



1949

Opinion of Attorney General

Alexander M. Campbell

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OPINION OF ATTORNEY GENERAL OF MINNESOTA

August 30, 1948

Victor E. Anderson, Esquire
United States Attorney
St. Paul 2, Minnesota

Dear Mr. Anderson:

Re: Necessity of Filing Affidavit in Default Judgments under Soldiers' and Sailors' Civil Relief Act of October 17, 1940, — 54 Stat., 1178 as amended. Your ref: JJG:hls.

This acknowledges your letter of August 4, 1948, inquiring as to whether it is still necessary under the provisions of Section 200 of the Soldiers' and Sailors' Civil Relief Act (50 App. U. S. C. 520) to file an affidavit in court before entering judgment in default cases, showing that the defendant is not in military service. You point out that under Section 604 of the Act (50 App. U. S. C. 584) provisions are set out relating to the termination of this statute and that "In the annotation of Section 584, Title 50 App., Pocket Part, it is stated that the effect of the joint resolution of July 25, 1947, 61 Stat. 454, Section 4, was that the War would be deemed to have terminated within the meaning of Section 604 of the original Act."

Your attention is redirected to Joint Resolution of July 25, 1947. You will note that since the provisions thereof refer *only* to Article IV of the Soldiers' and Sailors' Civil Relief Act (50 App. U. S. C. 504-548) it does not affect the validity of other parts of the Act. Consequently, the provisions of Section 200 of the Act (50 App. U. S. C. 520) continue in full force and effect and it is still necessary to comply therewith.

Respectfully,
For the Attorney General
ALEXANDER M. CAMPBELL
Assistant Attorney General.