

## Cl. 2—Supremacy of the Constitution, Laws, and Treaties

title has passed to the purchaser of land from the government, a state may tax the equitable owner on the full value thereof, despite retention of legal title;<sup>250</sup> but, in the case of reclamation entries, the tax may not be collected until the equitable title passes.<sup>251</sup> In the pioneer case of *Van Brocklin v. Tennessee*,<sup>252</sup> the state was denied the right to sell for taxes lands which the United States owned at the time the taxes were levied, but in which it had ceased to have any interest at the time of sale. Similarly, a state cannot assess land in the hands of private owners for benefits from a road improvement completed while it was owned by the United States.<sup>253</sup>

In 1944, with two dissents, the Court held that where the government purchased movable machinery and leased it to a private contractor the lessee could not be taxed on the full value of the equipment.<sup>254</sup> Twelve years later, and with a like number of Justices dissenting, the Court upheld the following taxes imposed on federal contractors: (1) a municipal tax levied pursuant to a state law which stipulated that when tax exempt real property is used by a private firm for profit, the latter is subject to taxation to the same extent as if it owned the property, and based upon the value of real property, a factory, owned by the United States and made available under a lease permitting the contracting corporation to deduct such taxes from rentals paid by it; the tax was collectible only by direct action against the contractor for a debt owed, and was not applicable to federal properties on which payments in lieu of taxes are made; (2) a municipal tax, levied under the authority of the same state law, based on the value of the realty owned by the United States, and collected from a cost-plus-fixed-fee contractor, who paid no rent but agreed not to include any part of the cost of the facilities furnished by the government in the price of goods supplied under the contract; (3) another municipal tax levied in the same state against a federal subcontractor, and computed on the value of materials and work in process in his possession, notwithstanding that title thereto had passed to the United States following his receipt of installment payments.<sup>255</sup>

In sustaining the first tax, the Court held that it was imposed, not on the government or on its property, but upon a private les-

<sup>250</sup> *Northern Pacific R.R. v. Myers*, 172 U.S. 589 (1899); *New Brunswick v. United States*, 276 U.S. 547 (1928).

<sup>251</sup> *Irwin v. Wright*, 258 U.S. 219 (1922).

<sup>252</sup> 117 U.S. 151 (1886).

<sup>253</sup> *Lee v. Osceola Imp. Dist.*, 268 U.S. 643 (1925).

<sup>254</sup> *United States v. Allegheny County*, 322 U.S. 174 (1944).

<sup>255</sup> *United States v. City of Detroit*, 355 U.S. 466 (1958). The Court more recently has stated that *Allegheny County* "in large part was overruled" by *Detroit*. *United States v. New Mexico*, 455 U.S. 720, 732 (1982).