

1953 O. A. G.

OFFICIAL OPINION NO. 49

June 24, 1953.

Mr. Ancil Morton,
Director of Bonus Division,
431 N. Meridian Street,
Indianapolis, Indiana.

Dear Sir:

I have your letter requesting an official opinion which reads as follows:

"We are desirous of having an opinion from your office as to when interest vests, under the present set-up of the Law, the money being available as soon as the Veterans' Affairs Commission met and declared that sufficient funds were available in a World War II Bonus Fund to start the payment of Class No. I applications.

"This meeting was on June 9, 1951 and the question on which we wish your opinion is when interest vests after the Commission met and declared funds were available in regard to the payment of the bonus.

"Reference is made to Official Opinion No. 63, dated August 29, 1952, and signed by J. Emmett McManamon.

"This Opinion dealt with Vested Interest as it applies to Categories I and II of the Veterans Bonus Claims. As you know these claims were paid starting July 2, 1951.

"It has been our understanding and our procedure that claims in Categories I and II did acquire a vested interest after June 9, 1951, which was the date that the Veterans Affairs Commission met and declared those categories to be eligible for payment and that there were sufficient funds in the World War II Bonus Fund with which to pay them. According to the 1949 Bonus Law, this had to be accomplished before the claims could be paid.

"This department is desirous of knowing whether this Opinion applies to Category III of the Veterans

OPINION 49

Bonus Claims which were authorized for payment by the last session of the General Assembly, the starting date which is June 1, 1953. If this Opinion does not apply and since the Veterans Affairs Commission does not have any further jurisdiction over the Bonus Division, we would like to know from what source the authority should come in establishing the date, such as June 9, 1951 in Categories I and II, in the acquirement of Vested Interest as it applies to Category III."

The official opinion of this office to which you refer held that there was a vested property right in a bonus payment whenever the Veterans' Affairs Commission fixed the date upon which payment of claims should begin and this of course could not be done until monies were sufficient to pay said claims. This was based upon the authority of the Veterans' Affairs Commission as found in Section 3 (c) of the original bonus law (Chapter 277, Section 3, Acts of 1949, as amended by Chapter 256, Section 2, Acts of 1951), same being Section 59-1403, Burns' Indiana Statutes Annotated (1951 Repl.).

The recent Legislature by Chapter 134 of the Acts of 1953 transferred all authority in regard to the payment of the bonus under the bonus law from the Veterans' Affairs Commission to the Auditor of State. Section 2 of this act reads as follows:

"Sec. 2. The Auditor of the State of Indiana is hereby authorized to order and direct the beginning of the payment of World War II bonus claims on June 1, 1953, which claims have been heretofore filed by the members of the armed forces of the United States under and by virtue of the provisions of Chapter 277 of the Acts of 1949, as the same has been amended."

See also O. A. G. No. 48, 1953 on pps. 228 to 232 herein.

You will note that the authority of the Auditor under this section is very similar in regard to directing the beginning of the payments for the remainder of the bonus claims to that previously given to the Veterans' Affairs Commission under the section of the original act referred to above. Under the authority of Section 2 of Chapter 134 the payments for the

1953 O. A. G.

remainder of the veterans' bonus claims was commenced on June 1, 1953.

Therefore under the authority of O. A. G. No. 63, 1952, page 244 and Chapter 134 of the Acts of 1953, it is my opinion that a vested property right in the bonus for the remainder of the bonus claims was acquired on June 1, 1953.

OFFICIAL OPINION NO. 50

June 26, 1953.

Hon. Harold W. Handley,
Lieutenant-Governor of Indiana,
331 State House,
Indianapolis, Indiana.

Dear Sir:

Your letter of May 25, 1953 has been received requesting an official opinion on the following question:

"In 1914 Cedar Creek Township, West Creek Township, and the incorporated town of Lowell (population about 1,600), jointly built and maintained a high school located in the town limits of the town of Lowell. In 1928 the town of Lowell conveyed their grade school located within their town limits to Cedar Creek Township. Their interest in the high school was conveyed to Cedar Creek and West Creek Townships—said schools have been maintained in like manner since that time, the incorporated town of Lowell lying entirely within the boundaries of Cedar Creek Township.

"About 1950 a new sub-division located in West Creek Township adjacent to the town of Lowell was incorporated into the town limits of Lowell.

"West Creek Township has four consolidated grade schools with ample accommodations.

"Does Cedar Creek Township have a right to levy and collect the school tax on this newly incorporated area in West Creek Township, since the high school is maintained by both townships, this area supplying some