

JKL

NOV 13 1947

B-56092

27 Published
Geny. Ser. 276

Administrator of Veterans' Affairs,
Veterans' Administration.

My dear General Bradley:

Reference is made to letter of September 15, 1947, from the Acting Administrator, requesting to be advised as to whether there is any objection by this Office to the promulgation of a regulation pursuant to the act approved August 7, 1946, 60 Stat. 887, establishing a Veterans' Canteen Service in the Veterans' Administration, which regulation would provide as follows:

" . . . Government checks, Cashier checks, travelers checks, postal money orders and express money orders may be cashed by the Veterans Canteen Service at the discretion of the Canteen Officer and to the extent that funds are available for all properly identified patients and members of the hospital or center in accordance with procedures established by the Director, Veterans Canteen Service. Personal checks of patients and members also may be cashed to the extent that funds are available in amounts not to exceed the limitations prescribed by the Veterans Canteen Service."

✓ 60 Stat. 888

Section 2(1) of the act involved authorizes the Administrator of Veterans' Affairs—

"To make such rules and regulations, not inconsistent with the provisions of this act, as he considers necessary or appropriate to effectuate its purposes."

✓ 60 Stat. 887

Section 1 thereof provides that the Veterans' Canteen Service is established—

75-963, 087758

"* * * for the primary purpose of making available to veterans of the armed forces of the United States who are hospitalized or domiciled in hospitals and homes of the Veterans' Administration, at reasonable prices, articles of merchandise and services essential to their comfort and well-being."

Both House and Senate reports on the bills which were adopted (House Report No. 2432 and Senate Report No. 1701, 79th Congress) recommended enactment of those provisions "to the end that our hospitalized and domiciled veterans may have the same high standards of canteen service to which they became accustomed while serving in the armed forces." I am informed that the cashing of checks under restrictions approved by commanding officers was included among the services generally furnished by Army exchanges as a normal incident to their activities, exchange officers being authorized to use exchange funds for that purpose by the provisions of AR 210-65, paragraph 20(e)(9). Also, there has been noted your statement that "The private concessionaires who operated in Veterans hospitals and homes furnished a check-cashing service to the members and patients of these hospitals and homes." Thus, while the cashing of checks, etc., appears to have been an accepted practice in the case of Army exchanges and veterans' hospitals, it is to be observed that exchange funds rather than strictly public funds were used in the exchanges and that private concessionaires appear to have assumed responsibility for the practice in the case of veterans' hospitals.

The provisions of the act establishing the Veterans' Canteen Service are to be carried out from funds appropriated by the Congress pursuant to section 4 of the said act, which provides as follows:

160 Stat. 889

"To finance the establishment, maintenance, and operation of the Service there is hereby authorized to be appropriated from time to time such amounts as are necessary for (a) the acquisition of necessary furniture, furnishings, fixtures, and equipment for the establishment, maintenance, and operation of canteens, warehouses, and storage depots; (b) stocks of merchandise and supplies for canteens and reserve stocks of same in warehouses and storage depots; (c) salaries, wages, and expenses of employees; (d) administrative and operation expenses; and (e) adequate working capital for each canteen and for the Service as a whole. Amounts appropriated under the authority contained in this Act and all income from canteen operations become and will be administered as a revolving fund to effectuate the provisions of this Act."

In accordance with such authority, it appears that the sum of \$1,000,000 was appropriated by the Third Deficiency Appropriation Act, 1946, 60 Stat. 609, 615, and that the additional sum of \$965,000 was appropriated by the Independent Offices Appropriation Act, 1948, Public Law 269, approved July 30, 1947, 61 Stat. 606. Hence, there seems to be little question but that the funds which come into the custody and possession of the canteen officer--either through allocations from the appropriations which have been made or as income from canteen operations--are public moneys.

Section 3637 of the Revised Statutes (31 U.S.C. 521), provides, in part, as follows:

"* * * all public officers of whatsoever character, are required to keep safely, without loaning, using, depositing in banks, or exchanging for other funds than as specially allowed by law, all the public money collected by them, or otherwise at any time placed in their possession and custody, till the same is ordered, by the proper department or officer of the Government, to be transferred or paid out * * *."

Also, see 31 U.S.C. 543.

The cashing of checks by a canteen officer from public moneys in his custody and possession for the primary benefit of veterans

would, of course, constitute a use or exchange thereof for other funds and would appear to be contrary to the above-quoted provision of the Revised Statutes unless such practice is specially allowed by law. That the use of public moneys for the cashing of checks has been considered as prohibited by the aforesaid provision of law is evidenced by the fact that specific statutory authority has been required in those instances where such practice has been permitted. See in this connection, section 5 of the act of May 26, 1930 (46 Stat. 332, 16 U.S.C. 17 (d)), authorizing the cashing of travelers checks or other forms of money equivalent when tendered in payment of license fees charged at national parks; the act of July 15, 1939 (53 Stat. 1043, 34 U.S.C. 552), authorizing commissary stores or ships' stores located outside the continental limits of the United States to cash certain types of checks; and the act of December 23, 1944 (58 Stat. 921, 50 U.S.C. Appendix 1705), authorizing disbursing officers to cash and negotiate checks under the conditions set forth therein. Consequently, while it is recognized that the authority vested in the Administrator of Veterans' Affairs under section 2(1) of the Veterans' Canteen Service act, quoted above, necessarily is broad, I feel that such authority does not extend to the establishment by regulation of a practice prohibited by a specific provision of law.

Respectfully,

(Signed) Lindsay C. Tolson

Comptroller General
of the United States.