



40 U.S.C.A. § 3112



Formerly cited as 40 USCA § 255

Effective: August 21, 2002

United States Code Annotated Currentness
 Title 40. Public Buildings, Property, and Works (Refs & Annos)
 Subtitle II. Public Buildings and Works
 Part A. General
 ▣ Chapter 31. General
 ▣ Subchapter II. Acquiring Land

→ § 3112. Federal jurisdiction

(a) Exclusive jurisdiction not required.--It is not required that the Federal Government obtain exclusive jurisdiction in the United States over land or an interest in land it acquires.

(b) Acquisition and acceptance of jurisdiction.--When the head of a department, agency, or independent establishment of the Government, or other authorized officer of the department, agency, or independent establishment, considers it desirable, that individual may accept or secure, from the State in which land or an interest in land that is under the immediate jurisdiction, custody, or control of the individual is situated, consent to, or cession of, any jurisdiction over the land or interest not previously obtained. The individual shall indicate acceptance of jurisdiction on behalf of the Government by filing a notice of acceptance with the Governor of the State or in another manner prescribed by the laws of the State where the land is situated.

(c) Presumption.--It is conclusively presumed that jurisdiction has not been accepted until the Government accepts jurisdiction over land as provided in this section.

CREDIT(S)

(Pub.L. 107-217, § 1, Aug. 21, 2002, 116 Stat. 1144.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

2002 Acts

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3112(a)	40:255 (last par. 1st sentence words before semicolon).	R.S. 355 (last par.); June 28, 1930, ch. 710, § 46 Stat. 828; Feb. 1, 1940, ch. 18, § 54 Stat. 19; Oct.

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9, 1940, ch. 793, § 54
Stat. 1083.

3112(b) 40:255 (last par. 1st
sentence words after
semicolon).

3112(c) 40:255 (last par. last
sentence).

Subsection (a) is substituted for 40:255 (last par. 1st sentence words before semicolon) to eliminate unnecessary words.

In subsection (b), the words "exclusive or partial" are omitted as unnecessary.

House Report No. 107-479, see 2002 U.S. Code Cong. and Adm. News, p. 827.

LIBRARY REFERENCES

American Digest System

States ☞14.

United States ☞3.

Key Number System Topic Nos. 360, 393.

RESEARCH REFERENCES

Treatises and Practice Aids

Federal Procedure, Lawyers Edition § 14:235, Necessity of Acquiring Exclusive Jurisdiction.

Federal Procedure, Lawyers Edition § 14:293, Necessity of Acquiring Exclusive Jurisdiction.

Federal Procedure, Lawyers Edition § 66:501, Public Buildings and Works.

Federal Procedure, Lawyers Edition § 66:502, Public Buildings and Works -- Acceptance of Jurisdiction.

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I. GENERALLY

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1. Purpose

This section was aimed at giving broad discretion to the various federal agencies in order that they might obtain only the necessary jurisdiction. *Adams v. U. S.*, U.S.La.1943, 63 S.Ct. 1122, 319 U.S. 312, 87 L.Ed. 1421. United States 3

2. Mandatory nature of section

This section enters into and becomes part of every contract for the purchase of land by the government. 1857, 9 Op.Atty.Gen. 100.

The approval requirements of this section apply to all federal land acquisitions, except those specifically exempted from it. 1982 (Counsel-Inf.Op.) 6 O.L.C. 431.

3. Retroactive effect

This section, creating presumption against acceptance of jurisdiction over land acquired by government in absence of a notice of such acceptance filed with the governor of the state in which the land is located, was not applicable to land acquired prior to enactment of such section. *Markham v. U.S.*, C.A.4 (Va.) 1954, 215 F.2d 56, certiorari denied 75 S.Ct. 360, 348 U.S. 939, 99 L.Ed. 735. See, also, *U.S. v. Heard*, D.C.Mo.1967, 270 F.Supp. 198. United States 3

With respect to land acquired by United States after 1940 date of statute requiring that government accept jurisdiction over land by filing of notice, unless procedure is followed a conclusive presumption arises that there has been no acceptance; this does not apply to lands acquired by United States prior to 1940. *State v. Allard*, Me.1973, 313 A.2d 439. United States 3

It is presumed that federal government has accepted exclusive jurisdiction over land purchased from State which conferred benefit upon United States, if land was acquired prior to effective date of statute creating conclusive presumption that United States accepts no jurisdiction over such lands unless affirmatively claiming such. *Manley v. Burkhardt*, Ohio 1988, 531 N.E.2d 1306, 40 Ohio St.3d 35. United States 3

II. ACQUISITION OF JURISDICTION FROM STATES

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31. Acquisition of jurisdiction from states generally

Ownership of land by the United States does not imply a transfer of either total or partial jurisdiction except so far as necessary for the United States to accomplish the purposes for which the land was transferred. *Pratt v. Kelly*, C.A.4 (Va.) 1978, 585 F.2d 692. United States ↪ 3

