

File No. 46845 Continued

appears that a majority of the officers and enlisted men do not live upon the reservation, but that they will do so as soon as the United States Government furnishes suitable quarters. It is also stated that the owners, at times, employ their automobiles while engaged in the transaction of official business. The opinion of this office has been requested by President Lee I. Hecht, of the Appeal Tax Court, as to whether this property is properly assessable for taxation.

By the last sentence of Section 2, Article 81 of Bagby's Code, it is provided:

"All other property of every kind, nature and description within this State, except as provided by Sections 4, 5, 6, 7, 8 and 9, shall be valued and assessed for the purpose of state, county and municipal taxation to the respective owners thereof in the manner prescribed by this Article. * * *".

Since the necessary legal element of the conception of domicile is a free intent to make a particular place one's home indefinitely, and since this free intent does not exist in the case of the officers and enlisted men at Camp Holabird, I agree with Colonel Stayer that these men may not be considered as having a domicile in Maryland.

But whether they may be considered residents of the City and State within the meaning of the word "resident" as used in the taxing statutes, or whether on the other hand they may be properly regarded as non-residents, the taxing power of the City and State would constitutionally extend to tangible personal property, such as automobiles, actually within the jurisdiction, and the provision of law quoted above is broad enough to cover this tangible property. Therefore, the automobiles in question are assessable unless, by reason of the ownership thereof, this property is not taxable upon general principles, or unless it is specifically exempted from taxation by some provision in the statutes.

There can be no validity in the contention that this property is not subject to taxation merely because owned by members of the United States Army or because incidentally employed by the owners in the service of the United States. By Section 4 of Article 81 of Bagby's Code, the property in this State belonging to the United States is exempted. This would be true upon constitutional grounds even though not specifically set forth in the statute.

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