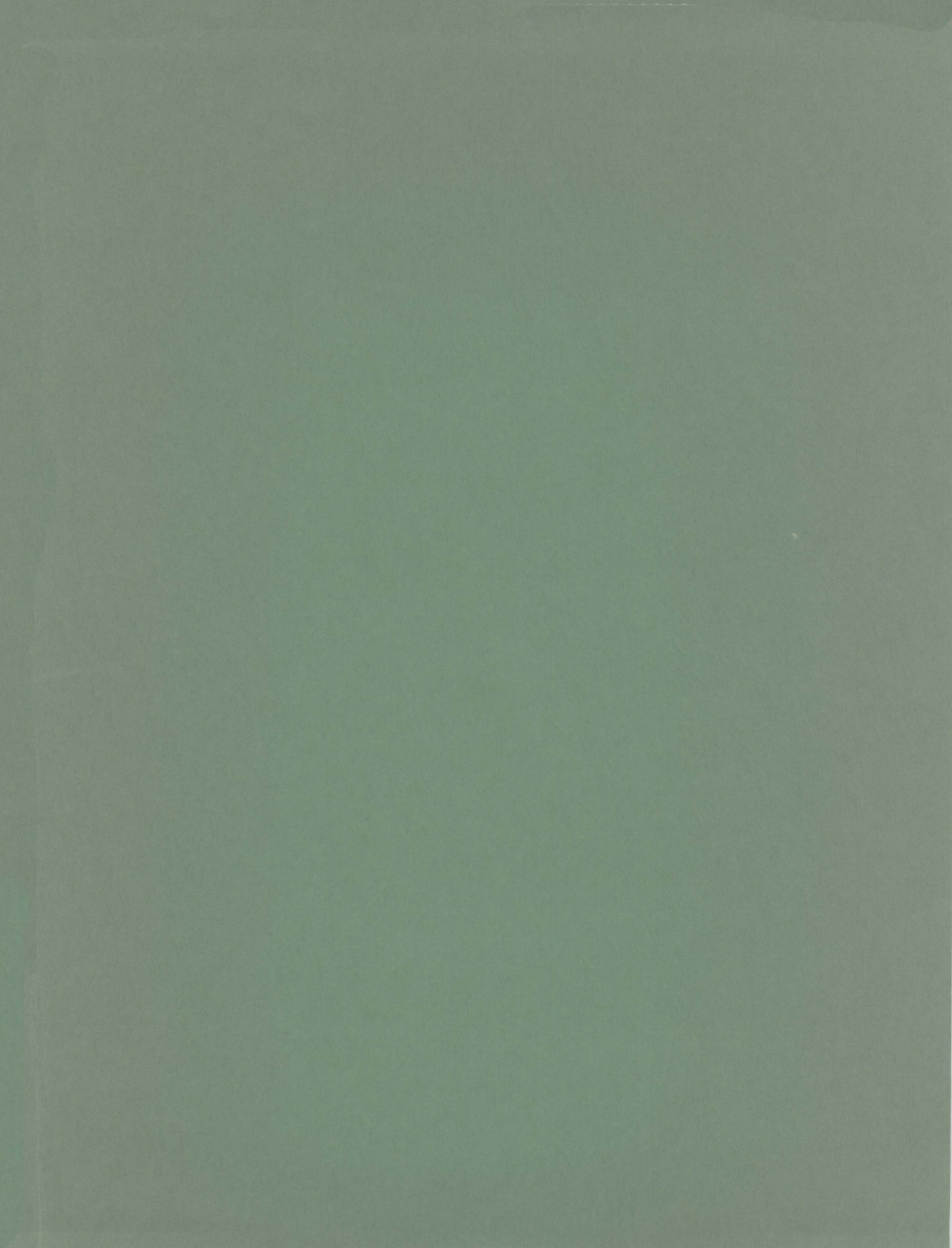


A COMMISSION REPORT

STATE AND LOCAL TAXATION  
OF  
PRIVATELY OWNED PROPERTY  
LOCATED ON FEDERAL AREAS

ADVISORY COMMISSION ON  
INTERGOVERNMENTAL RELATIONS  
JUNE 1961

A-6



**A COMMISSION REPORT**

**STATE AND LOCAL TAXATION OF PRIVATELY OWNED PROPERTY**

**LOCATED ON FEDERAL AREAS:**

**Proposed Amendment of the Buck Act**

**ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS**

**June 1961**

**A6**

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS  
Washington 25, D. C.

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**PREFACE**

The Advisory Commission on Intergovernmental Relations was established by Public Law 380, passed by the first session of the 86th Congress and approved by the President September 24, 1959. Sec. 2. of the act which sets forth the specific responsibilities of the Commission, states in part:

"Sec. 2. Because the complexity of modern life intensifies the need in a federal form of government for the fullest cooperation and coordination of activities between the levels of government, and because population growth and scientific developments portend an increasingly complex society in future years, it is essential that an appropriate agency be established to give continuing attention to intergovernmental problems.

"It is intended that the Commission, in the performance of its duties, will--

"(1) bring together representatives of the Federal, State and local governments for the consideration of common problems;

.....

"(4) make available technical assistance to the executive and legislative branches of the Federal Government in the review of proposed legislation to determine its overall effect on the Federal system;

"(7) recommend methods of coordinating and simplifying tax laws and administrative practices to achieve a more orderly and less competitive fiscal relationship between the levels of government and to reduce the burden of compliance for taxpayers."

Pursuant to its statutory responsibilities, the Commission from time to time singles out for study and recommendation particular problems, the amelioration of which in the Commission's view would enhance cooperation among the different levels of government and thereby improve the effectiveness of the federal system of government as established by the Constitution. One problem so identified by the Commission relates to the property tax status

of privately owned properties located in areas under the exclusive jurisdiction of the National Government.

In the following report the Commission has endeavored to set forth what it believes to be the essential facts and policy considerations bearing upon this problem and respectfully submits its conclusions and recommendations thereon to the Executive and Legislative Branches of the National Government and to the States.

This report was adopted at a meeting of the Commission held on June 15, 1961.

Frank Bane  
Chairman

## ACKNOWLEDGEMENTS

In developing this report the staff of the Commission benefited from information and advice generously provided by several agencies, organizations and individuals. The Commission desires to express its appreciation to Mr. Charles F. Conlon, Executive Secretary, National Association of Tax Administrators, and to the State tax officials too numerous to list here who participated with him in collecting data on the quantitative importance of privately owned property located on land under the jurisdiction of the National Government. It is grateful also to Mr. Edward S. Lazowska, Department of Justice, and Mr. Henry H. Pike, General Services Administration, for information they supplied on the legislative jurisdictional status of the National Government's land holdings and on the procedural steps involved in retroceding legislative jurisdiction to the States. The staff, in turn, records its appreciation to the individual members of the Commission who provided information on the subject matter of this report for their respective States. Final responsibility for the staff work reflected in this report rests with us.

L. L. Ecker-Racz  
Research Associate





## TABLE OF CONTENTS

	Page
Statement of the Problem. . . . .	1
Jurisdictional Status of Government Properties . . . . .	2
Categories of Federal Legislative Jurisdiction . . . . .	5
Exclusive Jurisdiction.....	5
Concurrent Jurisdiction.....	6
Partial Jurisdiction.....	6
Proprietorial.....	6
Distribution of Exclusive Jurisdiction Properties . . . . .	7
Retrocession of Federal Taxing Jurisdiction . . . . .	9
Categories of Untaxed Private Property . . . . .	10
Scope of Personal Property Taxes . . . . .	12
Revenue Significance . . . . .	13
Legislative History of Proposals to Authorize Taxation.	14
Proposals for the Readjustment of Legislative Jurisdiction . . . . .	15
Summary Evaluation. . . . .	19
Recommendations . . . . .	22

## APPENDIXES

1. Text of H. R. 4059 and H. R. 5362, 87th Congress, 1st Session.....	26
2. Total Acreage Under Exclusive Federal Jurisdiction in Relation to Total State Acreage, by States, as of June 30, 1957.....	27
3. Categories of Tangible Personal Property Subject to Taxation, by State, as of January 1, 1961.....	28
4. Text of Sections 1 and 2 of S. 154, 87th Congress, 1st Session.....	31
5. State Act for the Transfer of Legislative Jurisdiction.....	33



STATE AND LOCAL TAXATION OF PRIVATELY OWNED PROPERTY  
LOCATED ON FEDERAL AREAS

Statement of the Problem

This report examines the property tax status of privately owned properties located in areas under the jurisdiction of the National Government. More specifically, it examines legislative proposals for Congressional action to permit State and local taxation of these properties. The current versions of this proposal are H. R. 4059, introduced by Congressman Aspinall of Colorado and H. R. 5362, introduced by Congressman King of Utah (Appendix 1).