The purchase of lands by the United States for public purposes, within the territorial limits of a state, does not of itself oust the jurisdiction of such state over the lands purchased. *U.S. v. Cornell*, C.C.R.I.1819, 25 F.Cas. 646, 2 Mason 60, No. 14867. States ↪ 14; United States ↪ 3

32. Necessity for exclusive United States jurisdiction, acquisition of jurisdiction from states

United States is not required under Constitution to accept exclusive jurisdiction of property contrary to its own conception of its interests. *State v. Johnson*, S.D.1964, 130 N.W.2d 106, 81 S.D. 20. United States ↪ 3

33. Consent of state to jurisdiction, acquisition of jurisdiction from states--Generally

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In order to acquire land within a state by purchase or by condemnation, federal Government does not need the consent of the state; absent state's consent, however, United States does not obtain exclusive or concurrent jurisdiction, but instead is simply an ordinary proprietor. *U. S. v. Gliatta*, C.A.5 (Fla.) 1978, 580 F.2d 156, certiorari denied 99 S.Ct. 726, 439 U.S. 1048, 58 L.Ed.2d 708. United States ↪ 3

Pursuant to statute, the federal government does not obtain jurisdiction over lands which once belonged to a state unless the state consents to the cession of jurisdiction and the federal government gives notice that it is accepting jurisdiction. *U.S. v. Grant*, D.Mont.2004, 318 F.Supp.2d 1042. United States ↪ 3

Before United States may exercise exclusive jurisdiction over lands acquired by United States for erection of forts, magazines, dockyards, and other needful buildings, state in which lands are located must consent and United States must accept such jurisdiction. *Dupuis v. Submarine Base Credit Union, Inc.*, Conn.1976, 365 A.2d 1093, 170 Conn. 344. United States ↪ 3

Where land, at the city of Omaha, Neb., was donated to the United States for a site for a public building, for the construction of which an appropriation was made by Act June 23, 1879, c. 35, 21 Stat. 30, the consent of the legislature of the state to the grant was required before any part of the appropriation could be lawfully expended in the erection of the building. 1880, 16 Op.Atty.Gen. 414.

Before exclusive jurisdiction over a national cemetery can become vested in the United States, the consent of the Legislature of the state in which the cemetery is situated must be obtained. 1869, 13 Op.Atty.Gen. 131.

There is nothing in the Constitution which prohibits the United States purchasing land within a state without the consent of the state legislature; but when land is purchased by them in a state without such consent the United States cannot exercise "exclusive legislation" over the place. 1861, 10 Op.Atty.Gen. 34.

If the consent of the legislature to the purchase is complete, and has been given, the Constitution carries with it the authority and jurisdiction required by this section. 1857, 9 Op.Atty.Gen. 129.

34. ---- Time of obtaining consent of state to jurisdiction, acquisition of jurisdiction from states

Where compensation has been paid for land to be used as a national cemetery without having obtained the consent of the state Legislature to the acquisition, the Secretary of the Army may apply to such Legislature for its consent. 1869, 13 Op.Atty.Gen. 131.

35. ---- Sufficiency, consent of state to jurisdiction, acquisition of jurisdiction from states

Va.Acts 1936, pp. 608, 610, expressing qualified consent to acquisitions of land by the United States, do not meet the requirements of this section. 1939, 39 Op.Atty.Gen. 285.

An Act of the State legislature which "empowered, authorized, and directed" the city to make the conveyance sufficiently evidenced the "consent" contemplated by U.S.C.A. Const. Art. 1, § 8, cl. 17 and this section. 1937, 39 Op.Atty.Gen. 99.

McKinney's N.Y.State Law, Art. 4, expressed the consent of the legislature of the State of New York to the acquisition of land by the United States within its respective limitations. 1929, 36 Op.Atty.Gen. 86.

A transfer of jurisdiction in order to satisfy requirements of this section must be coextensive with that contemplated by U.S.C.A. Const. Art. 1, § 8. 1893, 20 Op.Atty.Gen. 611.

Accession of jurisdiction over land purchased by the United States by a constitutional convention of a state is not a

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consent to the purchase by the Legislature. 1868, 12 Op.Atty.Gen. 428.

The Act of the legislature of Georgia giving consent to the purchase of Blythe Island in that state for naval purposes was sufficient to authorize expenditure of money in its purchase. 1857, 9 Op.Atty.Gen. 129.

A legislative Act of a State consenting to the purchase of land and expressly ceding jurisdiction, is not rendered insufficient by provision that the federal jurisdiction shall cease with the proposed use, and that meantime lawful process of the courts of the state may continue to be served within the limits of the land, jurisdiction of which has been ceded to the United States. 1857, 8 Op.Atty.Gen. 387.

