cost of providing financial assistance to needy persons above the age of 18 years who are permanently and totally disabled, for the reasons set forth herein.

In the title of chapter 139, P. L. 1951, it is declared to be a supplement to chapter 7, Title 44, Revised Statutes, which deals generally with grants of Old Age Assistance.