

in our opinion lands belonging to the United States and occupied by its citizens are subject to taxation and may be sold for taxes assessed against such occupiers which have become delinquent.

Section 2 of Article XII of the constitution provides that "the property of the United States, the state, counties, cities, towns, school districts, municipal corporations and public libraries shall be exempt from taxation." Section 1998, Revised Codes 1921, is to the same effect.

The language of these constitutional and statutory provisions is clear and imperative and justifies but one conclusion, namely, that the property of the United States, no matter what form it takes, must not be taxed or sold for taxes. (*Johnson v. County of Lincoln*, 50 Mont. 253; *Ford v. Great Falls*, 46 Mont. 292; *State v. Jeffries*, 83 Mont. 111; *State v. Lewis and Clark County*, 84 Mont. 200; *State v. Lewis and Clark County*, 84 Mont. 204; 61 C. J. 361, 418.)

Where, however, an entryman upon or purchaser of public lands has done everything necessary to entitle him to a patent or deed, the equitable title to the lands vests in him, and such lands are taxable by the state in which they lie, although a patent or deed has not issued and the United States holds the naked legal title. (*Johnson v. County of Lincoln*, supra; 61 C. J. 361, 362; 50 C. J. 1096.)

The county treasurer of Sanders County, for whose guidance you requested this opinion, will govern himself accordingly.

**Opinion No. 239.**

**Taxation—Patent Not Issued—Homesteads.**

HELD: 1. The property of the United States, no matter what form it takes, must not be taxed or sold for taxes.

2. Where an entryman upon or a purchaser of public lands has done everything necessary to entitle him to a patent or deed, the equitable title to the lands vests in him, and such lands are taxable by the state in which they lie, although a patent or deed has not issued and the United States holds the naked legal title.

January 29, 1936.

Mr. Harold G. Dean  
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You have asked us whether or not