36. Cession of state jurisdiction, acquisition of jurisdiction from states-- Generally

South Carolina statutes relating to cession of jurisdiction over certain federal property, provided that federal government recorded its title, were impliedly repealed by subsequent statutes covering subject of cession and not requiring recordation, so that recordation of title to property used for military installation was not necessary to confer on federal courts jurisdiction over crime committed on installation. *U. S. v. Lovely*, C.A.4 (S.C.) 1963, 319 F.2d 673, certiorari denied 84 S.Ct. 210, 375 U.S. 913, 11 L.Ed.2d 151. Criminal Law ☞ 97(4); United States ☞ 3

The cession of jurisdiction by California to the United States over privately owned land lying wholly within and surrounded by a national park is not unconstitutional as depriving owners of due process. *Petersen v. U. S.*, C.A.9 (Cal.) 1951, 191 F.2d 154, certiorari denied 72 S.Ct. 174, 342 U.S. 885, 96 L.Ed. 664. Constitutional Law ☞ 278(1.3); States ☞ 14

State of Nevada had power to cede jurisdiction over property located within national recreational area, which was situated within the state, to the United States. *U. S. v. 319.88 Acres of Land, More or Less, Situate in Clark County, Nev.*, D.C.Nev.1980, 498 F.Supp. 763. States ☞ 14

N.Y.Laws 1899, c. 242, as amended, should be complied with in the manner of sites, not exceeding 2 acres in extent, for "post offices and other governmental offices" in cities or villages, as has been done in the past; and McKinney's N.Y. State Law, Art. 4, should be complied within the matter of other acquisitions of land embraced within the scope of its language. 1929, 36 Op.Atty.Gen. 86.

The United States may establish aids to navigation on submarine sites under navigable waters of Puerto Rico without cession of jurisdiction having first been made by Puerto Rico to the United States. 1904, 25 Op.Atty.Gen. 166.

Cession may take place in two ways, indirectly by the State consenting to the purchase of the land by the United States, and directly, by the State granting the jurisdiction to the United States. 1871, 13 Op.Atty.Gen. 460.

37. ---- Scope of grant, cession of state jurisdiction, acquisition of jurisdiction from states

South Carolina statute authorizing cession of jurisdiction to United States over sites for custom houses, court houses, post offices, arsenals, or other public buildings whatever or for any other purposes of government authorized cession of jurisdiction over site of large military installation. *U. S. v. Lovely*, C.A.4 (S.C.) 1963, 319 F.2d 673, certiorari denied 84 S.Ct. 210, 375 U.S. 913, 11 L.Ed.2d 151. United States ☞ 3

Under South Carolina Act ceding jurisdiction to certain lands in Charleston to be used by the United States for a public building, jurisdiction to vest when the United States shall have acquired title by "grant or deed," the words "grant or deed" do not exclude the idea of title by condemnation, as the title so acquired is by deed executed by order of the court, and, whether executed by the owner or by a court officer, it is in law the deed of the owner; and

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the United States therefore could condemn and pay for land under the Act of 1887, providing an appropriation for a site, no part to be expended until a valid title was vested in the United States, and jurisdiction ceded by the state. *In re Rugheimer*, E.D.S.C.1888, 36 F. 369. Eminent Domain ↪ 53

When State expressly cedes jurisdiction over land to United States, it may impose conditions not inconsistent with the carrying out of purpose of acquisition, and the terms of the cession, to the extent that they may lawfully be prescribed, determine the extent of the Federal jurisdiction. 1935, 38 Op.Atty.Gen. 341.

38. ---- Sufficiency of cession actions, cession of state jurisdiction, acquisition of jurisdiction from states

W.Va.Code Ann., 1932, §§ 3, 4, concerning the acquisition of land by the United States fail to meet the requirements of this section. 1939, 39 Op.Atty.Gen. 291.

Act March 8, 1937, Laws Nev.1937, p. 83, ceding jurisdiction over a post office site at Yerington sufficiently evidenced consent of the legislature under U.S.C.A. Const. Art. 1, § 8, cl. 17 and this section. 1938, 39 Op.Atty.Gen. 155.

Act La. June 30, 1892, ceding jurisdiction to the United States over certain lands in that State for public purposes, and providing for the purchase and condemnation thereof, satisfies this section, and no further cession of jurisdiction is legally required. 1903, 24 Op.Atty.Gen. 617.

An Act of a state Legislature which gives a complete and unequivocal consent to the purchase of land therein by the United States for the erection of public buildings is such a cession of jurisdiction as is contemplated by this section. 1858, 9 Op.Atty.Gen. 263.

39. Conveyance of state lands, acquisition of jurisdiction from states

Where state legislature passed an Act conveying title to United States in fee simple, and title thereto was approved as provided in this section, the United States acquired exclusive jurisdiction of the land. 1937, 39 Op.Atty.Gen. 99.

