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John C. Vivian

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RESUME OF EXISTING VETERANS' LEGISLATION

By JOHN C. VIVIAN, *of the Denver Bar*

DICTA of August, 1932, contained an article captioned "The Law of the Veteran," which set forth briefly the provisions of the Federal law governing the soldiers of all wars as it existed at that time. This was based on the World War veterans Act of 1924 with amendments, together with the decisions and regulations promulgated by the director of the then existing Veterans Bureau.

That law was completely abrogated by the Act of March 20, 1933. It is believed the bar of Denver and Colorado will be interested in the drastic and far-reaching law and regulations issued by the President under congressional authority which replaced the basic law governing the care of the disabled veterans which had been built up step by step during the 15 years following the signing of the Armistice.

The following resume has accordingly been prepared covering, in a general way, the provisions of the new act and the regulations promulgated thus far by the President.

The author acknowledges his indebtedness to Carl C. Brown of the National Rehabilitation Committee of the American Legion for assistance in preparing this exposition.

Public Number 2, "An Act to Maintain the Credit of the United States Government," which was approved March 20, 1933, definitely repeals all prior laws "granting medical or hospital treatment, domiciliary care, compensation and other allowance, pension, disability allowance or retirement pay to veterans and dependents of veterans and all laws granting or pertaining to yearly renewable term insurance," and establishes a new system of caring for veterans and their dependents based upon Regulations issued by the President.

In short it repeals all laws relating to war veterans since the inception of the Spanish-American War and all laws relating to pension and allowances for peace-time service. It also reduces by ten per cent the amount of any general law pension not otherwise affected. This includes pensions allowed because of Civil War service.

The Regulations are twelve in number and provide the only basis for payment of pension and the allowance of other benefits for former members of the military service since the beginning of the Spanish-American War. For convenience, this article covers the World War alone, although many of the general principles stated are applicable to all the War Veterans included in the law.

A part of Public Number 78, 73rd Congress, approved on June 16, 1933, known as the Independent Offices Appropriation Bill, is in

the nature of an amendment to the Act of March 20. It saved the Regional Offices for the current fiscal year, provided for the continuation of Veterans' Administration patients in certain State Hospitals, prohibited a reduction of more than twenty-five per cent in the amount of compensation being paid on March 20 in those cases where service connection is saved, provided for the Special Boards to review cases previously granted a presumptive service connection, permitted payment of certain claims pending adjudication on March 20 and definitely saved the compensation being paid to dependents of deceased veterans on March 20, except for fraud, mistake or misrepresentation.

GENERAL INFORMATION

One who served for ninety days or more is presumed to have been in sound condition when accepted for service except for defects, infirmities or disorders noted at or before acceptance. This presumption of sound condition is rebuttable by evidence or medical judgment.

There is a presumption of service connection for certain chronic diseases which are present within one year after discharge, providing the man had ninety days or more active service. This presumption of service connection is rebuttable by affirmative evidence, or, the showing of an intercurrent disease or injury which is a recognizable cause of the chronic disease. Where pulmonary tuberculosis develops to a far advanced stage within two years after discharge, it may be presumed to be due to military service.

AMOUNT PAYABLE

From \$6 to \$90 per month in accordance with degree of disability as established by Rating Schedule. Twenty-five dollars in addition to ratable amount for loss of or loss of use of one hand, one foot or one eye. Specific rates up to \$250 per month for specific injuries.

MEN DISCHARGED FROM DRAFT OR NOT ACCEPTED FOR MILITARY SERVICE

are only entitled to pension for disability actually incurred in line of duty and not due to own misconduct during the period while they were under military control.

PENSION FOR DEATH DUE TO WAR SERVICE

Requirements—Death must have occurred during war service or be due to a service-incurred disability.

Payable to—Surviving widow, child or children and/or dependent mother or father.

AWARDS OF DISABILITY AND DEATH PENSIONS

Effective date of award—Pension may not be paid prior to discharge from service, date of veteran's death, the happening of the contingency upon which the award is based, or the date of application, whichever is the later date.