While nationwide in its geographic scope, the potential fiscal impact of a change in the tax status of these privately owned properties is limited in terms of both the number of local taxing jurisdictions affected and the aggregate amount of property tax revenues involved. The problem and the proposed remedy may, nonetheless, have significance for some individual taxing jurisdictions. They would be communities characterized by an inadequate tax base and containing within their borders Government installations where privately owned property of relatively large value is employed, which cannot be taxed by virtue of its location. Very few such communities have been identified.

The tax status of private property on Federal areas is one of those problems, not infrequent in Federal-State relations, in which principle rather than substance is the issue. The inability of tax assessors to reach privately owned property located within certain Federal installations is a ready source of intergovernmental friction, particularly when identical kinds of property, frequently owned by the same individuals, performing functions for substantially identical consumers and located on other Federal properties or elsewhere in the State are taxable. The issue has been pending for some years and this doubtless explains its high priority on the Commission's agenda. It is the by-product of two interrelated constitutional institutions, (1) the exercise of legislative jurisdiction by the National Government (where this involves a corresponding limitation on the State's jurisdiction) over lands in the Government's possession,

and (2) intergovernmental tax immunities. In a strict sense only the first is here involved, but as the subsequent discussion makes clear, a meaningful evaluation of the problem necessarily involves the second as well.

The National Government owns approximately 34 percent of the land area of the Continental United States.<sup>1/</sup> The problem here under examination, however, arises only on a minor fraction of these land holdings. In general, State and local governments are debarred from taxing privately owned property located on Federal areas only when the National Government exercises exclusive legislative jurisdiction over the area. This limitation on their taxing power, moreover, is only as important to them as the reliance they place on the taxation of the particular categories of private property found in those areas.

#### Jurisdictional Status of Government Properties<sup>2/</sup>

The genesis of the concept of exclusive Federal jurisdiction which gives rise to the lack of State and local taxing authority over privately owned property located within Federal

<sup>1/</sup> Exclusive of Alaska, the figure is approximately 20 percent.

<sup>2/</sup> This discussion of the jurisdictional status of the Government's properties draws heavily on the Report of the Interdepartmental Committee for the Study of Jurisdiction over Federal Areas Within the States, entitled, Jurisdiction over Federal Areas Within the States: Part I, The Facts and Committee Recommendations, GPO (250 pp.), April 1956; and Part II, A Text of the Law of Legislative Jurisdiction, GPO (351 pp.), June 1957, cited hereafter as "Report of the Interdepartmental Committee."

areas is Article I, Section 8, Clause 17, of the Constitution<sup>1/</sup> :

"The Congress shall have power...to exercise exclusive legislation...over all places purchased by the consent of the Legislature of the States...for the erection of forts...and other needful buildings."

The Federal Government's practice with regard to the degree of jurisdiction it has taken over its land acquisitions falls into three convenient chronological periods.

During the Republic's first 50 years, the Government generally exercised its right to jurisdiction with respect to most, but not all lighthouse sites, with respect to various forts and arsenals, and with respect to some other individual properties. It was often the Government's practice in those years to purchase the lands upon which installations were to be placed and to enter into occupancy without also acquiring legislative jurisdiction over the land. It often purchased land without State consent and in those cases did not acquire exclusive legislative jurisdiction.

In 1841 the acquisition of legislative jurisdiction was made mandatory with respect to most land purchases. A Joint Resolution approved September 11, 1841 (40 U.S.C. 255) prohibited the expenditure of public money for public buildings on land purchased by the United States unless the Attorney General had approved title to the land and the legislature of the State in which the land was situated had consented to the purchase. Most States, in their desire to facilitate Federal construction within their borders, enacted statutes consenting to the acquisition of land and these general consent statutes had the effect of granting the United States exclusive jurisdiction over lands so acquired.

<sup>1/</sup> "Exclusive Federal legislative jurisdiction, it seems well settled, serves to immunize from State taxation privately owned property located in an area subject to such jurisdiction. The leading case on this matter is Surplus Trading Co. v. Cook, 281 U. S. 647 (1930), wherein the Supreme Court held that Arkansas was without authority to tax privately owned personal property located on a military reservation which was purchased by the Federal Government with the consent of the legislature of the State in which it was located, The Supreme Court based its conclusion on the following proposition of law (p. 652): 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 (viz., Article I, Section 8, Clause 17), to the United States, thereby making the jurisdiction of the latter the sole jurisdiction." (Report of the Interdepartmental Committee, Part II, pp. 177-178).

A 1940 amendment to the 1841 Joint Resolution eliminated the requirement for State consent to any Federal acquisition as a condition precedent to Federal expenditure for construction on such land. By that time, partly in consequence of the accelerated pace of Federal land acquisitions associated with the relief and recovery programs of the 1930's and the growing importance of the Government's commercial and industrial activities associated with the defense effort, the States were acutely aware of the impact of the exclusive legislative jurisdiction holdings of the Government on their revenues. In waiving the requirement that the United States must obtain exclusive jurisdiction over land it acquires, the 1940 amendment permitted (and continues to permit) each head of a governmental agency to file with the appropriate State official a notice of acceptance of jurisdiction (respecting any land under his custody) in situations in which he deems this to be desirable. The 1940 legislation specifically provides that until such notice is filed, it should be conclusively presumed that no jurisdiction has been accepted by the United States. This legislation ended a century during which most land acquired by the United States came under the exclusive legislative jurisdiction of the National Government. On much of the property acquired by the Government since 1940, it exercises less than exclusive jurisdiction.

As of June 30, 1957, only 2 percent (8.1 million acres) of the Government's accumulated land holdings in the 48 States fell into the exclusive jurisdiction category.<sup>1/</sup> The National Government exercises varying degrees of legislative jurisdiction over the balance, viz., most of its land holdings, in some cases concurrently with the States. In these situations, however, State and local taxation of the property of private persons is generally not affected.

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<sup>1/</sup> Statistics on the Government's land holdings cited herein are from "Inventory Report on Jurisdictional Status of Federal Areas Within the States, as of June 30, 1957," prepared by the General Services Administration and cited hereafter as "Inventory Report." It covers only 48 States; not the District of Columbia, Alaska or Hawaii. While the legislation providing statehood for Alaska reserves the Government's right to exercise exclusive jurisdiction over certain military areas that right has not been exercised as of this writing. The Hawaii statehood legislation reserves the State's right to tax private property on Federal areas. Therefore, the omission of the data for these two States does not affect the argument.

## Categories of Federal Legislative Jurisdiction

The jurisdictional status of the Government's land holdings has recently been described under four different categories by an Interdepartmental Committee chaired by the Department of Justice.

Exclusive Jurisdiction. One of these is the category of exclusive legislative jurisdiction established by Article I, Section 8, Clause 17 of the Constitution. Exclusive jurisdiction also can be and has been acquired through cession by a State or by reservation made in the legislation providing for the admission of a State into the Union.<sup>1/</sup>

In areas of exclusive jurisdiction, the Federal Government theoretically displaces the State of all its sovereign authority, executive, legislative, and judicial.<sup>2/</sup> States are debarred from taxation in areas of exclusive jurisdiction except to the extent (discussed later) the Congress has consented to State and local taxation of the incomes, activities and transactions of private persons.

The Report of the Interdepartmental Committee describes the situation in areas of exclusive jurisdiction as follows:

"The State no longer has the authority to enforce its criminal laws in areas under the exclusive jurisdiction of the United States. Privately owned property in such areas is beyond the taxing authority of the State. It has been generally held that residents of such areas are not residents of the State, and hence not only are not subject to the obligations of residents of the State but also are not entitled to any of the benefits and privileges conferred by the State upon its residents. Thus, residents of Federal enclaves usually cannot vote, serve on juries, or run for office. They do not, as a matter of right, have access to State schools, hospitals, mental institutions, or similar establishments. The acquisition of exclusive jurisdiction by the

---

<sup>1/</sup> However, with the conspicuous exception of the Yellowstone National Park and a few lesser cases, exclusive jurisdiction over public domain lands has not been reserved for the National Government in the enabling acts by which the States were created.

