

**Opinion No. 15-1434**

February 5, 1915

**BY:** FRANK W. CLANCY, Attorney General

**TO:** Mr. Harry P. Owen, Las Lunas, N. M.

**As to taxation of Pueblo Indian lands.**

**OPINION**

{\*25} I have today received your letter of the 3rd inst. You inquire as to the construction of that part of Section 2 of Article 21 of the Constitution of the State, which reads as follows:

"but nothing herein shall preclude this state from taxing as other lands, and property are taxed, any lands and other property outside of an Indian reservation, owned or held by any Indian, save and except such lands as have been granted or acquired as aforesaid, or as may be granted or confirmed to any Indian or Indians under any act of Congress; but all such lands shall be exempt from taxation by this State so long and to such extent as the Congress of the United States has prescribed or may hereafter prescribe."

I am unable to see that there is any exemption of property from taxation by the state except "all such lands," that is to say, such lands as have been acquired through the United States or any prior sovereignty. Any Indian who has bought land outside of those which were so acquired, would, I am quite certain, be subject to taxation upon such land like any other owner. Nor can I see that the exemption from taxation extends to personal property of any kind whatever, and yet after the decision of the supreme court of the United States in the Sandoval case, I am unprepared to predict with any confidence what the courts might hold even as to such other property. The provision that the state shall not be precluded from taxing "any lands and other property outside of an Indian Reservation," might imply that other property within the Indian Reservation would not be taxable.

In order to get the matter settled, I would advise that the assessor should assess everything except the lands within the Pueblo Indian grants so that we can get a decision by the courts on the question.