

**IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF FLORIDA  
OCALA DIVISION**

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Civil No. 5:03-CV-436-OC-10 GRJ
	)	Judge William Terrell Hodges
EDDIE RAY KAHN, a/k/a EDDIE RAY, a/k/a	)	
EDDIE RAY: HOUSE OF KAHN;	)	
MILTON HARGRAVES BAXLEY, II;	)	
BRYAN MALATESTA;	)	
KATHLEEN KAHN, a/k/a KOOKIE KAHN;	)	
DAVID STEPHEN LOKIETZ, a/k/a DAVID-	)	
STEPHEN: HOUSE OF LOKIETZ;	)	
AMERICAN RIGHTS LITIGATORS, a purported	)	
trust; GUIDING LIGHT OF GOD MINISTRIES,	)	
a purported corporation sole; and	)	
EDDIE KAHN AND ASSOCIATES, a purported	)	
limited liability corporation,	)	
	)	
Alleged Defendants.	)	<b>NOTICE AND DEMAND</b>

2003 DEC 24 PM 8:41  
CLERK OF DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
OCALA, FLORIDA  
FILED  
*[Signature]*

**NOTICE**

I, Eddie Ray: Kahn, hereby give notice to the Honorable William Terrell Hodges as follows:

**PURPOSE**

The purpose of this Notice and Demand is four-fold: (1) to bring to the notice of this Court certain facts appearing on the face of the record, (2) to request mandatory judicial notice of law that has direct applicability to the facts noticed per Rule 201(d) of the Federal Rules of Evidence (“FRE”),

*[Signature]*

has direct applicability to the facts noticed per Rule 201(d) of the Federal Rules of Evidence (“FRE”), (3) to notice this Court to perform its nondiscretionary ministerial duty with respect to the herein noticed facts and law, and (4) to make a demand upon this Court in its ministerial capacity to perform a specific nondiscretionary ministerial act as a matter of law.

#### **NOTICE OF FACTS**

Fact 1: The Plaintiff in the above styled cause has filed an action against me in this Court and has invoked this Court’s presumed jurisdiction and has alleged proper venue in the Complaint.

Fact 2: The Plaintiff complains of certain activities which it alleges I am engaged in at my place of ministry which has an address of 440 North Donnelly Street, Mount Dora, Florida, and further alleges that I am subject to federal jurisdiction because my place of abode is within a federal judicial district at the address of 32504 Wekiva Pines Boulevard, Sorrento, Florida.

Fact 3: Judicial notice is requested per FRE Rule 201(b) that the above places where the Plaintiff alleges I live and conduct my ministry and where the alleged offensive activities have allegedly taken place are both located within the boundaries of Lake County which is a political subdivision of the State of Florida, a member state of the States of the Union.

Fact 4: The Plaintiff has placed no evidence on the record in this instant cause showing that the United States has exclusive or concurrent legislative jurisdiction over any of the land area comprising Lake County, Florida generally, or over the specific properties therein where the Plaintiff alleges my offensive activities have occurred.

Fact 5: On Friday, December 19, 2003, I filed with this Court’s Clerk’s Office a Notice of Special Visitation and Motion to Dismiss for Lack of Jurisdiction with exhibits and attachments in support thereof and made oral argument in defense of the same before this Court.

Fact 6: The record shows that two of my filed affidavit attachments are self-authenticating per FRE Rule 902(1) as follows: “Attachment A” is an inventory list of Deeds of Cession in Florida from the Florida Department of State, and a notice of acceptance of jurisdiction from the United States Department of the Interior, Denis P. Galvin, Director, to the Honorable Bob Graham,

Governor of Florida, under seal and official signature, pursuant to 40 U.S.C. § 255 (now § 3112); and “Attachment B” is a certified inventory list of federally owned properties in Lake County, Florida from the Lake County Property Appraiser’s Office, also under seal and official signature.

Fact 7: The aforesaid domestic public documents under seal on the record show that the United States owns property in Florida and is aware of and adheres closely to its own federal statutory mandate that a U.S. Government official must send a notice of acceptance of jurisdiction per 40 U.S.C. § 255 (now § 3112) to the State Governor for any property which it owns and over which it wants to acquire exclusive or concurrent legislative jurisdiction.