40. Acceptance of jurisdiction by United States, acquisition of jurisdiction from states--Generally

This section created a definite method of acceptance of jurisdiction so that all persons could know whether the government had obtained no jurisdiction at all or partial jurisdiction or exclusive jurisdiction. *Adams v. U. S.*, U.S.La.1943, 63 S.Ct. 1122, 319 U.S. 312, 87 L.Ed. 1421. United States ↪ 3

In order for United States to obtain and accept grant of jurisdiction by the state, department or agency must acquire ownership of parcel, it must secure consent to jurisdiction from the state, and it must indicate acceptance either by formal acceptance to the governor of the state or by complying with relevant state law requirements. *U.S. v. Johnson*, C.A.2 (N.Y.) 1993, 994 F.2d 980, certiorari denied 114 S.Ct. 418, 510 U.S. 959, 126 L.Ed.2d 364. United States ↪ 3

In prosecution for offense committed in Veterans Administration hospital, wherein there was evidence of federal jurisdiction over hospital and no factual dispute regarding federal acceptance of jurisdiction, trial court properly determined as matter of law that jurisdiction had been accepted, leaving to jury question as to locus of crime. *U. S. v. Jones*, C.A.2 (Conn.) 1973, 480 F.2d 1135. Criminal Law ↪ 737(2)

"Or in such other manner as may be prescribed by laws of state" within this section providing that the head or other authorized officer of any department or independent establishment or agency of the federal government may accept

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or secure state's consent to or cession of jurisdiction over lands by filing notice or in such other manner as may be prescribed by laws of state does not relate to decision of United States as to whether it shall acquire jurisdiction but relates to mode by which acceptance of jurisdiction is indicated. *DeKalb County, Ga. v. Henry C. Beck Co., C.A.5 (Ga.) 1967, 382 F.2d 992. United States* ↪ 3

United States had exclusive legislative jurisdiction over naval facility located on island three miles off coast of Puerto Rico's mainland; Secretary of War's proclamation of acceptance constituted formal acceptance of exclusive jurisdiction if land at issue was acquired by Navy prior to such proclamation, and United States otherwise indicated acceptance of jurisdiction when Navy acquired and took over possession of island's naval facilities in compliance with Puerto Rico's cession law. *Koren v. Martin Marietta Services, Inc., D.Puerto Rico 1998, 997 F.Supp. 196. United States* ↪ 3

Acceptance of federal jurisdiction over lands acquired by United States prior to Feb. 1, 1940 was presumed. *U. S. v. Heard, W.D.Mo.1967, 270 F.Supp. 198. United States* ↪ 3

Effect of R.S. 1930, c. 2, §§ 10, 11 consenting to acquisition by the United States of land required for customs houses or other public buildings and actually ceding land acquired by federal government subject to State's reservation of concurrent jurisdiction was to vest jurisdiction over land acquired by condemnation for customs house in United States subject to state's concurrent jurisdiction, and since acquisition was before 1940, the 1940 amendment of this section requiring the filing of acceptance of jurisdiction, it was conclusively presumed that jurisdiction was accepted by federal government. *State v. Allard, Me.1973, 313 A.2d 439. United States* ↪ 3

Recession of jurisdiction by State to federal government with respect to land acquired by federal government in State is possible only if United States accepts such jurisdiction, and presumption of acceptance of jurisdiction arising prior to the enactment of 1940 amendment to this section requiring filing notice applied only in those instances in which federal government had received benefit from grant of jurisdiction. *In re Campbell & Campbell, Inc., Vt.1973, 313 A.2d 397, 131 Vt. 617.*

Although Constitution gives Congress exclusive jurisdiction over places purchased by consent of state legislatures for erection of needful buildings, Congress need not accept that jurisdiction. *Manley v. Burkhart, Ohio 1988, 531 N.E.2d 1306, 40 Ohio St.3d 35. United States* ↪ 3

Burden of showing that United States has accepted jurisdiction over lands ceded to it by state and that state is without criminal jurisdiction over persons in ceded territory was with defendant who contends that state court is without jurisdiction to try him for an offense against state laws allegedly committed within confines of military installation. *Dobbins v. State, Ga.App.1966, 151 S.E.2d 549, 114 Ga.App. 403. Criminal Law* ↪ 330

41. ---- Necessity for acceptance of jurisdiction by United States, acquisition of jurisdiction from states

United States was not required to file "acceptance of jurisdiction" over nuclear plant site with governor of state in which plant was located in order to provide jurisdiction to enforce regulations as to trespass on government land, as power to protect government property arose, instead, from U.S.C.A. Const.Art. 4, § 3, cl. 2. *U. S. v. Seward, C.A.10 (Colo.) 1982, 687 F.2d 1270, certiorari denied 103 S.Ct. 789, 459 U.S. 1147, 74 L.Ed.2d 995. United States* ↪ 3

