

# FAMOUS EDICT OF 1921 PASSED BY LEGISLATURE IS VITAL POINT

Six Companies Contends  
That State of Nevada  
Relinquished Rights

CARSON CITY, June 3. (Special)—That the statute passed by the Nevada legislature in 1921, ceding to the federal government jurisdiction over lands in Nevada already owned by it or to be acquired by it, is one of the most

vital points to be considered in the suit filed by the Six Companies, Inc., against Clark county officials to enjoin the county from collecting taxes in the reservation, is indicated by the order and opinion issued yesterday by Judge Frank H. Norcross of the federal court granting the temporary injunction sought by the contractors.

Judge Norcross' opinion and order in full is as follows:

"This is an action brought by plaintiff, a Delaware corporation, to enjoin the defendant from acting in pursuance of the tax laws of the State of Nevada to enforce the payment by plaintiff of state and county taxes upon its property within Clark county, and used by it in the carrying out of its contract with the United States for the construction of Hoover dam power plant and appurtenant

works, and to collect from it poll taxes payable by its employees.

**PLAINTIFF ASSERTS** a right to injunctive relief upon two grounds:

"First: That the State of Nevada has relinquished jurisdiction over certain territory in the said county of Clark designated by the secretary of the interior as Boulder canyon project federal reservation, within which territory the property sought to be taxed is situated and its employees reside.

"Second: That plaintiff is an instrumentality or agency of the federal government, hence its property used for the purpose of the construction of such dam, plant and works is not subject to taxation by the authorities of the State of Nevada.

"At the time of filing the complaint a preliminary restraining order was issued pending application for a temporary injunction. By stipulation of the respective parties the temporary restraining order has been continued in force until final submission and decision upon plaintiff's motion for temporary injunction. The questions of law presented have been orally argued and finally submitted on briefs subsequently filed.

"The two questions of law involved in this case were also presented in the case of Six Companies, Inc., vs. Stinson, as inspector of mines, et al., instituted in this court and recently decided by a statutory court of three judges upon the question of the issuance of a temporary injunction. This case, however, unlike the Stinson case, does not present questions involving the constitutionality of state statutes.

"**AS IN THE** Stinson case, the question is here raised by defendant that this court is without jurisdiction because in effect the suit is one against the state of Nevada. As the contentions of plaintiff if sustained in effect would be to hold that the defendant was acting in excess of authority, the jurisdiction of this court to determine the question of challenged authority is settled by the decision of the Circuit Court of Appeals of this Circuit affirming a decision of Judge Farrington of this court, in the case of Franklin vs. Nevada-California Power Co., 264 Fed. 643.

"While the questions involved here must ultimately be determined upon official acts and records, together with the statute of Nevada of February 24, 1921, entitled: 'An Act ceding the jurisdiction of this State over certain lands owned or to be acquired by the United States and repealing certain acts relating thereto' (Nevada Comp. Laws, Secs. 2895-2898), counsel for plaintiff have stated that upon the

trial upon the merits further evidence will be submitted respecting the establishment of the Reservation concerning which it is contended compliance has been made with the provisions of the said act of 1921, so as to effect a relinquishment of state jurisdiction.

"**THE QUESTIONS** presented in this case, particularly that of the relinquishment of jurisdiction over the more than one hundred square miles embraced within the Reservation, are of great importance to the nation and the state, as well as to the immediate parties to the action. The state's interest in the subject matter which led to this particular suit is, as said in a recent decision of the Supreme Court, 'the exercise of the most plenary of sovereign powers, that to raise revenue to defray the expenses of government.' (Lawrence vs. State Tax Commission of Mississippi, decided May 16, 1932.)

"As said in the opinion in the Stinson, as inspector of Mines, case recently decided, the questions immediately involved in the two cases are not the only ones of importance that will be settled by a determination of the ultimate question whether the state or the national government has primary jurisdiction of this case is concerned, the question may depend entirely on the construction which this court is called upon to place upon the state statute.

"The general rule is that federal courts are bound by the construction of state statutes placed thereon by the state courts. Whether that general rule is applicable in a case where the state challenges a cession of jurisdiction by virtue of the provisions of a particular state statute need not now be determined. The state courts have not been called upon to construe the said act of 1921.

"**TWO CASES** have thus far been presented to this court in which defendants, charged with the commission of penal offenses committed within the area in question, apparently have been left without question for the Federal Court to deal with. In one of the cases the charge was larceny, and in the other assault upon the person. Unless these offenses come within the jurisdiction of the state courts it is not readily apparent wherein would be the authority to tax private property within the reservation. The court has not been advised of any action by state authorities asserting that the state and not the United States had jurisdiction over penal offenses of the character mentioned. These cases are mentioned at this time simply as, under the circumstances, they may have some bearing on the question of whether a

temporary injunction should issue. "While not as clear as in the Stinson case, the court is of opinion that a temporary injunction should issue as prayed for, pending trial and determination upon the merits. The defendant, and the interests he represents, can be fully protected by bond. The fact that this case involves questions raised in the Stinson case is a further reason why the application for a temporary injunction should be granted. The case has been set for a definite date for trial.

"**IT IS ORDERED** that plaintiff's motion for a temporary injunction be and the same hereby is granted upon plaintiff furnishing a bond to be approved by the court in the sum of \$15,000.00."