

**Assessment—Homesteads—Improvements—Reclamation
Projects—Taxation.**

Improvements upon homesteads in government reclamation projects are assessable and taxable.

Mark H. Derr, Esq.,
County Attorney,
Polson, Montana.

My dear Mr. Derr:

You have submitted to this office for my opinion the question whether improvements upon farm units on the Flathead Reclamation Project are subject to taxation.

In the case of *Irwin v. Wright*, 258 U. S. 220, the Supreme Court of the United States held that homestead entries within reclamation projects are not subject to taxation until the entryman has earned the right to his final certificate. In this case the question of improvements upon homestead entries was not involved.

Our statute (Section 1996, Sub. 3), defines improvements as:

“All buildings, structures, fixtures, fences, and improvements erected upon or affixed to the land, whether title has been acquired to said land or not.”

While Section 2001, Revised Codes of 1921, requires land and improvements thereon to be separately assessed.

At 37 Cyc., page 869, the following is stated:

“The exemption of public property from taxation does not extend to improvements on the public lands made by pre-emptioners, homestead, and other claimants, or occupants, at their own expense, and these are taxable by the state.”

I can see no reason why the improvements upon these homestead entries should be exempt from taxation by the state. These communities require taxes for local self government such as schools and roads and, unless the improvements upon these homestead entries are subject to taxation, there is very little upon which to levy a tax for the upkeep of these institutions.

It is, therefore, my opinion that such improvements are assessable and that there is nothing in the case of *Irwin v. Wright*, supra, in conflict with this view.

Very truly yours,

WELLINGTON D. RANKIN,
Attorney General.