To secure exclusive or concurrent jurisdiction of property within a state's political boundaries, federal Government must either comply with constitutional requirements relating to Congress' power to exercise exclusive jurisdiction over places purchased by the consent of state legislature or obtain a cession of legislative authority from state in which land is located; whichever course it follows, there has existed since 1940 the additional requirement that the United States give its affirmative assent to the transfer of exclusive or concurrent jurisdiction before such

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jurisdiction becomes effective. *U. S. v. Gliatta*, C.A.5 (Fla.) 1978, 580 F.2d 156, certiorari denied 99 S.Ct. 726, 439 U.S. 1048, 58 L.Ed.2d 708. United States ☞ 3

If United States acquired any property interests in foreign trade zone at New Orleans an express and positive acceptance by United States, as required by this section, would be necessary to support a finding of federal jurisdiction over wrongful death action arising out of accident which occurred in such zone. *Fountain v. New Orleans Public Service, Inc.*, E.D.La.1967, 265 F.Supp. 630. United States ☞ 3

In order for state to grant exclusive jurisdiction over property to federal government, federal government must indicate acceptance of jurisdiction. *City of Cincinnati v. Nussbaum*, Ohio Mun.1968, 233 N.E.2d 152, 14 Ohio Misc. 19, 42 O.O.2d 359, 43 O.O.2d 27. United States ☞ 3

State could not compel United States to accept exclusive jurisdiction over military air defense command base; state statute, C.R.S. '53, 142-1-3, 142-1- 4, relating to transfer of exclusive jurisdiction to United States over land acquired for base and statute providing that jurisdiction shall not vest until United States has acquired title merely tendered exclusive jurisdiction and state could not determine when such jurisdiction should vest in United States. *People v. Sullivan*, Colo.1963, 378 P.2d 633, 151 Colo. 434. United States ☞ 3

42. ---- Notice of acceptance of jurisdiction by United States, acquisition of jurisdiction from states

Under this section notice is required in order to give United States any jurisdiction, whether exclusive, partial or concurrent over such land. *Adams v. U. S.*, U.S.La.1943, 63 S.Ct. 1122, 319 U.S. 312, 87 L.Ed. 1421.

Notice of United States' acceptance of jurisdiction is required only in those cases where, prior to passage of statute relating to acquisition of land by United States, jurisdiction had not been obtained. *U. S. v. Johnson*, C.A.7 (Ill.) 1970, 426 F.2d 1112, certiorari denied 91 S.Ct. 86, 400 U.S. 842, 27 L.Ed.2d 78. United States ☞ 3

Only method for United States to indicate acceptance of jurisdiction over property was for United States to file notice of acceptance with governor of State of Ohio. *City of Cincinnati v. Nussbaum*, Ohio Mun.1968, 233 N.E.2d 152, 14 Ohio Misc. 19, 42 O.O.2d 359, 43 O.O.2d 27. United States ☞ 3

43. ---- Presumption against acceptance of jurisdiction by United States, acquisition of jurisdiction from states

Presumption against United States' acceptance of jurisdiction over land is applicable only to land acquired subsequent to 1940 amendment of this section relating to acquisition of land by the United States. *U. S. v. Johnson*, C.A.7 (Ill.) 1970, 426 F.2d 1112, certiorari denied 91 S.Ct. 86, 400 U.S. 842, 27 L.Ed.2d 78. United States ☞ 3

State court had jurisdiction to try defendant for homicide which took place in annexed United States post office where no notice had been filed by authorized officer of United States accepting jurisdiction over property which state had ceded by Ill.Rev.Stat.1951, c. 143, §§ 28 to 31. *U. S. ex rel. Greer v. Pate*, C.A.7 (Ill.) 1968, 393 F.2d 44, certiorari denied 89 S.Ct. 209, 293 U.S. 890, 21 L.Ed.2d 168. Criminal Law ☞ 97(4)

The mere fact that the federal government needs title to property within a state's boundaries, which may be acquired irrespective of state's consent, does not necessitate assumption by the federal government of the burdens incident to an exclusive jurisdiction. *U.S. v. Thompson*, E.D.Wash.1941, 41 F.Supp. 13. United States ☞ 3

Until jurisdiction is formally accepted by United States, territorial jurisdiction of state continues. *Town of Newington v. Campanella & Cardi Const. Co.*, N.H.1961, 168 A.2d 496, 103 N.H. 211. United States ☞ 3

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State retains jurisdiction over property ceded to United States until United States accepts exclusive jurisdiction thereof, regardless of outstanding grant by state to United States of right to exercise exclusive jurisdiction. *State v. Johnson*, S.D.1964, 130 N.W.2d 106, 81 S.D. 20. United States ⚡ 3

