will no doubt need revision in the light of this opinion.[16] Interpretations such as those mentioned above[17] by the Massachusetts and New Jersey courts including labor and political propaganda as advertising would seem contrary to the spirit of this opinion, as well as to the general principle indicated by a line of recent Supreme Court decisions stressing the importance of protection of civil rights and liberties.[18]

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**Constitutional Law—Jurisdiction over Land Owned by the United States—P.W.A. Housing—[Federal].**—A contractor, erecting, under contract with the United States, a low-cost housing and slum-clearance project on land acquired by the United States for such purposes, was criminally prosecuted for failure to comply with municipal ordinances in relation to building permits and building inspections. *Held*, the contractor was not amenable to such ordinances, despite the Act of Congress of June 29, 1936[1] which provided that the the acquisition of land for housing projects "shall not be held to deprive any state or political subdivision thereof of its civil and criminal jurisdiction in and over such property, *or*[2] to impair the civil rights under the local law of the tenants or inhabitants on such property; and insofar as any such jurisdiction has been taken away from any such state or subdivision, or any such rights have been impaired, jurisdiction over any such property is hereby ceded back to such state or subdivision." *City of Oklahoma City v. Sanders.*[3]

The analysis of federal jurisdiction over land owned by the United States is contingent upon the type of ownership and the manner of acquisition of such land. The federal government may own land in much the same manner as a private owner, or as a sovereign for purposes connected with its governmental functions.[4]

If the ownership is merely of a proprietary nature the state has general governmental control over the property,[5] although it may not exercise eminent domain over[6] or tax such lands.[7] Moreover, the United States may pass legislation protecting its

[16] A recent decision upholding a Milwaukee ordinance has been attacked on the basis of the principal case. An appeal to the Wisconsin Supreme Court is now pending. Chicago Tribune, May 3, 1938, p. 7.

[17] See notes 12 and 13 *supra*.

[18] Powell v. Alabama, 287 U.S. 45 (1932); Mooney v. Holohan, 294 U.S. 103 (1935); Brown v. Mississippi, 297 U.S. 278 (1936); Grosjean v. American Press Co., 297 U.S. 233 (1936); De Jonge v. Oregon, 299 U.S. 353 (1937); Herndon v. Lowry, 301 U.S. 242 (1937).

[1] 49 Stat. 2026 (1936), 40 U.S.C.A. §421 (Supp. 1937).

[2] Italics added.

[3] 394 F. (2d) 323 (C.C.A. 10th 1938).

[4] Willis, Constitutional Law 258–259 (1936); 1 Willoughby, On the Constitution §251 (2d ed. 1929); 2 Story, On the Constitution c. XXIII (5th ed. 1891); 24 Calif. L. Rev. 573 (1936).

[5] 24 Calif. L. Rev. 573 (1936).

[6] Utah Power and Light Co. v. United States, 243 U.S. 389 (1916).

[7] Van Brocklin v. Tennessee, 117 U.S. 151 (1885); see also Surplus Trading Co. v. Cook, 281 U.S. 647 (1929); nor may a state tax any of the products which the federal government may have given a license to extract from such land, Willis, Constitutional Law 258 (1936) and cases therein cited.

ownership.[8] Nor may a state interfere with any federal governmental use of the land,[9] although it may have jurisdiction over land for other purposes. If, however, the United States has acquired the land under the provisions of Article 1 §8 (17) of the Constitution[10] with consent of the state, the federal government has exclusive jurisdiction, both for the purposes of legislation and the exercise of judicial authority.[11] Likewise when the state has formally ceded jurisdiction, federal jurisdiction over the land becomes exclusive.[12] Since cession is a matter of consent or grant, however, the state can make any terms or reservations it desires. Courts have indicated that such reservations must not be inconsistent and must not interfere with the governmental purpose for which the land was obtained.[13] If a state can make reservations not inconsistent with the federal purpose, *a fortiori*, the federal government should be able to cede back to the state any such jurisdiction as would not interfere with the federal government's own purpose. An attempt by the state to enforce its own laws possibly would indicate an acceptance of such cession from the federal government. There would be no unconstitutional delegation of powers as long as the jurisdiction ceded back to the state consists of well recognized state functions.

In the instant case, however, the court interpreted the cession back of jurisdiction by the federal government as not conferring upon the municipality any right to enforce building ordinances but as merely guaranteeing to prospective tenants their civil rights and rights of suffrage within the state.[14] But a natural interpretation and

[8] Cornfield v. United States, 16 U.S. 518 (1896); United States v. Hunt, 19 F. (2d) 634 (D.C. Ariz. 1927).

[9] See Fort Leavenworth R.R. Co. v. Lowe, 114 U.S. 525, 539 (1884).