<sup>2/</sup> A reservation by a State of only the right to serve civil and criminal process in the area, resulting from activities which occurred off the area, is regarded not to be inconsistent with exclusive Federal jurisdiction.

Federal Government renders unavailable to the residents of the affected areas the benefits of the laws and judicial and administrative processes of the State relating to adoption, the probate of wills and administration of estates, divorce, and many other matters. Police, fire-fighting, notarial, coroner, and similar services performed by or under the authority of a State may not be rendered with legal sanction, in the usual case, in a Federal enclave."<sup>1/</sup>

Concurrent Jurisdiction. Another category is concurrent legislative jurisdiction. About one-tenth of one percent of the Government's holdings fall into this group. It covers the cases where the State has granted the United States authority which would amount to exclusive legislative jurisdiction, except that the State has reserved for itself the right to exercise all of the same authority. In these situations the National Government and the States exercise the same powers over the area and the people within it.

Partial Jurisdiction. The Government holds about 1.9 percent of its lands under partial legislative jurisdiction. In these cases, the State has granted the Federal Government some of its own authority but has reserved for itself the right to exercise, alone or concurrently with the United States, other authority constituting more than merely the right to serve civil or criminal process in the area. In these situations, the States have typically reserved for themselves the right to tax private property.

Proprietorial. The fourth and by far the largest jurisdictional category includes the cases in which the Government holds only proprietorial interest in the property. Over 95 percent of the Government's land holdings fall into this group. In these instances the National Government has some right or title to the property but has not obtained any measure of the State's authority over the area. Its situation is comparable to that of a private property owner, excepting that by virtue of its functions and authority under various sections of the Constitution, it possesses powers and immunities not possessed by private land holders.

The following tabulation summarizes the findings of a General Services Administration inventory with respect to the

<sup>1/</sup> Report of the Interdepartmental Committee, Part II, p. 4.



legislative jurisdictional status of Federal areas in 48 States  
as of June 30, 1957:

Legislative Jurisdiction	Acres (in millions)	Percent of total
Exclusive	8.1	2.0
Concurrent	0.2	0.1
Partial	8.0	1.9
Proprietorial interest only	388.8	95.2
Total classified.....	405.1	99.2
Unknown	3.4	0.8
Total.....	408.5	100.0

Distribution of Exclusive Jurisdiction Properties

Government installations under the exclusive jurisdiction of the United States vary in size from 0.1 acre for more than 40 Federal sites to 2.2 million acres for Yellowstone National Park, of which 2.0 million acres are in Wyoming.

While many of the smallest "exclusive jurisdiction" sites, containing only 0.1 acre of land, are under the custody of the Departments of Post Office, Commerce, Defense, and Health, Education, and Welfare, and the General Services Administration, most of them are sites for Coast Guard lights. A Federal statute enacted in 1821 still requires the acquisition of exclusive jurisdiction over a site before lighthouses, beacons, public piers, or landmarks are constructed on it.

The following tabulation shows the principal Federal agencies having custody of land under exclusive legislative jurisdiction:

Agency	Exclusive legislative jurisdiction	
	Acres (in millions)	Percent of total
Defense	4.3	53.1
Interior	3.6	44.5
Agriculture	0.1	1.2
Other agencies (11)	0.1	1.2
Total.....	8.1	100.0

Two Departments, Defense and Interior, have custody over 7.9 million acres, or 97.6 percent of the total.

The principal States in which the National Government has exclusive legislative jurisdiction over its lands are shown below. A tabulation of exclusive jurisdiction acreage in relation to the total acreage of each of the 48 States is presented in Appendix 2.

States	Exclusive legislative jurisdiction	
	Acres (in millions)	Percent of total
<b>Western:</b>		
Wyoming	2.2	27.2
Arizona	0.7	8.6
California	0.4	4.9
New Mexico	0.2	2.5
Others (7)	0.6	7.4
<b>Total Western</b>	<b>4.1</b>	<b>50.6</b>
<b>South Atlantic &amp; South Central:</b>		
Georgia	0.5	6.2
Texas	0.4	4.9
Kentucky	0.2	2.5
North Carolina	0.2	2.5
Others (12)	1.3	16.0
<b>Total South Atlantic &amp; South Central</b>	<b>2.6</b>	<b>32.1</b>
<b>Northeast &amp; North Central:</b>		
Indiana	0.2	2.5
Others (20)	1.2	14.8
<b>Total Northeast &amp; North Central</b>	<b>1.4</b>	<b>17.3</b>
<b>Total exclusive jurisdiction...</b>	<b>8.1</b>	<b>100.0</b>

It will be noted that of the 8.1 million acres of Federal land under exclusive jurisdiction, 2.2 million acres, or 27.2 percent are located in Wyoming (Yellowstone National Park accounts for 2 million acres). In most States (39) the areas under the exclusive jurisdiction of the United States aggregate less than 200,000 acres.

Legislative jurisdiction in the United States is limited, generally, to land owned by the National Government. However, legislative jurisdiction may also be ceded by a State over nonfederally owned land in the same fashion as the State of Maryland has done with respect to nonfederally owned land in the District of Columbia. For example, the United States has only a leasehold interest in 164 acres in Camp Leroy Johnson, and 557 acres in Camp Polk, in Louisiana, although the Federal Government has exclusive jurisdiction over those leased areas. These special situations do not, however, affect materially the problem under examination.

### Retrocession of Federal Taxing Jurisdiction

Exclusive Federal legislative jurisdiction serves to immunize the income, transactions, activities and properties of private persons located in areas subject to such jurisdiction from State and local taxation. In order to ameliorate the consequences of this immunity for State and local revenues and to preserve equality of tax treatment of private interests within and without Federal areas, Congress has consented to the application of several categories of State and local tax laws within areas under Federal jurisdictions. These statutes have left untouched the immunity from State and local taxation enjoyed by the Government itself under the Constitutional doctrine of intergovernmental immunities, as developed by the Courts.

In the Hayden-Cartwright Act enacted in 1936 (4 U.S.C. 104) Congress consented to nondiscriminatory State taxation of the sale of gasoline and other motor vehicle fuels by post exchanges, ship stores, ship service stores, commissaries, filling stations, licensed traders and other similar agencies located on United States military or other reservations, when such fuels are not for the exclusive use of the United States. That legislation, as amended in 1940 by the Buck Act (discussed below), has given the States the right to levy and collect motor fuel taxes within Federal areas, regardless of the form of such taxes, to the same extent as though such areas were not Federal, unless the fuel is for the exclusive use of the National Government. Sales to Government contractors are taxable but not sales to Army post exchanges, which have been judicially determined to be arms of the Government. Post exchanges are instrumentalities of the Government and partake of its immunities.

The Buck Act, enacted in 1940 (4 U.S.C. 105-110), permits the States (including their subdivisions) to impose and collect State sales, use, gross receipts, and gross and net income

taxes from private persons within Federal areas. Its declared purpose is to prevent the avoidance of these State taxes. Congressional consent to the application of income taxes removed an inequity which had arisen after the enactment of the Public Salary Tax Act of 1939, which authorized State taxation of the compensation of the officers and employees of the United States but left employees residing within Federal exclusive jurisdiction areas beyond the reach of State income taxes. The Buck Act is not applicable to the sale, purchase, storage or use of properties sold to authorized purchasers by the United States or by any of its instrumentalities. It defines an authorized purchaser as a person who is permitted to make purchases from commissaries, ship stores, post exchanges, etc.<sup>1/</sup>

The Wherry Housing Act of 1949 authorized the lease of land within military areas to private individuals for the construction of housing for rental to military personnel. Federal legislation associated with it, the Military Leasing Act of 1947 (10 U.S.C. 1270d), specifies the taxability of a lessee's interest under the act by State and local governments.

In 1936 (40 U.S.C. 290) Congress permitted the application of State workmen's compensation laws to Federal areas, and in 1939 (26 U.S.C. 3305d) provided for the application of State unemployment compensation laws in such areas.

Through these enactments, the Congress has restored a large measure of the taxing power of the States and their political subdivisions with respect to private persons and their activities within Federal areas. The principal exceptions are property taxes and so-called severance taxes, generally imposed in lieu of property taxes on the extraction or sale of the natural resources of mines and forests.

