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B-150207 November 8, 1962

Number: B-150207

Date: 1962-11-08

B-150207 November 8, 1962

Honorable Hubert H. Humphrey United States Senate

Dear Senator Humphrey:

Your letter of October 29, 1962, requests our comments on the rulings referred to by Colonel R. E. Vellendorff, Department of the Army, in his letter to you dated October 19, 1962, regarding the non-payment of local improvement assessments levied against the Army Reserve property by the City of Burley, Idaho, of street improvement assessments levied against United States property.

In that decision we stated:

"It is a well settled rule that lands owned by the United States cannot be taxed by a State or by any of the political subdivisions of a State. Van Brocklin v. Tennessee, 117 U.S. 151; United States v. Power County, Idaho, 21 F. Supp. 684; cf. Pacific Spruce Corp. v. Lincoln County, 21 F.2d 586. This rule applies with equal force where the tax is a special tax or assessment for local improvements as well as in the case of a general property tax against lands owned by the United States. Lee v. Osceola and Little River Road Improvement District, 268 U.S. 643; Nullen Benevolent Corporation v. United States, 290 U.S. 89; United States v. Anderson Cottonwood Irrigation District, 19 F. Supp. 740; 18 Comp. Gen. 562. Cf., also, People of Puerto Rico v. United States, 134 F. 2d 267. A special assessment is a tax within the rule precluding a State from taxing lands owned by the United States because it is an exercise of the sovereign power of taxation and, like other taxes, is an involuntary exaction. Se United States v. Anderson Cottonwood Irrigation District, supra; Hagar v. Reclamation District, Ill U.S. 701.

On the subject of special and local assessments against property of the Federal Government, American Jurisprudence, Volume 48, Section 86, states: "In the absence of an act of Congress allowing the lands of the United States to become subject to assessment, it has been uniformly held that such lands are not liable for special assessments for local improvements, and it is not within the power of a state legislature to subject such lands to such an assessment."

The enclosures with your letter are returned herewith.

Sincerely yours,

Joseph Campbell Comptroller General of the United States

Enclosures