Fact 8: The record shows that the place of my dwelling and abode and the place of my ministry are not listed on any of the above domestic public documents as a United States enclave under federal exclusive or concurrent jurisdiction within Lake County, Florida, nor do they appear in any other evidentiary document(s) produced by the Plaintiff proving exclusive jurisdiction in this case.

## **JUDICIAL NOTICE**

Request is hereby made to take mandatory judicial notice pursuant to FRE Rule 201(d), (f) of the following:

- Law of the Land.

“This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United states, shall be the supreme Law of the Land.” Article VI, Clause 2 of the Constitution of the United States.

- Oath of office.

“[A]ll executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution...” Article VI, Clause 3 of the Constitution of the United States.

- Constitutional grant of limited exclusive legislative jurisdiction. We the People granted limited powers to the United States among which is the limited grant of exclusive legislative jurisdiction.

“The Congress shall have Power...To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States...” Article I, Section 8, Clause 17 (first part) of the Constitution of the United States.

“The laws of Congress do not extend into the territorial limits of the states, but have force ONLY in the District of Columbia, and other places that are WITHIN the EXCLUSIVE jurisdiction of the national government.” [Emphasis added.]  
*Caha v. U.S.*, 152 U.S. 211, 215, 14 S.Ct. 513 (1894)

- Constitutional method of extending federal exclusive legislative jurisdiction to areas within the States of the Union. Continuing with the Article I, Section 8, Clause 17 (last part)

“...[A]nd to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings.”

- Additional statutory requirement: 40 U.S.C.A. § 3112 (formerly § 255) Federal jurisdiction (Pub. L. 107-217, § 1, Aug. 21, 2002, 116 Stat. 1144). (See Attachment 1)

(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. [Emphasis added.]

• Presumption against federal jurisdiction within the States of the Union.

See 40 U.S.C.A. § 3112(c) above.

“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. [Emphasis added.] *State v. Allard*, Me 1973, 313 A.2d 439.

“The **Department of Justice** has abandoned the view of jurisdiction which prompted the institution of this proceeding, and now advises us of its view that **concurrent jurisdiction can be acquired only by the formal acceptance prescribed in the Act** [40 U.S.C. §§ 3111, 3112 (formerly § 255)].” [Emphasis added.] *Adams v. U.S.*, 319 U.S. 312 (1943)

“[B]ecause federal courts are of limited jurisdiction, ‘the fair presumption is . . . that a cause is without its [federal court] jurisdiction, until the contrary appears...**Federal jurisdiction is not to be presumed or implied. I cannot find a clearer statement; indeed, the plain language forces me to reach the opposite conclusion.**” [Emphasis added.] *Bellsouth Telecommunications v. MCI*, 317 F.3d 1270, 1301 (11 Cir. 2003)

“The exercise of federal supremacy is not lightly to be presumed”  
*Schwartz v. Texas*, 344 U.S. 199, 202-203 (1952)

“It scarcely needs to be said that unless there has been a transfer of jurisdiction (1) pursuant to clause 17 by a Federal acquisition of land with State consent, or (2) by cession from the State to the Federal Government, or unless the Federal Government has reserved jurisdiction upon the admission of the State, **the Federal Government possesses NO legislative jurisdiction over any area within a state, such jurisdiction being for exercise by the State.**” [Emphasis added.]  
*Jurisdiction Over Federal Areas Within the States: Report of the Interdepartmental Committee for the Study of Jurisdiction Over Federal Areas Within the States.*” *Part II, A Text of Law of Legislative Jurisdiction.* Page 45. Washington, United States Government Printing Office, June 1957, Library of Congress, Item 1067-E, Y3.IN/10:1/957/pt.2, Standard No. LCCN: 56-61259, Class Descriptor: GovDoc: Y3.IN3/10:1/956/LC:KF550

• Florida Cession Statutes. Title II, Chapter 6, Sections 6.02 et seq. (See Attachment 2)

