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ARIZONA ATTORNEY GENERAL

March 7, 1950

Mr. Neil V. Christensen  
County Attorney  
Coconino County  
Flagstaff, Arizona

Dear Mr. Christensen:

We have your letter dated March 3, 1950, referring us to Section 5 of War Measure 2(c) (Laws 1943, Chapter 37, paragraphs 1 to 6; 1947, Chapter 51, paragraphs 1 and 2).

Your inquiry is stated as follows:

"This office requests an opinion from you as to whether the term 'termination of a state of war' refers to the cessation of hostilities, or to the formal ending of the war by Act of Congress."

It must be noted that the term "cessation of hostilities" was substituted for the term "termination of the war" in the amendment to Section 3 of War Measure 2(c). It is presumed that an amendment to a statute is intended to render a change therein.

It follows that the legislature intended, in the Act under examination, that the term "cessation of hostilities" had a different meaning than the term "termination of the war".

The distinction between a termination of a state of war and a cessation of hostilities has been uniformly recognized in decisions by the Federal Courts. This recognition has been the basis of decisions that a mere cessation of hostilities does not put an end to powers and statutes whose continuation depends upon the existence of a state of war. Once having come into existence, a state of war is not terminated until a treaty of peace, an act of Congress or executive proclamation brings about such termination. See:

Application of Yamashita, Phil. Islands,  
66 S.C. 340, 327 U.S. 1, 90 L.ed 499

Citizens Protective League v. Clark, 155 F.  
2d 290, 81 U.S. App. D.C. 116

Citizens Protective League v. Byrnes, D.C.  
D.C., 64 F.Supp. 233, 235

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United States v. Watkins, 67 F. Sup.  
556, 564

Bowles v. Saverinsky, 65 F. Sup. 808, 813.

The President has issued a proclamation of the cessation of hostilities since our entrance into World War II. U.S. Code Congressional Service, 80th Congress, First Session, 1947, p. 1895. However, there has been no termination of the state of war either by proclamation, act of Congress or formal treaties with all the warring nations; hence, the United States is still in a state of war.

Specifically answering your question, it is our opinion that the term "termination of a state of war" does not refer to a cessation of hostilities but rather to the formal termination of the war.

Very truly yours,

FRED O. WILSON  
Attorney General

WILBERT E. DOLPH, JR.  
Assistant Attorney General

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