#### Categories of Untaxed Private Property

Such legislative proposals to amend the Buck Act as H. R. 4059 and H. R. 5362 would grant Congressional consent to the

<sup>1/</sup> The Buck Act legislation leaves unaffected the provisions of the Soldiers' and Sailors' Civil Relief Act of 1940 under which military personnel stationed in a State or local taxing jurisdiction do not become residents for tax purposes and are therefore exempted from income taxes, personal property taxes and motor vehicle license requirements.

application of property taxes to private property within Federal areas. In actual fact, their content is largely limited to taxes on personal property, because the amount of untaxed privately owned real property on Federal areas is small.

One important category of real property is the privately owned Wherry housing constructed on leased land within military areas for rental to military personnel. However, as noted above, the lessee's interest in these properties is already subject to State and local taxation under Section 6 of the Military Leasing Act of 1947.<sup>1/</sup>

There are other instances of privately owned real property located within Federal areas. In the Montana portion of Yellowstone National Park about 8,600 acres are in private ownership. Privately owned recreational and commercial facilities can be found in several national parks. Mention should be made also of the machinery and equipment affixed to structures in standby facilities leased from the Government in those States which treat such machinery, etc., as real estate for tax purposes (see Appendix 3). However, as already noted, the aggregate amount of privately owned untaxed real property represented by these and similar categories is believed to be very small. The problem is primarily one of personal property taxation.

The types of private personal property likely to be found within some of the Federal enclaves probably include one or more of the following:

- (1) Data processing and automotive equipment on lease to the Government;
- (2) Industrial machinery, equipment and inventories within standby Government facilities on lease to private parties for use in production, processing or storage;
- (3) Equipment and materials of contractors engaged on Government contracts;
- (4) Equipment and inventories, including various kinds of vending machines, of concessionaires and of other trade and service establishments;

<sup>1/</sup> Offut Housing Corp. vs. Sarpy County, 351 U. S. 253 (1956) interpreted this legislation to be applicable to housing projects located on areas subject to exclusive jurisdiction.

- (5) Properties of utility enterprises; and
- (6) Household goods, motor vehicles and other classes of personal property of persons residing on Federal areas, particularly in military and veterans' facilities and in National Parks.

It should be recognized that even in the absence of exclusive Federal jurisdiction only part of these properties would actually be subjected to State-local property taxation, because personal property is taxed in only some of the States and in some of these only some categories of personal property are taxable.

### Scope of Personal Property Taxes

In four States, Delaware, Hawaii, New York and Pennsylvania, no general personal property taxes are levied.

In the remaining States the scope of property taxes on personal property varies. All tax stock in trade and all include industrial machinery in their property tax base. In 27 States (including two of the four States without a general personal property tax), however, some machinery, consisting mostly of machinery permanently attached to realty, is assessed as real property. (For the identity of these States see Appendix 3.)

Nearly half of the States (22) tax motor vehicles under local general property taxes; eight States tax them under special property tax provisions. The remaining 20 States do not tax motor vehicles under either general or special property tax laws.

Household personal property is subject to local assessment for general property taxation in 35 States, but in almost every case specific items are exempted either entirely or up to certain amounts. All but three of the 46 States with personal property taxes include livestock, and all but four include farm machinery with taxable personal property.

Thus not all privately owned personal property on Federal areas would become taxable if the tax immunity of exclusive jurisdiction Federal properties were terminated. Moreover, since the assessment of taxable property in most parts of the country commonly represents only a limited fraction of its full value, corresponding treatment of personal property on Federal areas would

further limit the amounts that would be added to the tax base.<sup>1/</sup>

### Revenue Significance

Although the tax immunity of privately owned personal property located in areas under the exclusive jurisdiction of the National Government has been a legislative issue for many years, no information has been available on the amount of tax revenue involved. This kind of property has not concerned tax assessors, except in cases where a corporation's properties are assessed on a statewide basis and a calculated portion is then excluded because of its location on a Federal installation, as in the case of public utilities and less frequently concerns leasing vending machines, office machines, etc.

Through the cooperation of the members of this Commission and of the National Association of Tax Administrators, the appropriate tax officials of most of the States and a number of local jurisdictions have been queried on the amount of property and tax revenue involved. At this writing replies have been received from approximately half of the States concerned, (those where personal property is subject to taxation). While a substantial number candidly plead the lack of a basis for supplying estimates, their personal judgments and some quantitative data make it abundantly clear that the amounts involved are very small in terms of the jurisdictions' revenue problems or in comparison with the revenues involved in intergovernmental tax immunities generally. The largest estimate obtained by far is that supplied by the Executive Secretary of the California State Board of Equalization. He places the assessable value of private properties on Federal areas in California "somewhere between \$5 million and \$35 million, and (is) probably closer to the lower figure than to the higher one. Assessed value of this magnitude would produce some \$350,000 to \$2,450,000."<sup>2/</sup>

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<sup>1/</sup> The inequality of assessments placed on personal property has been extensively documented and need not be discussed here.

<sup>2/</sup> This range is wide enough to accommodate the estimates for individual California jurisdictions available from other sources. In testimony before the House Committee on Public Lands, the Vice-Mayor of the City of San Diego placed the assessed value of the subject properties in San Diego county at \$1 million. The manager of the County Supervisors Association of California estimated that enactment of H. R. 8278 would add \$250,000 to the assessed valuation of Los Angeles County. However, the County Assessor of Los Angeles advised this Commission that "the assessed valuation would not exceed \$20,000, the taxes upon which would approximate \$1,400 or \$1,500."

The Secretary of the Maryland Tax Commission, estimated that consent to the taxation of privately owned personal property on Federal areas would add \$3 to \$4 million to the assessed valuation of Maryland taxing jurisdictions.

About the only conclusion warranted on the basis of the evidence obtained from a rather extensive correspondence is that the issue under examination is not one of revenue. It would be difficult, indeed, to support an estimate in excess of \$10 million as the aggregate amount of additional revenue that would accrue to all taxing jurisdictions in the United States if Congress consented to the taxation of private property located on areas under exclusive Federal jurisdiction.

#### Legislative History of Proposals to Authorize Taxation

Bills to grant Congressional consent to State and local taxation of private property located on Federal areas have been pending before the Congress for several years.<sup>1/</sup> The current bills, H. R. 4059 and H. R. 5362 pending before the House Committee on Interior and Insular Affairs, would amend the Buck Act legislation described above by adding a new subsection as follows:

"(a) No person shall be relieved from liability for payment of any otherwise applicable property tax levied by any State, or by any duly constituted taxing authority therein, having jurisdiction to levy such a tax, on the ground that the property taxed is located, in whole or in part, in a Federal area; and such State or taxing authority shall have full jurisdiction and power to levy and collect any such tax in any Federal area within such State to the same extent and with the same effect as though such area were not a Federal area.

"(b) For the purpose of this subsection, a property tax means any tax imposed directly on, or measured by the value of, property owned by any person other than the United States."

<sup>1/</sup> H. R. 8278, 85th Congress; H. R. 4845 and S. 2993, 86th Congress; H. R. 4059 and H. R. 5362, 87th Congress.



Under the terms of the bill, the legislation would be effective with respect to property taxes levied after June 30, 1961.

Legislation along the lines of these bills is supported by a number of State and local officials, the National Association of Tax Administrators and some of its affiliated organizations, the American Municipal Association, and the National Association of Assessing Officers. The proposal was considered in some detail by the Joint Federal-State Action Committee at its final meeting on October 26, 1959, held in Chicago. It was there opposed by representatives of Federal agencies and the Joint Committee could agree only that the problem "should be studied (in conjunction with related problems) by a special ad hoc commission."

The Senate Committee on Government Operations considered a similar bill, S. 2993, during the 86th Congress but took no action. It concluded that "this subject should be handled on a comprehensive basis rather than by the piecemeal approach."<sup>1/</sup> This was also the view of President Eisenhower's Administration and is reported to be the view of the present Administration.

The treatment "on a comprehensive basis" to which the Committee referred and which is also preferred by the Federal Executive Branch is that which would have been provided under S. 1617, considered during the last Congress, and would be provided by its current version, S. 154. This measure would prescribe a general governmental policy and provide a program for restitution to State and local governments of legislative jurisdiction (including taxability of private property) over federally owned areas as rapidly and extensively as requirements of governmental agencies permit. In view of this legislative development, a meaningful consideration of the proposal to permit State-local taxation of private property on Federal areas cannot be disassociated from this proposal for more general readjustment of legislative jurisdiction over Federal lands.