## NOTICE OF MINISTERIAL DUTY

Notice is hereby given to you, the Honorable William Terrell Hodges, of your ministerial duty in accordance with and pursuant to your constitutional oath of office to be bound to the Constitution

of the United States and the Laws of the United States which shall be made in pursuance thereof, (a) to ascertain from the face of the record that no requisite documents, i.e., notices of acceptance of jurisdiction, appear in support of the presumption that exclusive legislative jurisdiction has been vested in the United States over the places of alleged offensive activity, i.e., my place of abode and place of ministry, (b) to apply the statutory principles of determining federal jurisdiction found at 40 U.S.C. § 3112 (formerly § 255) to this cause as a matter of law, (c) to cease from proceeding with this case under the presumption of federal exclusive jurisdiction as a matter of law because of the absence of the statutorily mandated requisite proof thereof, and (d) to order the dismissal of this instant cause immediately without delay as a matter of law since this Court lacks jurisdiction to proceed any further. Should you, without authority, allow the Plaintiff to continue to proceed against me then all decisions, rulings, and orders issued by this Court are void as a matter of law.

- “The rule is well settled, that where the law requires absolutely a ministerial act to be done by a public officer, and he neglects or refuses to do such act, he may be compelled to respond in damages to the extent of the injury arising from his conduct.”

*Bogan v. Scott-Harris*, 523 U.S. 44 (1998)

- “The court below says, ‘every public officer, who neglects or refuses to perform a mere ministerial duty, whereby an individual is injured, is legally responsible to that individual, in some form or other.’” *Kendall v. U.S.*, 37 U.S. 524 (1838)

- “But if the act [discretionary] be without authority and against law, it is void.”

*The United States v. Guthrie*, 58 U.S. 284 (1854)

## **DEMAND**

Demand is hereby made that you perform your nondiscretionary ministerial duties set forth above, and that you perform the specific ministerial act of dismissing the instant cause as a matter of law because of lack of federal exclusive legislative jurisdiction over the subject places/properties by signing the attached Order. *See Attachment 3.*

*Notice to the agent is notice to the principal and notice to the principal is notice to the agent.*

Signed with reservation of all rights,

By: Eddie Ray: Kahn  
Eddie Ray: Kahn  
32504 Wekiva Pine Blvd.  
Sorrento, Florida

Dated: 12-23-03

SIGNATURE VERIFICATION

State of Florida        }  
                                  } SS:  
County of Lake        }

Before me, the undersigned Notary Public, personally appeared a man, Eddie Ray: Kahn, known or identified to me, and did acknowledge that he executed the above NOTICE AND DEMAND as his free act and deed.

Subscribed and Acknowledged before me on this 23rd day of December, 2003.

Witness my hand and official seal:

Charis M. True (Seal)        My commission expires 7.10.05  
Notary Public



**Charis M. True**  
Commission # DD040967  
Expires July 10, 2005  
Bonded thru  
Atlantic Bonding Co., Inc.

**ATTACHMENT "1"**



40 USCA § 3112  
40 U.S.C.A. § 3112

Page 1

**C**

Formerly cited as 40 USCA § 255

UNITED STATES CODE ANNOTATED  
TITLE 40. PUBLIC BUILDINGS, PROPERTY, AND WORKS  
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.)

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

**2002 Acts**

40 USCA § 3112  
 40 U.S.C.A. § 3112

Page 2

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. 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.

American Digest System

United States 3.

Key Number System Topic No. 393.

Corpus Juris Secundum

NOTES OF DECISIONS

**I. GENERALLY 1-30**

**II. ACQUISITION OF JURISDICTION FROM STATES 31-80**

I. GENERALLY

<Subdivision Index>

**Mandatory nature of section 3**

**Purpose 1**

**Retroactive effect 2**

40 USCA § 3112  
40 U.S.C.A. § 3112

Page 3

### 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. 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. Burkhart*, Ohio 1988, 531 N.E.2d 1306, 40 Ohio St.3d 35. United States ⇐ 3

### 3. 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.

## II. ACQUISITION OF JURISDICTION FROM STATES

<Subdivision Index>

### Acceptance of jurisdiction by United States 40-44

Acceptance of jurisdiction by United States - Generally 40

Acceptance of jurisdiction by United States - Mode of land ownership acceptable 44

