

Opinion No. 56-6402

March 5, 1956

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. Frank B. Zinn, Legal Counsel, Bureau of Revenue, Santa Fe, New Mexico

We are in receipt of your inquiry of March 1st regarding the question of whether or not the official vehicles of the Navajo Tribe, which vehicles are owned and under the control of the Navajo Tribal Council, are exempt from license plate registration under § 64-11-5, N.M.S.A., 1953 Compilation, and whether the plates issued to them free should bear the letters "U.S."

§ 64-11-5 reads as follows:

"Vehicles or trailers owned by and used in the service of the United States or of any other state or political subdivision thereof, other than the state of New Mexico, need not be registered but must continually display plates or signs setting forth the fact that they are in the service of the United States or of such other state or political subdivision thereof."

The Navajo Tribes have been authorized by the Congress of the United States to adopt a Constitution and to form their own government. This legislation became effective in 1950 and is found in 25 U.S.C.A. §§ 636, 637 and 638.

25 U.S.C.A., § 636, reads as follows:

"§ 636. **Adoption of constitution by Navajo Tribe; Method; Contents.** -- In order to facilitate the fullest possible participation by the Navajo Tribe in the program authorized by sections 631-640 of this title, the members of the tribe shall have the right to adopt a tribal constitution in the manner herein prescribed. Such constitution may provide for the exercise by the Navajo Tribe of any powers vested in the tribe or any organ thereof by existing law, together with such additional powers as the members of the tribe may, **with the approval of the Secretary of the Interior**, deem proper to include therein. Such constitution shall be formulated by the Navajo Tribal Council at any regular meeting, distributed in printed form to the Navajo people for consideration, and adopted by secret ballot of the adult members of the Navajo Tribe in **an election held under such regulations as the Secretary may prescribe**, at which a majority of the qualified votes cast favor such adoption. The constitution shall authorize the fullest possible participation of the Navajos in the administration of their affairs **as approved by the Secretary of the Interior and shall become effective when approved by the Secretary.** The constitution may be amended from time to time in the same manner as herein provided for its adoption, and the **Secretary of the Interior shall approve any amendment which in the opinion of the Secretary of the Interior** advances the development of the Navajo people toward the fullest realization and exercise of the

rights, privileges, duties and responsibilities of American citizenship." (Emphasis supplied.)

It can be seen from the reading of this section that the Federal government has retained a great deal of power over the Navajo Tribe while permitting them to set up a semi-self governing agency under the Secretary of the Interior. Under this law the Navajo Tribe is at least a partial arm of the United States Government. The Navajo Indians are in a transitory period between full wardship of the Federal government and full citizenship of the State and Federal Government. They are evolving from the status of being a foreign nation to the status of integration within the States and the Federal government. The treaty relationship between the two peoples is fast disappearing, but clearly a sufficient control is exercised by reason of the aforesaid statutes to make the Navajo Tribal Council an instrumentality and an agency of the Interior Department by reason of the control retained over them.

It has been held that every agency that Congress can constitutionally create is a governmental instrumentality. 84 C.J.S. 399. The State of Arizona, in Opinion No. 34-76-L, held that official vehicles of the Navajo Tribe were exempt from registration fees.

It is, therefore, the opinion of this office that the official vehicles of the Navajo Tribal Council are vehicles within the meaning of § 64-11-5, supra, and may be given license plates with a "U.S." prefix.

We sincerely hope this answers your inquiry.

By Fred M. Standley

Assistant Attorney General