If application for pension is not complete the Veterans' Admin-

istration will notify claimant what evidence is needed to complete claim, and if evidence is not filed within six months from the date it is requested, no pension may be paid on that application.

Increased pension is payable only from the date of filing evidence showing entitlement to increase and filing of claim therefor.

Pension to a widow ceases at death or remarriage.

Pension to a dependent parent ceases upon death, remarriage or when dependency ceases to exist.

Pension to a parent cannot be paid unless the dependency is shown within ten years from the veteran's death.

Pension to a child is paid until the eighteenth birthday or marriage, except that if the child is permanently and totally disabled, until marriage or death, and, except until the child completes its education, but not beyond the age of twenty-one.

Pension or Emergency Officers Retirement pay, not paid to the person entitled during his lifetime is payable:

Upon the death of a veteran, first to the widow, if there is no widow to the child or children under the age of eighteen at time of his death;

Upon the death of a widow, to her children under the age of eighteen at time of her death;

Upon the death of a person receiving an apportioned share of a veteran's pension or emergency officers retirement pay, prior to payment of same, to the veteran;

In all other cases as reimbursement of burial expense.

APPEALS

Board of Veterans Appeals—Chairman, Vice-Chairman and fifteen members appointed by Administrator of Veterans' Affairs and approved by President.

Appeals must be filed with the Administration Office which denied claim within six months from the date on which notice of action appealed from was mailed by Veterans' Administration or from July 1, 1933, whichever is later date.

If no appeal is taken from a decision of Veterans' Administration within the six months period that decision becomes final and the claim may not thereafter be reopened or allowed except upon new and material evidence in the form of official reports from War or Navy Department.

An appeal may be made by the claimant, his guardian or authorized representative, or certain designated officials of the Veterans' Administration. Only one representative may be recognized at a time.

Appeals must be in writing and must clearly state the issue, pointing out the error of fact or law in the decision appealed from. In order that the technical minor requirements for entering an appeal may be complied with, Veterans' Administration Form P-9 should be used.

SCHEDULE FOR RATING DISABILITIES

The ratings are based as nearly as possible upon average impairment of earning capacity resulting from injuries in civil occupations. There are only ten grades of disability, 10%, 20%, 30%, 40%, 50%, 60%, 70%, 80%, 90% and total.

PROTECTED AWARDS

Compensation being paid on March 20, 1933, where service connection has been continued under Publics 2 and/or 78, may not be reduced more than twenty-five per cent except because of fraud, mistake, misrepresentation, or to Federal employes, hospitalized cases and those residing in foreign countries.

Compensation being paid to widows, children and dependent parents of World War veterans on March 20, 1933, under the World War Veterans' Act may not be reduced or discontinued except for fraud, mistake or misrepresentation, or remarriage of widow or parent or when dependency of parent ceases to exist.

ENTITLEMENT TO EMERGENCY OFFICERS RETIREMENT PAY

Emergency officers granted retirement with pay prior to March 20, 1933, may continue to receive retirement pay providing such person entered active service between April 6, 1917 and November 11, 1918, the disability was incurred in line of duty in such service and that the disability directly resulted from the performance of military or naval duty and a causative factor therefor is shown.

HOSPITAL AND DOMICILIARY CARE AND MEDICAL TREATMENT

Honorably discharged veterans of any war *suffering from service-incurred disability* are entitled to such hospitalization, domiciliary care or medical treatment as is necessary for their service-incurred disability. Reasonable traveling and other necessary expenses may be paid in such cases *but only upon authority granted by the Administration prior to incurrence of expense*. These benefits are not allowable to those who reside outside of the United States, its territories or possessions.

Pension for service-incurred disability to any person receiving hospitalization, institutional or domiciliary care by the United States or any political subdivision thereof may not exceed fifteen dollars (\$15.00) per month. If that person has a wife, child or dependent parent the balance of his pension may be payable, on application, to those dependents in the order named.