Acceptance of jurisdiction by United States - Necessity for acceptance of jurisdiction by United States

41

40 USCA § 3112  
40 U.S.C.A. § 3112

Page 4

Acceptance of jurisdiction by United States - Notice of acceptance of jurisdiction by United States	42
Acceptance of jurisdiction by United States - Presumption against acceptance of jurisdiction by United States	43
Acquisition of jurisdiction from states generally	31
Alcoholic beverages, concurrent state and federal jurisdiction	46
Cession of state jurisdiction	36-38
Cession of state jurisdiction - Generally	36
Cession of state jurisdiction - Scope of grant	37
Cession of state jurisdiction - Sufficiency of cession actions	38
Civil rights, concurrent state and federal jurisdiction	47
Concurrent state and federal jurisdiction	45-52
Concurrent state and federal jurisdiction - Generally	45
Concurrent state and federal jurisdiction - Alcoholic beverages	46
Concurrent state and federal jurisdiction - Civil rights	47
Concurrent state and federal jurisdiction - Criminal laws and prosecutions	48
Concurrent state and federal jurisdiction - Process service and enforcement	49
Concurrent state and federal jurisdiction - Public utility regulation	50
Concurrent state and federal jurisdiction - Taxation	51
Concurrent state and federal jurisdiction - Zoning	52
Consent of state to jurisdiction	33-35
Consent of state to jurisdiction - Generally	33
Consent of state to jurisdiction - Sufficiency	35
Consent of state to jurisdiction - Time of obtaining consent of state to jurisdiction	34
Conveyance of state lands	39
Criminal laws and prosecutions, concurrent state and federal jurisdiction	48
Mode of land ownership acceptable, acceptance of jurisdiction by United States	44
Necessity for acceptance of jurisdiction by United States	41
Necessity for exclusive United States jurisdiction	32
Notice of acceptance of jurisdiction by United States	42
Presumption against acceptance of jurisdiction by United States	43
Process service and enforcement, concurrent state and federal jurisdiction	49
Public utility regulation, concurrent state and federal jurisdiction	50
Reassertion of state jurisdiction	53
Scope of grant, cession of state jurisdiction	37
Sufficiency, consent of state to jurisdiction	35
Sufficiency of cession actions, cession of state jurisdiction	38
Taxation, concurrent state and federal jurisdiction	51
Time of obtaining consent of state to jurisdiction	34
Zoning, concurrent state and federal jurisdiction	52

### 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

40 USCA § 3112  
40 U.S.C.A. § 3112

Page 5

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

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

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

40 USCA § 3112  
40 U.S.C.A. § 3112

Page 6

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 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

40 USCA § 3112  
40 U.S.C.A. § 3112

Page 7

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 Porto Rico without cession of jurisdiction having first been made by Porto 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 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.

40 USCA § 3112  
40 U.S.C.A. § 3112

Page 8

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 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



40 USCA § 3112  
40 U.S.C.A. § 3112

Page 9

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 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

40 USCA § 3112  
40 U.S.C.A. § 3112

Page 10

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

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.*

40 USCA § 3112  
40 U.S.C.A. § 3112

Page 11

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* ⇐ 5

44. --- Mode of land ownership acceptable, 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.

40 USCA § 3112  
40 U.S.C.A. § 3112

Page 12

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

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.

40 USCA § 3112  
40 U.S.C.A. § 3112

Page 13

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 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

40 USCA § 3112  
40 U.S.C.A. § 3112

Page 14

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

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

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 ⇌ 5

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

40 USCA § 3112  
40 U.S.C.A. § 3112

Page 15

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

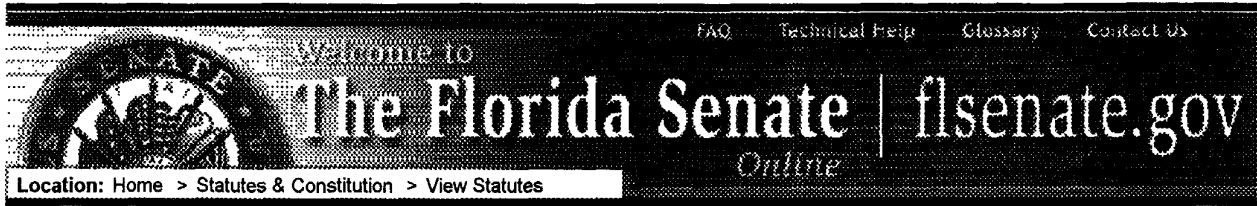
Current through P.L. 108-152 (excluding P.L. 108-136) approved 12-03-03

Copr. © West Group 2003. No claim to Orig. U.S. Govt. Works.

