

## Opinion No. 23-3681

March 7, 1923

**BY:** MILTON J. HELMICK, Attorney General

**TO:** Requested by: Hon. N. C. Frenger, Representative of Dona Ana County, Santa Fe, New Mexico.

**The Grant of the Old Palace by Congress to the Territory of New Mexico is not Subject to the Restrictions Placed Upon the Disposal of other Land Grants Contained Either in the Acts of Congress or in the Enabling Act.**

### OPINION

{\*25} I have carefully examined Senate Bill 135, as amended, a copy of which you have handed to me with a request for my opinion as to its validity. This bill authorizes the transfer of the old Palace of the Governors in Santa Fe to the School of American Research, a corporate subsidiary of the School of the Archaeological Institute of America, under certain conditions. It is provided that no transfer shall take place until the endowment fund of \$ 250,000 shall be secured, without cost to the state, by the School of American Research, the income of which fund shall be perpetually available for the maintenance of the old Palace. There are a number of other conditions and restrictions including a provision that the property shall revert to the state in case of abandonment or nonuse of the property by the grantee.

The old Palace was granted to the Territory of New Mexico by the act of June 21, 1898, which also contained a number of {\*26} grants of lands for various territorial institutional purposes. As you know, there are various restrictions placed upon the disposal of these various grants of lands both by the Act of Congress and by the Enabling Act and by the acceptance of the Enabling Act by the constitution. However, I do not think that any of these restrictions are applicable to the grant of the old Palace nor that it was ever intended by Congress, or anybody else, that they should apply. It is obvious that the restrictions on disposal imposed by Congress were directed to lands which were to be sold or leased for the purpose of obtaining revenue and it is clear that the congressional act passed title in the old Palace to the Territory without condition or limitation. In my opinion the state is authorized to transfer the old Palace as provided in Senate Bill 135, as amended, and I think the same is valid.