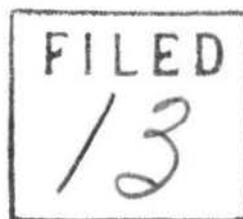


RECORDER OF DEEDS: To issue certified copy of records free of charge to veterans when such records are to be used to claim benefits under the Service Men's Readjustment Act of 1944.

27 Smith
October 9, 1945



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Honorable L. Madison Bywaters
Prosecuting Attorney
Clay County
Liberty, Missouri

Dear Sir:

Receipt of your request for an opinion from this office, under the date, October 6, 1945, is hereby acknowledged and which request reads as follows:

"I should like to have an official opinion from your office on the following matter.

"Should a Recorder of Deeds furnish certified copies of records free of charge when they are to be used to secure certain privileges granted to veterans under the G-I Bill of Rights; also, are any such certified copies requested by veterans to be used in securing loans, schooling, etc., under the G-I Bill of Rights considered to be in the sense of a claim upon the government of the United States so that Section 15077 of the Revised Statutes for 1939 would apply?"

Your question comes directly to the point of whether or not the benefits offered veterans in the Servicemen's Readjustment Act of 1944, better known as the GI Bill of Rights, could be the subject of a "claim upon the Government of the United States" as is contemplated in Section 15077, R. S. Mo. 1939, which reads as follows:

"Whenever a certified copy or copies of any public record in the state of Missouri are required to perfect the claim of any soldier, sailor or marine, in service or honorably discharged, or any dependent of such soldier, sailor or marine, for a United States pension, or any other claim upon the government of the United States, they shall, upon request be furnished by the custodian of such records without any fee or compensation therefor."

In a search for the legal definition of the word "claim" we find in the case of Mellus v. Potter, 91 Cal. App. 700, 704, 267 P. 563, 564, the following:

"* *'Claim,' in its primary meaning, is used to indicate the assertion of an existing right. In its secondary meaning, it may be used to indicate the right itself."

Also in the case of Adamson v. Wolfe, 139 S. W. (2d) 674, 1. c. 679, 200 Ark. 360, as to the meaning of the word "claim" we find the following:

"* *'The term has been specifically defined as meaning a demand of a right, or of an alleged or supposed right; a calling on another for something due or supposed to be due; an active assertion of a right and the demand for its recognition; an assertion, demand, or challenge, of something as a right; * *'"

The term "rights" in the case of Lonas v. State, 50 Tenn. (3 Heisk.) 287, 1. c. 306, is defined as:

"* * The word rights, is generic, common, embracing whatever may be lawfully claimed. * *"

And in the case of Atchison & R. R. Co., v. Baty, 29 Am. Rep. 356, 6 Neb. 37, 1. c. 40:

"* * the term 'right' in civil society, is defined to mean that which a man is entitled to have, or to do, or to receive from others within the limits prescribed by law."

There can be no doubt that the Servicemen's Readjustment Act of 1944 does confer rights upon veterans of World War II. These rights are subject to demand on the part of such veterans and when such demand is made a claim is to be constituted. In order to be able to claim benefits under the GI Bill of Rights, except employment benefits, a man or woman must have served in the active forces of the Army, Navy, Marine Corp, or Coast Guard, or one of their components, at any time from September 16, 1940, to the cessation of hostilities. He or she must have served ninety (90) days, except if discharged for a disability suffered in the line of duty. Release from active service must be under conditions other than dishonorable. Employment benefits, excepted above, are free to veterans of all the wars of the United States.

It has been held in the case of Sorvik v. United States, 52 Fed. (2d) 406, 1. c. 410, that legislation passed for the benefit of veterans should be construed liberally in the favor of the veterans:

"And in measuring the quantum of evidence necessary to sustain a possible verdict for the plaintiff, we must bear in mind the remedial purposes of the World War Veterans' Act (38 USCA Sec. 421 et seq.), which the courts have repeatedly held should be liberally construed in favor of the veterans. United States v. Eliasson (C. C. A. 9) 20 F. (2d) 821, 824; United States v. Sligh (C. C. A. 9) 31 F. (2d) 735, 736, certiorari denied 280 U. S. 559, 50 S. Ct. 18, 74 L. Ed. 614; United States v. Phillips (C.C.A. 8) 44 F. (2d) 689, 692; Glazow v. United States (C.C.A. 2) 50 F. (2d) 178."

In the case of People ex rel. McDonough v. Mills Novelty Co., 192 N. E. 236, it was held that legislation that

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is enacted to the benefit of veterans is not to be regarded as relief, but as a recognition of an obligation owing to those falling within the law for services rendered in defense of the Nation.

It is our belief that the recorder of deeds should furnish certified copies of records free of charge when they are to be used to secure the rights granted to veterans under the Servicemen's Readjustment Act of 1944, and that these privileges constitute rights of the serviceman to which he may make a claim upon the government of the United States as provided in Section 15077, R. S. Mo. 1939.

Conclusion

A recorder of deeds should furnish certified copies of records free of charge to veterans when they are to be used to secure benefits offered veterans under the Servicemen's Readjustment Act of 1944. Such benefits as are offered under this act are rights and as such constitute a "claim upon the government of the United States" by veterans, as is contemplated in Section 15077, R. S. Mo. 1939.

Respectfully submitted,

J. MARTIN ANDERSON
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

JMA:EG