#### Proposals for the Readjustment of Legislative Jurisdiction

Since 1956 the Congress has had under consideration legislation to permit Federal agencies to restore to the States certain

<sup>1/</sup> Activities Report of the Senate Committee on Government Operations for the 86th Congress, 87th Congress, First Session, Senate Report No. 52, p. 30.

jurisdictional authority now vested in the National Government and to establish as Congressional policy that in future land procurements the Federal Government will acquire only such jurisdiction as is essential to its operations.

These bills, of which S. 154 is the current version, were originally drafted in the Department of Justice to implement the recommendations of an Interdepartmental Committee for the Study of Jurisdiction over Federal Areas Within the States, appointed by the President in 1954 to develop a procedure for solving the problems arising out of the uncertain jurisdictional status of Federal lands.<sup>1/</sup> The initial impetus for the creation of the Committee was the denial of local public school facilities to a group of children of Federal employees residing on the grounds of a Veterans' Administration facility.

The Interdepartmental Committee found that the National Government has been acquiring and retaining too much legislative jurisdiction over too many areas as the result of the existence of laws and the persistence of practices which were founded on conditions of a century or more ago. It concluded that:

"...the legislative jurisdictional status of many Federal installations and areas is in need of major and immediate adjustment to bring about the more efficient management of the Federal operations carried out thereon, the furthering of sound Federal-State relations, the clarification of the rights of the persons residing in such areas and the legalization of many acts occurring on these installations and areas which are currently of an extra-legal nature. Many adjustments can be accomplished unilaterally by Federal officials within the framework of existing statutory and administrative authority by changing certain of their existing practices and policies. Others may be capable of accomplishment by cooperative action on the part of the appropriate Federal and State officials. In perhaps the majority of instances, however, there is neither Federal nor State statutory authority which would permit the adjustment of the jurisdictional status of Federal lands to the mutual satisfaction of the Federal and State authorities involved."<sup>2/</sup>

<sup>1/</sup> The predecessor bills were S. 4196 and H. R. 11950, 84th Congress; S. 1538 and H. R. 2553, 85th Congress; and S. 1617, H. R. 5785, H. R. 8105, H. R. 6675, H. R. 7411 and H. R. 7412, 86th Congress.

<sup>2/</sup> Report of the Interdepartmental Committee, Part I, pp. 70-71.

Once legislative jurisdiction has been vested in the United States, it can be revested in the State only by an act of Congress except in those cases where the State imposed a limitation when it ceded jurisdiction. For this reason the Committee considered legislation providing for the retrocession of unnecessary jurisdiction to the States to be the first order of business.

The legislation, developed to implement the Committee's recommendations, would authorize Federal agencies to relinquish jurisdiction to the States, retaining only such powers as are essential to the operation of the installation concerned. Jurisdiction relinquished by the Federal Government would be subject to acceptance by the State in the manner prescribed by State law. It would lay down the policy that:

"(1) the Federal Government shall receive or retain only such measure of legislative jurisdiction over federally owned or operated land areas within the States as may in particular cases be necessary for the proper performance of such of its functions as are performed upon such areas; and

"(2) to the extent consistent with the purposes for which the land is held by the United States the Federal Government shall avoid receiving or retaining concurrent legislative jurisdiction or any measure of exclusive legislative jurisdiction."

The legislation for the comprehensive adjustment of legislative jurisdiction over Federal lands was developed in collaboration with a Special Committee on Legislative Jurisdiction, established by the Council of State Governments and with Federal agency representatives by the Senate Committee on Government Operations, with cooperation from Governors, States' Attorneys General and others. It is supported by the Council of State Governments. It (S. 1538) was first passed by the Senate in March 1958 but was recalled, and was passed again (S. 1617) in May, 1960. It was then referred to the House Committee on Government Operations where it remained to the end of the 86th Congress. Similar House bills in the 84th, 85th and 86th Congresses also remained in that Committee.

The current version of the proposal, S. 154, is sponsored by Senators McClellan (Arkansas), Bennett (Utah),<sup>1/</sup>

<sup>1/</sup> S. 15 (87th Congress, 1st Session), also introduced by Senator Bennett, would retrocede to Utah (only) concurrent jurisdiction over Federal installations located in Utah.

and Moss (Utah), but has not yet been considered. Since the views of interested agencies have been solicited there is some indication that consideration is in prospect. The Advisory Commission's views on the bill, as communicated by its Executive Director to Senator McClellan, on March 8, 1961, are as follows:

"The Commission has not examined in detail the questions and problems to which S. 154 is directed; however, we can advise that the Commission definitely endorses the objectives of S. 154 which is designed to return to the States some of the 'State-type' authority now exercised by the Federal Government over Federal lands. While we realize that S. 154 would by no means solve all of the jurisdictional problems which are involved, we believe that it constitutes a step forward with respect to intergovernmental relations in this general area.

"The Commission itself has under study a problem akin to those embraced by S. 154, i.e., the immunity from State and local property taxation of privately owned personal properties situated within Federal areas. Its consideration of this problem is expected to result in recommendations to the Congress for appropriate remedial legislation. The enactment of S. 154 would not in any way affect the need for such legislation with respect to areas in which the Federal Government retains exclusive legislative jurisdiction."

Enactment of this legislation by the earlier Congresses is said to have been prevented by the concern of some of the Members with its possible effects on civil rights, conservation, Alaska and Indian lands. Several supporters of S. 154 now speak optimistically about its prospects during the present session; its opponents, however, are equally confident of their ability to prevent enactment.

This legislative history suggests, and quite forcefully, that the issue before the Advisory Commission is not whether it should support the restitution of State and local taxing jurisdiction over private property located on Federal areas. It is, rather, whether the Commission should urge that this be accomplished by piecemeal Federal legislation or in the context of a broad Federal-State program to restore State and local governments' jurisdiction over and responsibilities within areas owned by the National Government.

## Summary Evaluation

We embark on the evaluation of the proposal to place privately owned property located on Federal areas within reach of property tax assessors (H. R. 4059 and H. R. 5362, to amend the Buck Act) with a strong predisposition to support it.

The tax immunity enjoyed by private property by virtue of its location on land which the National Government holds under exclusive legislative jurisdiction impairs tax fairness among private persons without necessarily advancing the governmental mission for which the land is held. Private persons in essentially similar circumstances ought to be accorded substantially similar tax treatment. Certainly national policy ought not to thwart the equity objective of State and local taxation. That this is also the sense of the Congress is evidenced by the sequence of measures it has enacted to restore to State and local governments the authority to impose personal and corporate income taxes, selective and general sales taxes, and gross receipts and gross income taxes on private persons and their transactions within Federal areas. Congressional consent to the taxation of Wherry Act housing on military installations is still another illustration.

Admittedly, the effect of the proposed legislation would not be confined to State and local governments and the owners of the properties they seek to tax. The National Government would also be affected, because where private property is found on Federal installations, it is normally there in association with governmental programs. A tax on that property would frequently affect, albeit indirectly, the costs of that Federal program. The clearest case is that of the property of a Government contractor, operating on cost-plus-fixed-fee basis. A tax on machinery or materials employed in the execution of the contract would be passed on directly to the Government in higher contract costs. The same generalization applies to the variety of privately owned equipment leased to the Government. The Government's annual rental bill for standard electronic data processing equipment alone is reported to aggregate about \$175 million and to be increasing at a rapid pace. Some part of it is known to be housed in Federal installations beyond the reach of property tax assessors. The Government's standard supply schedule contract under which most of this equipment is leased, explicitly commits the Government to absorb any tax increases or new tax enactments. The taxation of the personal property of Federal personnel housed on Federal installations could conceivably also tend to increase governmental costs because personnel morale and recruitment objectives may oblige the Government to compensate for the elimination of fringe benefits by adjusting wages and salaries.

In some selected situations the Government could avoid these added costs by altering its method of doing business. Since the Government's own properties are immune from State and local taxation it could avoid the tax on electronic data processing and other equipment, for example, by purchasing instead of leasing it. However, the compulsion to change a method of procurement otherwise deemed to be efficient may in itself result in added costs.

The added economic burden that the taxation of private property on Federal areas would impose on the National Government is, of course, no greater (apart from any turnover mark-up) than the revenue benefits it would bestow on State and local governments, and as already indicated, the latter would not be substantial. It may well be less than the increase in State and local tax collections because the private persons, who would pay these taxes in the first instance, could not always pass them on to the National Government.

