THE ATTORNEY GENERAL
OF TEXAS
AUSTIN, TEXAS

Gerald C. Mann
ATTORNEY GENERAL

Honorable F. A. Taylor
County Auditor
Brazoria County
Angleton, Texas

Dear Sir:

Opinion No. O-4581
Re: Taxation of improvements placed by Defense Plant Corporation on leased land.

In your letter of April 30, 1942, you submit to us the following facts:

> "Defense Plant Corporation leased certain properties from the Dow Chemical Company at its Plant Site at Freeport, Texas. Defense Plant Corporation constructed a plant for the production of magnesium on this leased property, and entered into an agreement with the Dow Chemical Company for the operation of the same for a period of years. The contracts provide that the improvements placed on the property shall be the personal property of the Defense Plant Corporation, and the Defense Plant Corporation retains the right to remove the same."

You request our opinion as to whether or not the property thus placed by the Defense Plant Corporation on the land leased by it is subject to assessment for taxation for ad valorem taxes by the taxing authorities of the State of Texas.

Defense Plant Corporation apparently was organized under Section 606b, 15 U. S. C. A., and clearly is an agency of the Federal Government, created "in order to aid the Government of the United States in its national defense program." Section 610, 15 U. S. C. A., reads in part:

> "Any and all notes, debentures, bonds, or other such obligations issued by the corporation shall be exempt both as to principal and interest from all taxation (except surtaxes, estate, inheritance, and gift taxes) now or hereafter imposed by the United States, by any Territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority, except as provided in Section 742c(a of Title

> 31. The corporation, including its franchise, its capital, reserves, and surplus, and its income shall be exempt from all taxation now or hereafter imposed by the United States, by any Territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority; except that any real property of the corporation shall be subject to State, Territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed. The exemptions provided for in the preceding sentence with respect to taxation (which shall, for all purposes, be deemed to include sales, use, storage, and purchase taxes) shall be construed to be applicable not only with respect to the Reconstruction Finance Corporation but also with respect to (1) The Defense Plant Corporation, . . ."

From the above it is clear that while real property of Defense Plant Corporation is subject to ad valorem taxes, its personal property is exempt. Hence, the material inquiry is whether the property in question is real or personal.

Now, it may be that the property in question if installed by Defense Plant Corporation on its own land would become a part of the realty. But, the agreement that such improvements shall remain the personal property of Defense Plant Corporation and may be removed by it has the effect of preserving the character of such improvements as personal property and it does not become a part of the land. See, Allen v. Selman, 10 S.W. (2) 173; Wright v. MacDowell, 30 S. W. 907; 19 Tex. Jur. p. 726.

Our answer to your question therefore is that the property is not subject to assessment for ad valorem taxes.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By /s/ Glenn R. Lewis
Assistant

APPROVED MAY 12, 1942
/s/ Grover Sellers
FIRST ASSISTANT
ATTORNEY GENERAL

GRL:GT:jrb

APPROVED OPINION COMMITTEE
BY RWF, Chairman