Presumption prevails that state has jurisdiction over land which is owned by the United States unless defendant shows that United States was deeded land and accepted exclusive jurisdiction over it. *Smith v. Com.*, Va.1978, 248 S.E.2d 135, 219 Va. 455, certiorari denied 99 S.Ct. 2419, 441 U.S. 967, 60 L.Ed.2d 1074. United States ⚡ 3

Where the United States had acquired sites subsequent to this section providing that without express acceptance by the United States of jurisdiction, exclusive or partial, over lands or interests acquired, it would be conclusively presumed that such jurisdiction has not been accepted, the state and municipal governments had power to levy an ad valorem tax on personal property, leased to the United States and located on such sites on which the United States had not expressly accepted the jurisdiction. *International Business Machines Corp. v. Ott*, La.1955, 89 So.2d 193, 230 La. 666. Municipal Corporations ⚡ 956(1); Taxation ⚡ 2064

44. ---- Conditioned ownership, acceptance of jurisdiction by United States, acquisition of jurisdiction from states

This section authorizing head of department on behalf of United States to accept cession of jurisdiction exclusive or partial not theretofore obtained over lands or interests under his immediate jurisdiction, custody or control merely provides a method of accepting a cession of jurisdiction and does not limit character or ownership of lands over which federal jurisdiction may be assumed. *U.S. v. Petersen*, S.D.Cal.1950, 91 F.Supp. 209, affirmed 191 F.2d 154, certiorari denied 72 S.Ct. 174, 342 U.S. 885, 96 L.Ed. 664. United States ⚡ 3

45. Concurrent state and federal jurisdiction, acquisition of jurisdiction from states--Generally

If an accident occurs upon a territory under the exclusive jurisdiction of the United States, in the absence of a federally enacted statute, there would be no law to apply unless the preexisting state law continued as federal law; thus, there is a general principle that transfer of political control over an area does not automatically change its law, but the law of the prior sovereignty remains as law of the successor until clearly abrogated. *Pratt v. Kelly*, C.A.4 (Va.) 1978, 585 F.2d 692. United States ⚡ 3

In federal enclave in Benton County, Washington, neither Federal nor State government intended that exclusive jurisdiction over the enclave was to be obtained by federal government. *International Broth. of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 839 v. Morrison-Knudsen Co.*, C.A.9 (Wash.) 1959, 270 F.2d 530. United States ⚡ 3

In order to determine whether or not foreign trade zone at New Orleans was under exclusive jurisdiction of the United States, factors to be considered include the ownership vel non of area comprising New Orleans foreign trade zone or lease thereof, cession of jurisdiction over area comprising the zone to the United States by State of Louisiana, and acceptance vel non by United States of such jurisdiction, if any such jurisdiction were ceded. *Fountain v. New Orleans Public Service, Inc.*, E.D.La.1967, 265 F.Supp. 630. United States ⚡ 3

Phrases of legislative Acts of the States retaining concurrent jurisdiction for certain purposes do not impair the Federal jurisdiction conferred by the Constitution. 1856, 7 Op.Atty.Gen. 628.

46. ---- Alcoholic beverages, concurrent state and federal jurisdiction, acquisition of jurisdiction from states

Where California ceded to United States exclusive jurisdiction over privately owned lands within national park, the United States had exclusive jurisdiction to regulate sale of liquor in park by private individuals owning land therein. *Petersen v. U. S.*, C.A.9 (Cal.) 1951, 191 F.2d 154, certiorari denied 72 S.Ct. 174, 342 U.S. 885, 96 L.Ed. 664. Intoxicating Liquors ⚡ 3

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47. ---- Civil rights, concurrent state and federal jurisdiction, acquisition of jurisdiction from states

State court did not have jurisdiction over harassment charge against regional attorney for EEOC for actions allegedly committed in building owned by federal government and dedicated to a federal purpose, inasmuch as federal government had acquired exclusive jurisdiction with respect to any acts committed within building, notwithstanding retention by State of authority to execute process on premises. *People v. Williams*, N.Y.City Crim.Ct.1987, 518 N.Y.S.2d 751, 136 Misc.2d 294. United States ⚡ 3

While State laws regulating private civil rights may continue in force, consistently with exclusive Federal jurisdiction, as laws of United States on lands ceded by State consent so far as not in conflict with Federal laws and purposes of the acquisition, express reservation in State act of cession of jurisdiction, present and future, over specified subjects is inconsistent with exclusive Federal jurisdiction. 1935, 38 Op.Atty.Gen. 341.