It is, in any event, debatable how much significance can be attached to the fact that the tax activities of one level of government affect the costs of the other. They do so inevitably. Private property located on the vast majority of Federal installations is presently taxable (in part at least at Federal expense) because States have reserved their authority within them. Indeed governments' procurements costs at all levels--Federal, State and local--inevitably include significant amounts of each others' (as well as their own) taxes.

In our view, the fact that Congressional consent to the taxation of private properties would increase Federal costs is not the compelling, or even the major consideration. We do have important reservations, however, about the unilateral approach to the problem represented by the proposal here under consideration. Intergovernmental relationship, immunities, etc., in a Federal system are reciprocal. They cut both ways and in this process discriminate in favor of some private citizens and against others. It is this discrimination among citizens which cloaks this problem with importance and not the fact that governmental costs are affected. The impairment of State and local taxing rights within certain Federal areas, which bestows tax benefits on some private interests, stems from the jurisdictional status of these areas. This jurisdictional situation, however, has other consequences as well. It deprives a substantial number of residents of certain rights and privileges which should be available to them on the same basis as to other residents.

States are free to deny services and facilities to persons living and working in areas under the exclusive legislative jurisdiction of the National Government. Several States have held, for example, that they lack authority to provide free public education to children of school age living on such areas. In consequence, educational facilities have to be constructed and have to be operated entirely at Federal expense, generally at substantially greater unit costs than if these children had been absorbed in the State school systems. In fiscal year 1960 alone the Federal Government invested over \$6 million (more in other years) in the construction and \$9 million in the operation of schools in 14 States for the education of children on Federal installations who were denied access to public school facilities. Since the inception of this program in 1950, through fiscal year 1960, the cost of constructing schools on Federal properties has exceeded \$100 million. Frequently, police and fire protection, health and sanitation programs, water and road facilities are similarly provided entirely at Federal expense. In this connection, too, it should be emphasized that we are concerned less with the resultant increase in governmental costs than with the fact that the situation gives rise to a group of second class citizens and obliges the National Government to undertake functions performed elsewhere by State and local governments.

We repeat: the important consideration is not the actual amount of these costs to the U. S. Treasury. They are certainly minor in comparison with the aggregate amount of Federal payments made to State and local governments in recognition of the fact that Federal properties and activities are immune from local taxes. One Federal program alone, the financial assistance provided local educational agencies in federally affected areas for school construction and operation under Public Laws 874 and 815, for example, aggregated nearly \$1.8 billion during the past ten years. Our major concern is with the fact that unilateral remedies do not eliminate all of the inequities created by this unessential feature of the federal system, inequities which undermine the vitality of the system. A governmental system dedicated to democratic ideals cannot afford to indulge in institutional arrangements among the governmental units composing it, which impair rights of citizens and discriminate among them.

The amendment of the Buck Act as proposed by H. R. 4059 and H. R. 5362 would restore tax equity among private individuals but it would not restore balance in the other elements of the equation. It may, in fact, retard progress toward a comprehensive remedy, because it would remove an incentive for State participation in a program to readjust legislative jurisdiction over Federal areas for the benefit of citizens who reside in those areas.

The institutional arrangements which have developed around the constitutional doctrines of tax immunity and legislative jurisdiction do not lend themselves to unilateral adjustment. They require a bilateral Federal-State effort and the kind of give and take which negotiation on a State-by-State basis could probably advance. The legislation embodied in the bill, S. 154, already endorsed by the Commission, represents an approach along these lines (Appendix 4). It would provide the statutory basis for a cooperative Federal-State effort to restore rights and obligations to State and local governments on the one hand and to a group of residents on the other.

### Recommendations

This Commission concludes that the immunity from State and local property taxation enjoyed by privately owned property within certain areas under the jurisdiction of the National Government impairs the equal tax treatment of substantially similar properties and should be terminated. However, the jurisdictional circumstances which give rise to this tax inequality also deprive the residents of such areas of certain rights, privileges, services and responsibilities available to other residents of the States in which the properties are located. Legislation limited to the restoration of tax equality would contribute nothing to insuring the equal treatment of the residents of Federal areas with respect to services, privileges, etc., and may in fact retard it. The situation requires a dual approach designed to adjust both sides of the equation by retroceding to the States and the States accepting legislative jurisdiction over Federal areas as rapidly and to the extent consistent with essential national program needs and State and local requirements.

Accordingly, this Commission,

(1) Recommends to the Congress that it give early and favorable consideration to legislation authorizing and directing Federal agencies to cede to States legislative jurisdiction over Government owned properties as rapidly and extensively as consistent with their essential program needs;

(2) Recommends to the States that to the extent required they proceed with the enactment of legislation recommended by the Special Committee on Legislative Jurisdiction of the Council of State Governments to enable them to accept jurisdiction over Federal properties (Appendix 5); and



(3) Recommends to the President and the Governors that they support enactment of this legislation and its subsequent implementation by their respective administrations.

The additional views of Mr. Clair Donnenthirth, in which Mr. Edward Connor concurs, are presented below.

The Commission makes these recommendations in the belief that it is and will remain the policy of the National Government to restrict severely the scope of exclusive legislative jurisdiction over its installations; that upon enactment of the necessary legislation it will press the retrocession of legislative jurisdiction as rapidly and extensively as program needs permit; and that the States in turn will desire and are preparing themselves to accept corresponding degrees of jurisdiction over these areas. We will need to reassess this matter at a future time to ascertain whether the program here outlined has in fact resolved the question of State and local taxing jurisdiction over private properties within the Federal areas.

We have considered the possibility that the general program of retrocession of jurisdiction to the States contemplated by the foregoing recommendations will not be realized in the reasonably near future, say five years. It is possible that the enabling legislation will not be enacted or that if enacted, will not be widely implemented and that a substantial amount of private property will continue to escape taxation. These kind of developments will have established a compelling case for unilateral Congressional consent to the taxation of this property. The converse conclusion will have been indicated if the lack of progress proves to have been due to the unwillingness of States to accept jurisdiction over these areas.

\* \* \* \* \*

The additional views of Mr. Clair Donnenthirth, in which Mr. Edward Connor concurs:

"The concern which was expressed by other members of the Commission regarding the need for extending the rights of citizenship, such as the right to serve on juries, to run for public office, to vote, to adopt children, to use the State courts, etc., to these Federal residents is shared by the undersigned.

"In this regard, I agree that local and State governments should be encouraged to provide these rights to all Federal residents at the earliest possible date. Perhaps, the Commission may want to investigate and make recommendations concerning the impediments,

to the granting of such rights, which are presently found in many State constitutions and laws.

"It is further agreed that the Commission should emphatically reassert to the Congress its full support of S. 154, a bill to provide for the adjustment of legislative jurisdiction exercised by the United States over land in the several States used for Federal purposes, and for other purposes.

"In my opinion, this bill should be expanded, possibly by incorporation, to include the provisions embodied in H. R. 4059, a bill to permit States or other duly constituted taxing authorities to subject persons to liability for payment of property taxes on private property located in Federal areas within such State.

"No situation can be foreseen where the Federal Government would have to continue the tax immunity of this privately owned property, which is presently exempt, for the proper performance of its functions. To leave the retrocession of the taxing power to the discretion of an agency head and to his ability to work out an acceptable plan could result in needless delay. Neither will it accomplish the desired result of uniform taxation.

"Under the present provisions of S. 154, the taxing authority is one of the items to be negotiated. It is possible that this might be construed as demanding a quid pro quo, that is, the rendering of specific services in return for the granting of this taxing authority. I feel that a more satisfactory and uniform arrangement would be the incorporation of H. R. 4059 within S. 154.

"The amount of taxes involved is small, since the prohibition against the imposition of property taxes on private property located within Federal areas extends to only the 2% over which the United States has exclusive legislative jurisdiction. States and local governmental units are already authorized to tax the private property located within the remaining 98% of the total Federal land area.

"In addition, each of the previous retrocession statutes, such as the 'Hayden-Cartwright Act', the 'Buck Act', and the 'Military Leasing Act of 1947' have been enacted without placing the taxing power authorization at the discretion of a Federal official for possible use as a bargaining device to demand the services that he may deem necessary.

"The requirement for study and negotiation on an area-to-area basis in the relinquishment of other phases of legislative jurisdiction, which is also found in S. 154, is strongly supported

because of the wide variety of conditions under which the services may be desired.