[10] "Congress shall have power to exercise exclusive legislation in all cases whatsoever over such district not exceeding 10 miles square as may by cession of particular states and the acceptance of Congress become the seat of the government of the United States and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be for the erection of forts, magazines, arsenals, dock yards, and other needful buildings."

[11] Willis, Constitutional Law 260 (1936); United States v. Cornell, 2 Mason (Federal) 60, 64 (C.C.R.I. 1819).

[12] Normally such jurisdiction continues as long as the United States owns the land. The Oklahoma statute ceding exclusive jurisdiction to the federal government is typical of that found in other states: "Exclusive jurisdiction in and over any lands so acquired by the United States shall be, and the same is hereby ceded to the United States for all purposes except the service upon such sites of all civil and criminal process of the state; but the jurisdiction so ceded shall continue no longer than the United States owns the lands." Okla. Rev. Stat. 1931 §10054; Arlington Hotel Co. v. Fant, 278 U.S. 439 (1928).

[13] Fort Leavenworth R.R. Co. v. Lowe, 114 U.S. 525 (1884); Palmer v. Barrett, 162 U.S. 399 (1895). But it would seem that the state should be able to make any reservations it desires, allowing the federal government to accept or not, compare the problem presented by Sterns v. Minnesota, 179 U.S. 223 (1900).

[14] The court based such interpretations largely upon the report of the Ways and Means Committee of the House, which, claimed the court, placed its entire emphasis upon such purpose. "It is thought advisable to remove doubts and hesitation arising because of such contentions (that the federal government has exclusive jurisdiction) by waiving exclusive jurisdiction by the United States insofar as it may arise by reason of ownership by the United

construction of the language of the statute would seem to place as much emphasis upon the one purpose as upon the other.[15] This is especially true in light of the use of the conjunctive "or." Moreover, accompanying sections providing for service payments apparently indicate that it was intended that the municipality should take over all functions consonant with the operation of the premises.

It is difficult to comprehend in what manner a requiring of a building permit, which is tantamount to inspection of the plan to see that it conforms with the general needs of that section of the community, or the requirement of inspection of the actual building could interfere with the governmental use. Municipal enforcement of a zoning ordinance requiring structures of a type incompatible with a low-cost housing project might be construed as obstructing the federal use and be denied but mere inspection would not forestall achievement of the ultimate purpose. One performing federal duties is not completely immune from all state control.[16] The question is entirely one of degree. In *Cummings v. City of Chicago*,[17] it was decided that a municipal ordinance requiring a permit prior to the construction of docks or similar structures did not conflict with the federal control of the watercourse and adjacent banks.

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**Constitutional Law—Tax Immunity of State Governmental Agencies—[Federal].—** The state of Wyoming leased school lands to a private oil and gas company which subsequently executed a declaration of trust purporting to hold an undivided one half interest in the lease and the proceeds to be realized therefrom for the benefit of another corporation. The federal government sought to levy a tax upon the income of the beneficiary of the trust. *Held*, the tax upon the profits of the beneficiary derived under its lease from the state constituted no direct and substantial interference with the functions of the state of Wyoming. *Gillepsie* v. *Oklahoma*[1] and *Burnet* v. *Coronado Oil Co.*[2] are expressly overruled. *Helvering* v. *Mountain Producers Corporation*.[3]

This case is significant because of the President's recent proposal abolishing federal tax exemptions on state and federal securities and on incomes of state and federal employees.[4] It is also important because it enables an evaluation to be made of the principle of *stare decisis* in constitutional law. It represents at least the second time

States of the sites of such projects. Otherwise doubts as to the rights of tenants to vote, to send children to local schools and to exercise other civil rights under the local laws might keep prospective tenants from taking advantage of such projects." House Report 2660. That such rights of suffrage may be guaranteed see Renner v. Bennett, 21 Ohio St. 431 (1871); State *ex rel.* v. Board, 153 Ind. 302, 54 N.E. 809 (1899).

[15] 49 Stat. 2026 (1936), 40 U.S.C.A. §§422, 423 (Supp. 1937).

[16] First Nat'l Bank of Louisville v. Commonwealth of Ky., 9 Wall. (U.S.) 353 (1870); Commonwealth v. Closson, 229 Mass. 329, 118 N.E. 653 (1918).

[17] 188 U.S. 410 (1902). See the cases therein cited relative to municipal control of bridges spanning navigable waters.

[1] 257 U.S. 501 (1922) (where Oklahoma was denied the right to tax income from a sale of an interest in a lease of Indian lands).

[2] 285 U.S. 393 (1932) (prohibiting federal taxation of income of a private oil company which leased school lands from the state of Oklahoma).

[3] 58 S. Ct. 623 (1938).

[4] Chicago Daily News, p. 1 (April 25, 1938).