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1630. PROTECTION OF GOVERNMENT PROPERTY -- REAL PROPERTY -- 18 U.S.C. 7

The Federal government is the single largest holder of real estate in the United States. Federal custody and control over this property brings with it a host of responsibilities, including in some cases federal criminal jurisdiction. Yet it is clear that federal criminal jurisdiction does not exist over real property simply because the United States owns it. See *Adams v. United States*, 319 U.S. 312 (1943).

For purposes of federal criminal jurisdiction, government property can be categorized in three ways. First, certain lands fall within the exclusive jurisdiction of the United States. As this term implies, on these lands federal criminal law applies to the exclusion of state law. Other properties acquired by the United States fall within the concurrent criminal jurisdiction of the state and Federal governments. Finally, the United States may acquire property without accepting any special criminal jurisdiction over it. In this situation the United States simply retains proprietary jurisdiction over the property.

The jurisdictional status of property acquired by the United States, is important because it triggers the application of a series of federal laws, known as federal enclave statutes. These statutes apply to lands within the "special maritime and territorial jurisdiction of the United States," a term which includes "(a)ny lands reserved or acquired for the use of the United States, and under the exclusive or concurrent jurisdiction thereof . . . See 18 U.S.C. § 7(3). Therefore any property under the exclusive or concurrent jurisdiction of the United States is subject to these federal enclave laws.

The federal enclave laws provide two forms of protection to property found on federal land. At the outset these laws specifically forbid certain property crimes. For example, arson, theft, receiving stolen goods, destruction of property and robbery are all prohibited within the special maritime and territorial jurisdiction of the United States. See 18 U.S.C. §§ 81 (arson), 661 (theft), 662 (receiving stolen goods), 1363 (destruction of property), 2111 (robbery). In addition, 18 U.S.C. § 13 incorporates state law into the law of the federal enclave. Thus, property offenses which violate state law but are not otherwise punishable under federal law become federal crimes when committed on a federal enclave within the state.

Through these two means the federal enclave statutes add significantly to the body of law protecting government property. While these laws are not expressly limited to crimes involving government property, much of the property crime occurring in a federal enclave will involve property belonging to the United States. Therefore, United States Attorneys should be aware of the jurisdictional status of all federal property within their respective districts.

There are three methods by which the United States obtains exclusive or concurrent jurisdiction over federal lands in a state: (1) a state statute consenting to the purchase of land by the United States for the purposes enumerated in Article 1, Section 8, Clause 17, of the Constitution of the United States; (2) a state cession statute; and (3) a reservation of federal jurisdiction upon the admission of a state into the Union. See *Collins v. Yosemite Park Co.*, 304 U.S. 518 (1938). Since February 1, 1940, the United States acquires no jurisdiction over federal lands in a state until the head or other authorized officer of the department or agency which has custody of the lands formally accepts the jurisdiction offered by state law. See 40 U.S.C. § 255; *Adams v. United States*, 319 U.S. 312 (1943). Prior to February 1, 1940, acceptance of jurisdiction had been presumed in the absence of evidence of a contrary intent on the part of the acquiring agency or Congress. See *Silas Mason Co., Inc. v. Tax Commission*, 302 U.S. 186 (1937). See also [JM 9-20.000](#) et seq., for a discussion of federal enclave jurisdiction.

[cited in Criminal Resource Manual 1635; JM 9-66.100]

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