END OF DOCUMENT

**ATTACHMENT "2"**





- December 16, 2003
- Home
- Session
- Committees
- Senators
- Information Center
- Statutes & Constitution
- Lobbyist Information

[Print This Page](#)

Select Year:

### The 2003 Florida Statutes

<a href="#">Title II</a>	<a href="#">Chapter 6</a>	<a href="#">View Entire Chapter</a>
STATE ORGANIZATION	ADMISSION INTO UNION; CONCESSIONS; STATE BOUNDARIES	

#### Jump To Bill

Session:

Bill #:

#### Search Bill Text

Session:

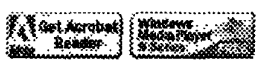
Chamber:

#### Search Statutes

Year:

#### Find Your Legislators

Enter Your Zip+4 Code:



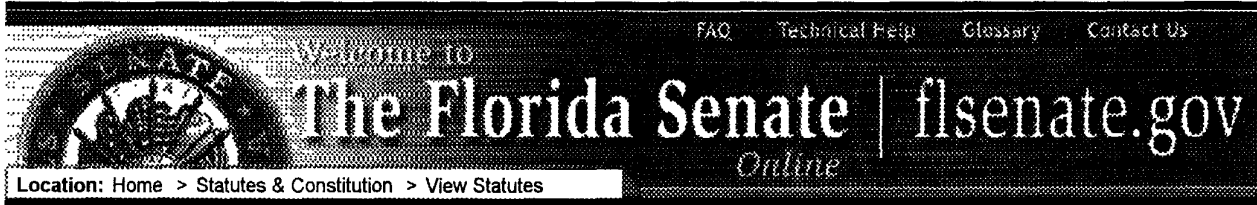
- [myflorida.com](#)
- [myfloridahouse.com](#)

**6.02 United States authorized to acquire lands for certain purposes.**---The United States may purchase, acquire, hold, own, occupy, and possess such lands within the limits of this state as they shall seek to occupy and hold as sites on which to erect and maintain forts, magazines, arsenals, dockyards, and other needful buildings, or any of them, as contemplated and provided in the Constitution of the United States; such land to be acquired either by contract with owners, or in the manner hereinafter provided.

**History.**---s. 1, ch. 25, 1845; RS 7; GS 5; RGS 5; CGL 5.

<a href="#">Session:</a> Bills · Calendars · Journals · Citator · Search · Appropriations · Redistricting · Video <a href="#">Committees:</a> Committee Pages · Committee Publications · Meeting Packets · Committee Reports <a href="#">Senators:</a> President's Page · Member Pages · District Information · Find Your Legislators <a href="#">Information Center:</a> Introduction · About the Legislature · Publications · Glossary · Help · Employment · Links <a href="#">Statutes &amp; Constitution:</a> Introduction · View Statutes · Search Statutes · Constitution · Laws of Florida · Order <a href="#">Lobbyist Information:</a> Introduction · Lists · Legislative Directory · Guide Book · Forms
--

Disclaimer: The information on this system is unverified. The journals or printed bills of the respective chambers should be consulted for official purposes. Copyright © 2000-2003 State of Florida. Privacy Statement.