48. ---- Criminal laws and prosecutions, concurrent state and federal jurisdiction, acquisition of jurisdiction from states

United States did not establish that privately owned parking lot, which was partially leased by federal agency, came within federal criminal jurisdiction under the Assimilated Crimes Act as land "reserved or acquired for the use of the United States, and under the exclusive or concurrent jurisdiction thereof"; United States did not exercise practical dominion over entire lot, and Government had not filed requisite notice with governor of the state that federal Government was taking concurrent jurisdiction over the parcel. *U.S. v. King*, D.N.J.1991, 781 F.Supp. 315. Criminal Law ⚡ 16

United States could accept concurrent jurisdiction of privately-owned land in Virginia leased for Navy base, and where it did so accept, it could prosecute for state law violation there committed. *U. S. v. Schuster*, E.D.Va.1963, 220 F.Supp. 61. Criminal Law ⚡ 97(4)

Where, when defendant was tried and sentenced for murder committed on land ceded by state to federal government, including criminal jurisdiction, the law, as embodied in Supreme Court decisions, was that federal acceptance was presumed without official action, this section requiring express acceptance and providing that unless there was such acceptance it should be conclusively presumed that no federal jurisdiction had been accepted, and decisions based thereon, did not apply, and defendant could not obtain release by habeas corpus on such ground. *U.S. ex rel. Bowen v. Johnston*, N.D.Cal.1944, 58 F.Supp. 208, affirmed 146 F.2d 268, certiorari denied 65 S.Ct. 1012, 324 U.S. 876, 89 L.Ed. 1428. Habeas Corpus ⚡ 443.1

Fact that murder of defendant's wife occurred in national park did not deprive state of jurisdiction to try defendant; at time of offense, State had criminal jurisdiction concurrent with that of federal government over national park. *State v. Larson*, Me.1990, 577 A.2d 767. Criminal Law ⚡ 97(4)

Where United States had not accepted exclusive jurisdiction over land acquired from state to construct military air defense command base in manner prescribed by this section, state had not lost jurisdiction to prosecute for theft on base on theory that state statutes had created a no-man's land. *People v. Sullivan*, Colo.1963, 378 P.2d 633, 151 Colo. 434. Criminal Law ⚡ 97(4)

Where federal government acquired naval hospital in 1946 but it had never accepted exclusive jurisdiction, state retained jurisdiction over area and defendant charged with committing lewd act upon 12-year-old child at hospital was properly tried in state court. *State v. Rodriguez*, S.C.1983, 302 S.E.2d 666, 279 S.C. 106. Criminal Law ⚡ 97(4)

Where United States had acquired title to lands comprising fort and Secretary of War [now Secretary of the Army] pursuant to this section had accepted exclusive jurisdiction of the lands, lower court was without jurisdiction to try

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offenses committed within boundaries of the fort. *State v. Ziegler*, S.C.1979, 260 S.E.2d 182, 274 S.C. 6. Criminal Law ⤴ 95

Where United States has not accepted jurisdiction as to Air Force Base located on territory ceded by state, state court had jurisdiction to try and convict defendant of offense of operating motor vehicle while under influence of intoxicants within area. *Dobbins v. State*, Ga.App.1966, 151 S.E.2d 549, 114 Ga.App. 403. Criminal Law ⤴ 97(4)

Where federal government had not given notice of acceptance of jurisdiction over land acquired by it in North Carolina, and used for housing of military and civilian personnel stationed or employed at nearby Marine Corps air station at time assault with intent to rape was allegedly committed by defendant, federal government had no jurisdiction to prosecute alleged crime, and state court retained jurisdiction even though state statute had authorized the United States to take jurisdiction. *State v. Burell*, N.C.1962, 123 S.E.2d 795, 256 N.C. 288, certiorari denied 82 S.Ct. 1621, 370 U.S. 961, 8 L.Ed.2d 827. Criminal Law ⤴ 97(4)

Where United States acquired title to land in Virginia, and Virginia under Code 1942, §§ 19, 19e retained concurrent jurisdiction with respect to commission of crimes and arrest, trial and punishment thereof, and United States did not accept exclusive jurisdiction over the land as required by this section in order to vest exclusive jurisdiction in United States, Virginia could enforce its game laws within area acquired by United States by convicting violators. *Waltrip v. Com.*, Va.1949, 53 S.E.2d 14, 189 Va. 365. Criminal Law ⤴ 97(4)

Although United States had filed declaration of taking with respect to land, which was scene of alleged rape, at the time offense occurred, where no notice had been filed by authorized officer of United States accepting jurisdiction over lands jurisdiction remained in state and court had jurisdiction to try defendant for offense. *Kurck v. State*, Ark.1962, 362 S.W.2d 713, 235 Ark. 688, certiorari denied 83 S.Ct. 1299, 373 U.S. 910, 10 L.Ed.2d 412. Criminal Law ⤴ 97(4)

49. ---- Process service and enforcement, concurrent state and federal jurisdiction, acquisition of jurisdiction from states

The reservation which has usually accompanied the consent of the States that civil and criminal process of the State courts may be served in places purchased by the United States does not interfere with the supremacy of the United States over them. *Ft. Leavenworth R. Co. v. Lowe*, U.S.Kan.1885, 5 S.Ct. 995, 114 U.S. 525, 29 L.Ed. 264.