"Little difficulty or reluctance is anticipated on the part of the State and local governments to extend to the persons who reside in these areas the benefits of citizenship, such as the right to probate wills, administer estates, adopt children, etc., since these rights have already been extended in numerous instances.

"Incorporation of both proposals into a single bill would immediately provide uniformity in the assessment of property taxes within Federal areas, authorize negotiation for the retrocession of Federal jurisdiction back to the States, and would include both of these objectives which are strongly supported by our local governments."

APPENDIX 1

TEXT OF H. R. 4059 AND H. R. 5362, 87TH CONGRESS, 1ST SESSION <sup>1/</sup>

A BILL

To permit States or other duly constituted taxing authorities to subject persons to liability for payment of property taxes on property located in Federal areas within such State.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,  
That title 4 of the United States Code is amended by adding after section 105 a new section reading as follows:

"SEC. 105a. SAME: PROPERTY TAX.

"(a) No person shall be relieved from liability for payment of any otherwise applicable property tax levied by any State, or by any duly constituted taxing authority therein, having jurisdiction to levy such a tax, on the ground that the property taxed is located, in whole or in part, in a Federal area; and such State or taxing authority shall have full jurisdiction and power to levy and collect any such tax in any Federal area within such State to the same extent and with the same effect as though such area were not a Federal area.

"(b) For the purpose of this subsection, a property tax means any tax imposed directly on, or measured by the value of, property owned by any person other than the United States.

"(c) The provisions of subsection (a) shall not apply to taxes levied prior to June 30, 1961, but only to taxes levied after that date."

<sup>1/</sup> Identical bills introduced by MR. ASPINALL of Colorado and MR. KING of Utah.

APPENDIX 2

TOTAL ACREAGE UNDER EXCLUSIVE FEDERAL JURISDICTION IN RELATION TO TOTAL STATE ACREAGE,  
BY STATES, AS OF JUNE 30, 1957

State	Exclusive Jurisdiction Acreage		State:	Exclusive Jurisdiction Acreage	
	Amount	% of State Acreage		Amount	% of State Acreage
Alabama	145,563.5	.45	Nebraska	190,029.1	.39
Arizona	733,675.1	1.01	Nevada	13.6	*
Arkansas	163,458.2	.48	New Hampshire	236.3	*
California	368,806.1	.37	New Jersey	72,945.5	1.52
Colorado	142,975.8	.21	New Mexico	222,632.1	.29
Connecticut	1,085.3	.03	New York	33,733.3	.11
Delaware	3,246.3	.26	North Carolina	237,750.1	.76
Florida	192,721.7	.55	North Dakota	116,461.6	.26
Georgia	471,518.2	1.26	Ohio	49,113.5	.19
Idaho	34,192.7	.06	Oklahoma	177,797.2	.40
Illinois	122,873.8	.34	Oregon	75,102.8	.12
Indiana	202,779.4	.88	Pennsylvania	40,453.2	.14
Iowa	20,400.1	.06	Rhode Island	4,447.7	.66
Kansas	94,101.7	.18	South Carolina	133,003.4	.69
Kentucky	245,635.1	.96	South Dakota	72,739.8	.15
Louisiana	138,410.2	.48	Tennessee	105,199.8	.39
Maine	55,425.7	.28	Texas	357,670.1	.21
Maryland	117,120.3	1.85	Utah	70,639.3	.13
Massachusetts	23,448.8	.47	Vermont	12,574.7	.21
Michigan	32,475.3	.09	Virginia	127,933.6	.50
Minnesota	7,994.2	.02	Washington	85,806.0	.20
Mississippi	13,511.9	.04	West Virginia	689.9	*
Missouri	63,662.4	.14	Wisconsin	159,735.8	.46
Montana	150,757.2	.16	Wyoming	2,169,840.1	3.48
			TOTAL	8,062,387.5	.42

\* Less than .005 percent.

APPENDIX 3

CATEGORIES OF TANGIBLE PERSONAL PROPERTY SUBJECT TO TAXATION , BY STATE, AS OF JANUARY 1, 1961

S=State assessed under general property tax; L=Locally assessed under general property tax; S.P.T.=Special property tax

States	R.R. <sup>1/</sup>	Other utils. <sup>2/</sup>	Stock in trade	Industrial machinery		Other com- mercial <sup>4/</sup> & indus. <sup>4/</sup>	Motor vehicles		Farm mach.	Live- stock	Other Agric.	House- hold pers. prop. <sup>5/</sup>
				As pers. prop.	As real prop. <sup>3/</sup>		Under gen. prop. tax	Under spec. prop. tax				
Ala.	S	S	L	L		L	L		L		L	L
Alaska	L	L	L	L		L	L		L	L	L	L
Ariz.	S	S,L	L	L	<i>11/3/64</i>	S,L		S.P.T.	L	L		L
Ark.	S,L	S	L	L		L	L		L	L	L	L
Calif.	S	S	L	L		L		S.P.T.	L	L	L	L
Colo.	S	S	L	L		L		S.P.T.	L	L	L	
Conn.		L	L	L	<i>1960</i>	L	L		L	L	L	
Dela.			L	L	<i>100% 1975</i>	L	No personal property tax					
D. C.	L	L	L	L		L				L		
Fla.	S,L	S,L	L	L		L			L	L		L
Ga.	S	S	L	L			L		L	L	L	L
Hawaii						No personal property tax						
Idaho	S	S	L	L	L	L			L	L		
Ill.	S,L	S,L	L	L		L	L		L	L	L	L
Ind.	S,L	S,L	L	L		L	L		L	L	L	L
Iowa	S	S	L	L	L	L			L	L	L	L
Kans.	S	S	L	L	L	L	L <sup>6/</sup>		L	L	L	L
Ky.	S	S	S,L <sup>7/</sup>	L	L	L	L <sup>8/</sup>		L	L		L
La.	S,L	S,L	L	L	L	L					L	
Me.		L	L	L	L	L		S.P.T.	L	L		L
Md. <sup>9/</sup>	S	S	S,L	S,L					S,L	S,L		L
Mass.	L	L	L	L	L	L		S.P.T.	L	L	L	L
Mich.	S.P.T.	S.P.T.	L	L	<i>Special tools 11/1/65</i>	L			L	L	L	L
Minn.		S,L	L	L		L			L	L	L	L

See Footnotes p. 30

APPENDIX 3 (continued)

CATEGORIES OF TANGIBLE PERSONAL PROPERTY SUBJECT TO TAXATIONS, BY STATE, AS OF JANUARY 1, 1961

S=State assessed under general property tax; L=Locally assessed under general property tax; S.P.T.=Special property tax

States	R.R.	Other utils.	Stock in trade	Industrial machinery		Other com- mercial & indus.	Motor vehicles		Farm mach.	Live- stock	Other Agric.	House- hold pers. prop.
				As pers. prop.	As real prop.		Under gen. prop. tax	Under spec. prop. tax				
Miss.	S	S	L	L		L	L					
Mo.	S,L	S,L	L	L		L	L		L	L		L
Mont.	S	S	L	L		S,L	L		L	L	L	L
Nebr.	S	S,L	L	L	L		L		L	L	L	L
Nev.	S	S	L	L	L	S	L		L	L	L	L
N.H.	S.P.T.	S.P.T.	L	L	L	L		S.P.T.		L		L
N.J.	S.P.T.	L	L	L		L			L	L		L
N. Mex.	S	S	L	L	L	S,L			L	S	L	L
New York							No personal property tax					
N.C.	S	S,L	L	L	L	L	L		L	L	L	L
N. Dak.	S	S	L	L	L	L			L	L	L	L
Ohio <sup>107</sup>	S	S	S,L	S,L		S,L			S,L	S,L	S,L	
Okla.	S	S	L	L		L			L	L	L	L
Ore.	S	S	L	L		L			L	L	L	
Pa.							No personal property tax.					
R. I.	L	L	L	L	L	L	L		L	L	L	L
S. C.	S	S	S,L	L	L	S	L		L	L		
S. Dak.	S	S	L	L		L			L	L	L	L
Tenn.	S	S	L	L	L	L	L		L	L	L	L
Tex.	S,L	S,L	L	L	L	L	L		L	L		L
Utah	S	S	L	L		S,L	L		L	L		
Vt.	S.P.T.	L	L	L	L				L	L		L
Va.	S.P.T.	S	L	L		L	L		L	L	L	L
Wash.	S,L	S,L	L	L	L			S.P.T.	L	L	L	
W. Va.	S	S	L	L	L	L	L		L	L	L	L
Wisc.	S.P.T.	S.P.T.	L	L	L	L				L	L	
Wyo.	S	S	L	L		S,L		S.P.T.	L	L	L	L