- December 23, 2003
- Home
- Session ▶
- Committees ▶
- Senators ▶
- Information Center ▶
- Statutes & Constitution ▶
- Lobbyist Information ▶

Select Year: 2003 [Go]

### The 2003 Florida Statutes

<u>Title II</u>	<u>Chapter 6</u>	<u>View Entire Chapter</u>
STATE ORGANIZATION	ADMISSION INTO UNION; CONCESSIONS; STATE BOUNDARIES	

Jump To Bill

Session: 2004 [Go]

Bill #: [Go]

Search Bill Text

Session: 004 [Go]

Chamber: enate [Go]

[Search]

Search Statutes

Year: 2003 [Go]

[Search]

Find Your Legislators

Enter Your Zip+4 Code: [Go]



myflorida.com

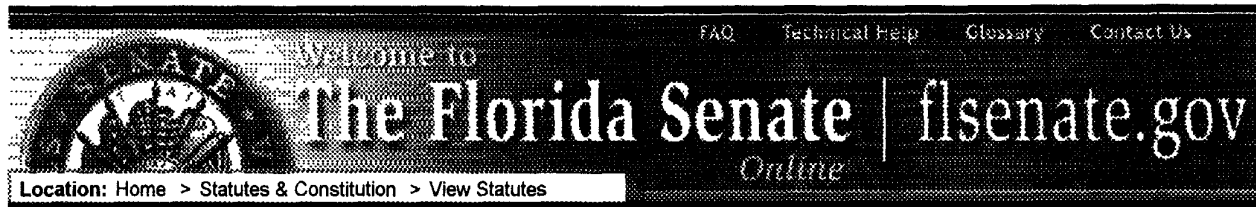
myfloridahouse.com

**6.03 Condemnation of land when price not agreed upon.**--If the officer or other agent employed by the United States to make such purchase and the owner of the land contemplated to be purchased, as aforesaid, cannot agree for the sale and purchase thereof, the same may be acquired by the United States by condemnation in the same manner as is hereinafter provided for condemnation of lands for other public purposes, and any officer or agent authorized by the United States may institute and conduct such proceedings in their behalf.

**History.**--s. 2, ch. 25, 1845; RS 8; GS 6; RGS 6; CGL 6.

- Session:** Bills · Calendars · Journals · Citor · Search · Appropriations · Redistricting · Video
- Committees:** Committee Pages · Committee Publications · Meeting Packets · Committee Reports
- Senators:** President's Page · Member Pages · District Information · Find Your Legislators
- Information Center:** Introduction · About the Legislature · Publications · Glossary · Help · Employment · Links
- Statutes & Constitution:** Introduction · View Statutes · Search Statutes · Constitution · Laws of Florida · Order
- Lobbyist Information:** Introduction · Lists · Legislative Directory · Guide Book · Forms

Disclaimer: The information on this system is unverified. The journals or printed bills of the respective chambers should be consulted for official purposes. Copyright © 2000-2003 State of Florida. Privacy Statement.



- December 16, 2003
- Home
- Session
- Committees
- Senators
- Information Center
- Statutes & Constitution
- Lobbyist Information

Select Year: 2003

Print This Page

### The 2003 Florida Statutes

<u>Title II</u>	<u>Chapter 6</u>	<u>View Entire Chapter</u>
STATE ORGANIZATION	ADMISSION INTO UNION; CONCESSIONS; STATE BOUNDARIES	

#### Jump To Bill

Session: 2004

Bill #:

#### Search Bill Text

Session: 004

Chamber: enate

Search

#### Search Statutes

Year: 2003

Search

#### Find Your Legislators

Enter Your Zip+4 Code:

Go



myflorida.com

myfloridahouse.com

#### 6.04 Jurisdiction over such lands; how ceded to the United States.

Whenever the United States shall contract for, purchase, or acquire any land within the limits of this state for the purposes aforesaid, in either of the modes above mentioned and provided, or shall hold for such purposes lands heretofore lawfully acquired or reserved therefor, and shall desire to acquire constitutional jurisdiction over such lands for said purposes, the Governor of this state may, upon application made to him or her in writing on behalf of the United States for that purpose, accompanied by the proper evidence of said reservation, purchase, contract, or acquisition of record, describing the land sought to be ceded by convenient metes and bounds, thereupon, in the name and on behalf of this state, cede to the United States exclusive jurisdiction over the land so reserved, purchased, or acquired and sought to be ceded; the United States to hold, use, occupy, own, possess, and exercise said jurisdiction over the same for the purposes aforesaid, and none other whatsoever; provided, always, that the consent aforesaid is hereby given and the cession aforesaid is to be granted and made as aforesaid, upon the express condition that this state shall retain a concurrent jurisdiction with the United States in and over the land or lands so to be ceded, and every portion thereof, so far that all process, civil or criminal, issuing under authority of this state, or of any of the courts or judicial officers thereof may be executed by the proper officers thereof, upon any person amenable to the same, within the limits and extent of lands so ceded, in like manner and to like effect as if this law had never been passed; saving, however, to the United States security to their property within said limits and extent, and exemption of the same, and of said lands from any taxation under the authority of this state while the same shall continue to be owned, held, used, and occupied by the United States for the purposes above expressed and intended, and not otherwise.