That South Carolina, in ceding jurisdiction over certain federal property, retained right to serve civil and criminal process on federal lands did not prevent cession of exclusive criminal jurisdiction to federal government. *U. S. v. Lovely*, C.A.4 (S.C.) 1963, 319 F.2d 673, certiorari denied 84 S.Ct. 210, 375 U.S. 913, 11 L.Ed.2d 151. Criminal Law ⤴ 97(4)

Mere fact that state has retained right to serve criminal and civil process on lands is not effective to prevent cession of exclusive or concurrent criminal jurisdiction to federal government. *U. S. v. Schuster*, E.D.Va.1963, 220 F.Supp. 61. Criminal Law ⤴ 97(4)

State statutes ceding jurisdiction to lands acquired by United States "for all purposes except service upon such lands of all civil and criminal process of the courts of this State" amounted to offer to cede criminal jurisdiction to United States which, to become effective, had to be accepted in proper manner by United States, in view of this section creating conclusive presumption that United States does not accept jurisdiction over such lands until jurisdiction has been accepted by filing notice with Governor of state. *Dobbins v. State*, Ga.App.1966, 151 S.E.2d 549, 114 Ga.App. 403. Criminal Law ⤴ 97(4)

50. ---- Public utility regulation, concurrent state and federal jurisdiction, acquisition of jurisdiction from states

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Where federal government purchased land to be used as air force base and, desiring to construct in area its own electrical distribution system, required utilities to remove their equipment from property, Public Service Commission could not designate utility from which government must thereafter purchase electricity or prevent utility from which government elected to buy electricity from selling electricity to government for use over entire area of air base, notwithstanding fact that area occupied by air base had, prior to its acquisition by government, been divided between utilities by Public Service Commission. *Arkansas Power & Light Co. v. Arkansas Public Service Commission*, Ark.1959, 330 S.W.2d 51, 231 Ark. 142, certiorari denied 80 S.Ct. 1060, 362 U.S. 975, 4 L.Ed.2d 1011. States ↪ 18.73

51. ---- Taxation, concurrent state and federal jurisdiction, acquisition of jurisdiction from states

District court had subject matter jurisdiction over federal government's action to enjoin defendants from participating in abusive tax schemes, even though federal government had not formally accepted jurisdiction over land on which prohibited conduct occurred; government was not seeking to act as exclusive sovereign over particular land, but rather to exercise national powers delegated to it by states. *U.S. v. Kahn*, M.D.Fla.2004, 304 F.Supp.2d 1353. Internal Revenue ↪ 4441

Private contractor was liable to town for yield tax on timber cut by it during clearing operations on lands owned by United States where, under terms of contract with United States, all merchantable timber became property of contractor and United States had not yet assumed exclusive jurisdiction of land in question. *Town of Newington v. Campanella & Cardi Const. Co.*, N.H.1961, 168 A.2d 496, 103 N.H. 211. Taxation ↪ 2064

In legislative Act of the state of North Carolina, consenting to the purchase, by the United States, of land within the same for the site of a marine hospital, it was not necessary to include express provision for exemption of site from tax powers of the State. 1857, 8 Op.Atty.Gen. 387.

52. ---- Zoning, concurrent state and federal jurisdiction, acquisition of jurisdiction from states

Where United States did not have exclusive jurisdiction over land on which credit union was built for use by military and civilian employees of naval submarine base, credit union was required to comply with town building codes and zoning ordinances, in absence of showing that building code and zoning ordinances were inconsistent with federal purposes or contrary to any federal law. *Dupuis v. Submarine Base Credit Union, Inc.*, Conn.1976, 365 A.2d 1093, 170 Conn. 344. United States ↪ 3

53. Reassertion of state jurisdiction, acquisition of jurisdiction from states

Federal government must be given some leeway in making use of property ceded to it by a state and cannot be held to original interpretation of antiquated deeds that fail fully to anticipate complex development of government operations, and jurisdiction ceded to the United States should not revert to the state merely because function of ceded property evolves over time. *U.S. v. Johnson*, C.A.2 (N.Y.) 1993, 994 F.2d 980, certiorari denied 114 S.Ct. 418, 510 U.S. 959, 126 L.Ed.2d 364. United States ↪ 3

Once the United States gains jurisdiction of land, state cannot recapture jurisdiction by amending statute ceding jurisdiction. *U. S. v. Heard*, W.D.Mo.1967, 270 F.Supp. 198. United States ↪ 3

Reservations by the State of the right to serve process and to resume full jurisdiction if the United States ceases to own the land are not incompatible with the Federal requirements. 1939, 39 Op.Atty.Gen. 155.

40 U.S.C.A. § 3112, **40 USCA § 3112**

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Current through P.L. 109-279 approved 08-17-06

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