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September 24, 1952

Opinion No. 52-265

Mr. James M. Wilson  
Deputy County Attorney  
Coconino County Courthouse  
Flagstaff, Arizona

Dear Mr. Wilson:

We have your letter of August 5 wherein you state that a private contractor is to build a certain number of homes on the Navajo Ordnance Depot Government Reservation for the personnel on said base under an FHA deal whereby the homes are to remain under private ownership for twenty years until they are paid out and then the title is to revert back to the federal government. You ask our opinion as to whether or not the homes would be assessable by the county or state as long as such homes remain under private ownership.

If these homes are to be exempt from taxation, it must be by virtue of Article 1, Section 8, Clause 17 of the U. S. Constitution which provides:

"To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular states, and the acceptance of congress, become the seat of government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings;  
\* \* \*

This clause was construed by the U. S. Supreme Court in the case of Surplus Trading Co. v. Cook, 50 S. Ct., 455, 281 U. S. 647. In this particular case, the Trading Company had purchased certain woolen blankets at an advertised sale from the United States, which blankets were stored at Camp Pike within the State of Arkansas. Camp Pike was a military reservation

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of the United States, the lands of which had been purchased by the United States with the consent of the Legislature of the State. The county taxing authorities sought to impose a tax on these blankets while stored at Camp Pike. The Supreme Court of Arkansas upheld the tax. In the consideration of the case before the Supreme Court of the United States, it was said:

" \* \* \* The question is not an open one. It long has been settled that, where lands for such a purpose are purchased by the United States with the consent of the state legislature, the jurisdiction theretofore residing in the state passes, in virtue of the constitutional provision, to the United States, thereby making the jurisdiction of the latter the sole jurisdiction. \* \* \*"

After an exhaustive review of many authorities supporting the foregoing quotation, the Court then said:

" \* \* \* For the reasons which have been stated, we are of the opinion that the Supreme Court of the state erred in holding that her tax laws could be applied to personal property within Camp Pike consistently with section 8, clause 17, of article 1 of the Constitution, and therefore that the judgment of that court must be reversed. \* \* \*"

Chapter 96, Laws of 1951, passed by the First Regular Session of the Twentieth Legislature, cedes jurisdiction over public domain land in the state now being used for military purposes. This section provides:

"Section 1. The consent of the state of Arizona is hereby given, in accordance with the seventeenth clause, eighth section, of the first article of the Constitution of the United States, to the acquisition by the United States by purchase, lease, condemnation, or otherwise, of any land in this State required for the erection of forts,

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magazines, arsenals, dockyards, and other needful buildings, or for any other military installations of the government of the United States.

Sec. 2. Exclusive jurisdiction over any land in this State so acquired for any of the purposes aforesaid, and over any public domain land in this state, now or in the future reserved or used for military purposes, is hereby ceded to the United States; but the jurisdiction so ceded shall continue no longer than the said United States shall own or lease such acquired land, or shall continue to reserve or use such public domain land for military purposes.

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Sec. 3. As to any land over which exclusive jurisdiction is herein ceded, the state of Arizona retains concurrent jurisdiction with the United States, so far, that all process, civil or criminal, issuing under the authority of this State or any of the courts or judicial officers thereof, may be executed by the proper officers of the state, upon any person amenable to the same within the limits of such land, in like manner and like effect as if no such cession had taken place. \* \* \*

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By this Act, the Legislature granted military reservations in the State of Arizona the same exclusive jurisdiction as that authorized by Article 1, Section 8, Clause 17 of the United States Constitution except for reservation of the right to serve civil and criminal process. On the 20th day of December, 1951, this office rendered Opinion No. 51-330 which stated that Chapter 96 cedes jurisdiction to the federal government over sites acquired before the Act was passed, as well as after the effective date of the Act.

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For these reasons, it is our opinion that the houses mentioned in your letter are located on a military reservation with exclusive jurisdiction in the United States government. Therefore, these homes would not be subject to taxation by the State of Arizona or any counties thereof.

Very truly yours,

FRED O. WILSON  
Attorney General

KENT A. BLAKE  
Assistant Attorney General

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