History.--s. 3, ch. 25, 1845; RS 9; GS 7; RGS 7; CGL 7; s. 2, ch. 95-147.

- Session: Bills · Calendars · Journals · Citator · Search · Appropriations · Redistricting · Video
- Committees: Committee Pages · Committee Publications · Meeting Packets · Committee Reports
- Senators: President's Page · Member Pages · District Information · Find Your Legislators
- Information Center: Introduction · About the Legislature · Publications · Glossary · Help · Employment · Links
- Statutes & Constitution: Introduction · View Statutes · Search Statutes · Constitution · Laws of Florida · Order
- Lobbyist Information: Introduction · Lists · Legislative Directory · Guide Book · Forms

Disclaimer: The information on this system is unverified. The journals or printed bills of the respective chambers should be consulted for official purposes. Copyright © 2000-2003 State of Florida. Privacy Statement.

Welcome to **The Florida Senate** | [flsenate.gov](http://flsenate.gov)  
Online

FAQ Technical Help Glossary Contact Us

Location: Home > Statutes & Constitution > View Statutes

- December 23, 2003
- Home
- Session
- Committees
- Senators
- Information Center
- Statutes & Constitution
- Lobbyist Information

Select Year:

### The 2003 Florida Statutes

<a href="#">Title II</a>	<a href="#">Chapter 6</a>	<a href="#">View Entire Chapter</a>
STATE ORGANIZATION	ADMISSION INTO UNION; CONCESSIONS; STATE BOUNDARIES	

#### Jump To Bill

Session:

Bill #:

#### Search Bill Text

Session:

Chamber:

#### Search Statutes

Year:

#### Find Your Legislators

Enter Your Zip+4 Code:

- [Get Acrobat Reader](#)
- [Windows Media Player](#)
- [myflorid.com](http://myflorid.com)
- [myfloridahouse.com](http://myfloridahouse.com)

**6.05 Transfer of title and jurisdiction over land owned by state.**--Whenever a tract of land containing not more than four acres shall be selected by an authorized officer or agent of the United States for the bona fide purpose of erecting thereon a lighthouse, beacon, marine hospital, or other public work, and the title to the said land shall be held by the state, then on application by the said officer or agent to the Governor of this state, the said executive may transfer to the United States the title to, and jurisdiction over, said land; provided, always, that the said transfer of title and jurisdiction is to be granted and made, as aforesaid, upon the express condition that this state shall retain a concurrent jurisdiction with the United States, in and over the lands so to be transferred, and every portion thereof, so far that all process, civil or criminal, issuing under authority of this state, or any of the courts or judicial officers thereof, may be executed by the proper officer thereof, upon any person amenable to the same, within the limits and extent of the lands so ceded, in like manner and to like effect as if this law had never been passed; saving, however, to the United States, security to their property within said limits or extent. The said lands shall hereafter remain the property of the United States and be exempt from taxation as long as they shall be needed for said purposes.

**History.**--ss. 1, 2, ch. 630, 1855; RS 10; GS 8; RGS 8; CGL 8.

**Session:** Bills · Calendars · Journals · Citator · Search · Appropriations · Redistricting · Video  
**Committees:** Committee Pages · Committee Publications · Meeting Packets · Committee Reports  
**Senators:** President's Page · Member Pages · District Information · Find Your Legislators  
**Information Center:** Introduction · About the Legislature · Publications · Glossary · Help · Employment · Links  
**Statutes & Constitution:** Introduction · View Statutes · Search Statutes · Constitution · Laws of Florida · Order  
**Lobbyist Information:** Introduction · Lists · Legislative Directory · Guide Book · Forms

Disclaimer: The information on this system is unverified. The journals or printed bills of the respective chambers should be consulted for official purposes. Copyright © 2000-2003 State of Florida. Privacy Statement.