Honorably discharged veterans of any war who had ninety days or more military service, who have a permanent disability, tuberculosis or neuro-psychiatric ailments which incapacitate them from earning a living and who have no adequate means of support may be granted hospital or domiciliary care in a Veterans' Administration facility.

Travel and other necessary expenses to and from the hospital or other facility cannot be paid in such cases.

Pension for *non-service-connected* disability to any person receiving hospitalization, institutional or domiciliary care by the United States or any political subdivision thereof may not exceed six dollars (\$6.00) per month.

Clothing may be furnished to members of a Veterans' Administration facility only where the person is indigent and clothing is necessary to protect health or sanitation or where special clothing is necessary because of some prosthetic appliance.

If a person receiving hospitalization or domiciliary care dies before discharge therefrom the Administration may pay for preparation of the body and transportation to the place of residence or nearest National Cemetery.

YEARLY RENEWABLE (WAR RISK) TERM INSURANCE

Payment of war risk or automatic insurance which has matured and under which payment was commenced prior to March 20, 1933, or on any judgment theretofore or thereafter rendered in a suit, or where the insurance was in effect by the payment of premiums when the insured died may be made or continued under the terms of the World War Veterans' Act, as amended.

No other payments of war risk term or automatic insurance may be made and all claims pending on March 20, 1933, have been disallowed.

PAYMENT OF BURIAL EXPENSES OF DECEASED WAR VETERANS

A flag to drape the casket of any honorably discharged veteran shall be furnished in all cases; after burial the flag is to be given to the next of kin. Flags may be secured from a Veterans' Administration facility or the nearest county seat post office.

When an honorably discharged veteran of any war dies a sum not to exceed seventy-five dollars (\$75.00) may be paid in reimbursement of burial, funeral and transportation expense, providing the veteran did not leave net assets in excess of one thousand dollars (\$1,000.00). No deduction is made because of any contribution towards the expense by a state, political subdivision thereof, lodge, etc., but the aggregate of all sums allowed may not exceed the actual cost.

Claim for this allowance must be made within one year after the death of the veteran. If the claim is not complete when filed the Veterans' Administration will advise the claimant what evidence is needed to complete it, and if this evidence is not filed within six months after request the claim cannot be allowed.

GENERAL INFORMATION

The Administration may incur necessary court costs and other expenses incident to committing mentally incompetent veterans to an Administration Hospital or Home when such care is necessary, and in the appointment of guardians for incompetent or minor beneficiaries where to charge this expense to the estate of the beneficiary would unduly deplete it, and, in connection with the removal or supervision of such guardians.

Representatives of the service organizations are recognized in the presentation of claims. No such representative may charge a fee for representing a veteran or the dependents of a veteran. A power of attorney from the claimant to the organization must be filed in each case.

DISTRICT COURT LIBRARY ADDITIONS

Rose's Notes, 1932 Supplement Vol. 5,
Corpus Juris, Vol. 64.

The American Law Institute has been working for nine (9) years on "Restatement of the Law." Two subjects have been completed, viz., "Contract" in two volumes and "Agency" in two volumes. These books are now in the Library.

SUPREME COURT LIBRARY ADDITIONS

A TREATISE ON THE LAW OF NEGOTIABLE INSTRUMENTS. By John W. Daniel. Revised by Thomas H. Calvert. 7th Ed. 1933. 3 vols.

JURISDICTION AND POWER OF TAXATION. By Edward S. Stimson. 1933.

ETHICAL SYSTEMS AND LEGAL IDEALS. By Felix S. Cohen. 1933.

INSANITY AS A DEFENSE IN CRIMINAL LAW. By Henry Weihofen. 1933.

RESTATEMENT OF THE LAW OF AGENCY. By The American Law Institute. 1933. 2 vols.

FEDERAL SECURITIES ACT. By George C. Thorpe and Challen B. Ellis. 1933.

THE GEORGE WASHINGTON (University) LAW REVIEW. 4 numbers to date.

FEDERAL BAR ASSOCIATION JOURNAL. 5 numbers to date.

All the latest Court Reports, Session Laws and Statutes, and Search Books of the Federal and State Governments.