See Footnotes p.30

APPENDIX 3 (concluded)

- 1/ In New Jersey and Virginia, some railroad property is (state) assessed under the general property tax.
- 2/ In Michigan and New Hampshire, some utility property is (locally) assessed under the general property tax. Telephone and telegraph companies are exempt from property taxation in--Connecticut, Maine, Minnesota, Vermont, and Wisconsin.
- 3/ Generally consists of industrial machinery permanently attached to realty.
- 4/ Categories of commercial and industrial property assessed by State: Arizona and Utah--mining property; Montana--proceeds of mines; Nevada--net proceeds of mines and bank stock; New Mexico--oil and gas producing property, mining property, and shares of bank and trust companies; South Carolina--textiles and other manufacturing property; Wyoming--mineral producing property.
- 5/ Most states taxing household personal property exempt specific items such as--household furniture, wearing apparel, provisions, etc., either entirely or up to specific amounts. Maryland and Virginia have a local option to exempt all or part of household personal property.
- 6/ Motor carrier rolling stock is state assessed and taxed at average rate.
- 7/ Distilled spirits in bonded warehouses are state assessed.
- 8/ Motor vehicles of common carriers, excluded.
- 9/ Maryland: Items designated S,L are locally assessed unless owned by a corporation. Taxation of industrial machinery is optional with local taxing jurisdiction.
- 10/ Ohio: Apart from animals and aircraft, personal property is taxable under the general property tax only if used in or arising out of a business transacted in the state. Items designated S,L are state assessed unless less than \$5,000.
- 11/ Merchants inventories state assessed.



APPENDIX 4

TEXT OF SECTIONS 1 AND 2 OF S. 154, 87TH CONGRESS, 1ST SESSION<sup>1/</sup>

A BILL

To provide for the adjustment of the legislative jurisdiction exercised by the United States over land in the several States used for Federal purposes, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) with respect to federally owned or operated land areas in the several States, the Congress finds that the retention by, or relinquishment to, the States of legislative jurisdiction of the kind involved in article I, section 8, clause 17, of the Constitution of the United States, (1) enables States and local communities to obtain tax revenues from persons, private property, and business transactions within such areas, if not otherwise exempt, (2) relieves the Federal Government in many respects from the performance of functions normally exercised by the States and local communities, and (3) provides a basis for assuring to the residents of such areas many rights, privileges, and services which they would normally enjoy when the Federal Government does not have exclusive jurisdiction over such areas.

(b) It is hereby declared to be the policy of the Congress that--

(1) the Federal Government shall receive or retain only such measure of legislative jurisdiction over federally owned or operated land areas within the States as may in particular cases be necessary for the proper performance of such of its functions as are performed upon such areas; and

(2) to the extent consistent with the purposes for which the land is held by the United States the Federal Government shall avoid receiving or retaining concurrent legislative jurisdiction or any measure of exclusive legislative jurisdiction.

SEC. 2. Notwithstanding any other provision of law, the obtaining or retaining of exclusive jurisdiction or any other measure of legislative jurisdiction by the United States over lands or interests therein which have been or shall hereafter be acquired by it

<sup>1/</sup> Bill introduced by MR. McCLELLAN.

shall not be required. The head or other authorized officer of any department or independent establishment or agency of the Government may, consistent with the policy set forth in this Act, acquire from, or relinquish to, the State in which any lands or interest therein under his immediate jurisdiction, custody, or control are situated, such measure of legislative jurisdiction over any such lands or interests as he may deem desirable. Such acquisition or relinquishment of jurisdiction on the part of the United States shall be indicated by filing a notice thereof in such manner as may be prescribed for this purpose by the laws of the State where such lands are situated, and unless and until a notice is filed in accordance with such State laws, or with the Governor, if the laws of such State do not prescribe another manner, it shall be conclusively presumed that no transfer of jurisdiction pursuant to this Act has taken place, nor shall any transfer of legislative jurisdiction pursuant to this Act take place unless and until the State in which the land is located has accepted or relinquished jurisdiction in such manner as its laws may provide. Upon a relinquishment by the United States of all of its legislative jurisdiction over an area to the State in which such area is situated, the State thereafter shall, with respect to such area, exercise the same jurisdiction which it would have had if legislative jurisdiction over such area had never been in the United States. Like jurisdiction may be exercised by a State over any area over which the United States receives or retains only concurrent legislative jurisdiction, without prejudice, however, to the right of the United States to assert and exercise the legislative jurisdiction had by it over such area.

APPENDIX 5

"STATE ACT FOR THE TRANSFER OF LEGISLATIVE JURISDICTION"  
developed by the Special Committee on Legislative  
Jurisdiction and approved by the Committee  
of State Officials on Suggested State  
Legislation of the Council of State  
Governments

(Be it enacted, etc.)

Section 1. (a) In order to acquire all, or any measure of, legislative jurisdiction of the kind involved in Article I, Section 8, Clause 17 of the Constitution of the United States over any land or other area; or in order to relinquish such legislative jurisdiction, or any measure thereof, which may be vested in the United States; the United States acting through a duly authorized department, agency or officer, shall file a notice of intention to acquire or relinquish such legislative jurisdiction (hereinafter called notice), together with a sufficient number of duly authenticated copies thereof to meet the recording requirements of section 1(c) of this act, with the governor. The notice shall contain a description adequate to permit accurate identification of the boundaries of the land or other area for which the change in jurisdictional status is sought and a precise statement of the measure of legislative jurisdiction sought to be transferred. Immediately upon receipt of the notice, the governor shall furnish the attorney general with a copy thereof and shall request his comments and recommendations thereon.

(b) The governor shall transmit said notice together with his comments and recommendations, if any, and the comments and recommendations of the attorney general, if any, to the next session of the legislature which shall be constitutionally competent to consider the same. Unless prior to the expiration of the legislative session to which said notice is transmitted as provided herein the legislature has adopted a (resolution) (act) approving the transfer of legislative jurisdiction as proposed in said notice, the said transfer shall not be effective.

(c) The governor shall cause a duly authenticated copy of the notice and (resolution) (act) to be recorded in the (land records office) of the (county) where the land or other area affected by the transfer of jurisdiction is situated, and upon such recordation the transfer of jurisdiction shall take effect. If the land or other area shall be situated in more than one (county), a duly authenticated copy of the notice and (resolution) (act) shall be recorded in the (land records office) or each such (county).

(d) The governor shall cause copies of all documents recorded pursuant to this act to be filed with the (secretary of state).

**Section 2.** In no event shall any transfer of legislative jurisdiction between the United States and this state take effect nor shall the governor transmit any notice proposing such a transfer pursuant to section 1(b) of this act, unless under the applicable laws of the United States:

(a) This state shall have jurisdiction to tax private persons, private transactions, and private property, real and personal, resident, occurring, or situated within such land or other area to the same extent that this state has jurisdiction to tax such persons, transactions, and property resident, occurring or situated generally within this state.

(b) Any civil or criminal process<sup>1/</sup> lawfully issued by competent authority of this state or any of its subdivisions, may be served and executed within such land or other area to the same extent and with the same effect as such process may be served and executed generally within this state; provided only that the service and execution of such process within land or other areas over which the federal government exercises jurisdiction shall be subject to such rules and regulations issued by authorized officers of the federal government, or of any department, independent establishment or agency thereof, as may be reasonably necessary to prevent interference with the carrying out of federal functions.

(c) This state shall exercise over such land or other area the same legislative jurisdiction which it exercises over land or other areas generally within this state, except that the United States shall not be required to forego such measure of exclusive legislative jurisdiction as may be vested in or retained by it over such land or other area pursuant to this act, and without prejudice to the right of the United States to assert and exercise such concurrent legislative jurisdiction as may be vested in or retained by it over such land or other area.

**Section 3.** Nothing in this act shall be construed to prevent or impair any transfer of legislative jurisdiction to this state occurring by operation of law.

**Section 4.** (Insert effective date.)

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<sup>1/</sup> In states where a ticket for violation of a traffic ordinance or illegal parking is not considered process, the state may want to include language to deal with this situation.