**ATTACHMENT "3"**

---

**IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF FLORIDA  
OCALA DIVISION**

---

UNITED STATES OF AMERICA, )  
 )  
                   Plaintiff, )  
 )  
       vs. )  
 )  
 EDDIE RAY KAHN, a/k/a EDDIE RAY, a/k/a )  
 EDDIE RAY; HOUSE OF KAHN; )  
 MILTON HARGRAVES BAXLEY, II; )  
 BRYAN MALATESTA; )  
 KATHLEEN KAHN, a/k/a KOOKIE KAHN; )  
 DAVID STEPHEN LOKIETZ, a/k/a DAVID- )  
 STEPHEN; HOUSE OF LOKIETZ; )  
 AMERICAN RIGHTS LITIGATORS, a purported )  
 trust; GUIDING LIGHT OF GOD MINISTRIES, )  
 a purported corporation sole; and )  
 EDDIE KAHN AND ASSOCIATES, a purported )  
 limited liability corporation, )  
 )  
                   Alleged Defendants. )

Civil No. 5:03-CV-436-OC-10 GRJ  
 Judge William Terrell Hodges

**ORDER**

**Whereas** it is an established principle that federal exclusive legislative jurisdiction cannot be presumed or implied; and

**Whereas** Article I, section 8, clause 17, of the Constitution of the United States provides in legal effect that the Federal Government shall have exclusive legislative jurisdiction over such area not exceeding 10 miles square as may become the seat of government of the United States, and like authority over all places acquired by the Government, with the consent of the State involved, for Federal works; and

**Whereas** Congress in its wisdom has seen fit to enact legislation creating an additional procedural requirement for the United States to acquire exclusive or concurrent legislative

jurisdiction over areas within the States of the Union which is found at Title 40 United States Code (“U.S.C.”) § 3112 (formerly § 255) (Pub. L. 107-217, § 1, Aug. 21, 2002, 116 Stat. 1144) and states in pertinent part as follows:

(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.

**Whereas** the United States Supreme Court has held that unless the statutory procedure mandated at 40 U.S.C. § 3112 is followed by the United States it is conclusively presumed that Federal exclusive or concurrent jurisdiction has not been accepted over Federal areas within the State where the land is located (*Adams v. U.S.*, 319 U.S. 312 (1943)); and

**Whereas** this Court has examined the record in the instant cause and has found no evidence that the United States has complied with the aforesaid constitutional and statutory procedural requirements with respect to the Defendant’s alleged place of abode and work identified in the Plaintiff’s Complaint; and

**Whereas**, by reason of the foregoing ascertainment of fact, this Court hereby rules, as a matter of law, that it has no subject matter jurisdiction to adjudicate this cause; now therefore it is

**Ordered** that this case be dismissed immediately for lack of subject matter jurisdiction resulting from the conclusive presumption derived from the face of the record that the Federal Government possesses no exclusive or concurrent legislative jurisdiction over the land areas within Lake County, Florida that are referenced in the Plaintiff's pleadings in this instant civil action.

Date Signed: \_\_\_\_\_ By: \_\_\_\_\_

Judge William Terrell Hodges

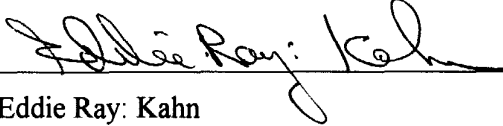
Date Entered: \_\_\_\_\_



CERTIFICATE OF SERVICE

I certify that on the 23 day of December, 2003, I delivered by first class mail  
a copy of the foregoing NOTICE AND DEMAND and attachments  
thereto to the plaintiff's counsel as follows:

PAUL I. PEREZ, United States Attorney  
ANNE NORRIS GRAHAM,  
EVAN J. DAVIS  
Trial Attorneys, Tax Division  
U.S. Department of Justice  
P.O. Box 7238  
Ben Franklin Station  
Washington, D.C. 20044

  
Eddie Ray: Kahn