

C.R.S. 3-1-103

COLORADO REVISED STATUTES

*** This document reflects changes current through all laws passed at the First Regular Session of the Sixty-Ninth General Assembly of the State of Colorado (2013) ***

TITLE 3. UNITED STATES
JURISDICTION
ARTICLE 1. PROPERTY CEDED TO UNITED STATES

C.R.S. 3-1-103 (2013)

3-1-103. Jurisdiction of United States over land

Exclusive jurisdiction in and over any land so acquired by the United States shall be and the same is hereby ceded to the United States for all purposes, except the service of all civil and criminal process of the courts of this state; but the jurisdiction so ceded shall continue no longer than the said United States shall own such land.

HISTORY: Source: L. 07: p. 589, § 2. R.S. 08: § 6901.C.L. § 494.CSA: C. 168, § 3.CRS 53: § 142-1-3. C.R.S. 1963: § 143-1-3.

ANNOTATION

The history of the adoption of cl. 17 of § 8 of art. I, U.S. Const. would indicate a desire on the part of the framers to insure uninhibited federal regulatory power within the borders of federal islands. *Bd. of County Comm'rs v. Donoho*, 144 Colo. 321, 356 P.2d 267 (1960).

Colorado being a sovereign state cannot abandon its sovereignty over land situated within its four corners. *People v. Sullivan*, 151 Colo. 434, 378 P.2d 633 (1963).

The state of Colorado may cede and consent to the acquisition by the United States of exclusive jurisdiction over land acquired by it in Colorado. *People v. Sullivan*, 151 Colo. 434, 378 P.2d 633 (1963).

The state of Colorado may not go further and compel the United States to accept such jurisdiction and even prescribe when such shall vest in the United States. *People v. Sullivan*, 151 Colo. 434, 378 P.2d 633 (1963).

A transfer of exclusive jurisdiction rests upon a grant by the state, through consent or cession. *People v. Sullivan*, 151 Colo. 434, 378 P.2d 633 (1963).

The cession by a state of "exclusive jurisdiction" creates the same relationship as if there had been a purchase. *Bd. of County Comm'rs v. Donoho*, 144 Colo. 321, 356 P.2d 267 (1960).

This section merely provides that exclusive jurisdiction over land acquired by purchase or condemnation by the United States in Colorado is ceded or tendered to the United States. *People v. Sullivan*, 151 Colo. 434, 378 P.2d 633 (1963).

In section 3-1-104 such exclusive jurisdiction shall not vest, however, prior to the time when the United States shall acquire title thereto. *People v. Sullivan*, 151 Colo. 434, 378 P.2d 633 (1963).

A transfer of exclusive jurisdiction rests upon a grant by the state, through consent or cession, and it follows in accordance with familiar principles applicable to grants, that the grant may be accepted or declined. *People v. Sullivan*, 151 Colo. 434, 378 P.2d 633 (1963).

Therefore the mere fact that the United States needs and acquires property within a state's boundaries does not necessitate the assumption by the government of the burdens incident to an exclusive jurisdiction by acceptance of the state's grant thereof. *People v. Sullivan*, 151 Colo. 434, 378 P.2d 633 (1963).

The terms of a cession, to the extent that they may lawfully be prescribed, that is, consistently with the carrying out of the purpose of the acquisition, determine the extent of the federal jurisdiction. *Bd. of County Comm'rs v. Donoho*, 144 Colo. 321, 356 P.2d 267 (1960).

The term "exclusive" is not absolute. *Bd. of County Comm'rs v. Donoho*, 144 Colo. 321, 356 P.2d 267 (1960).

Formerly it was held that acceptance of the cession by the United States was evidenced by its purchase of the land or the performance of other acts manifesting its intention to accept the jurisdiction ceded. *People v. Sullivan*, 151 Colo. 434, 378 P.2d 633 (1963).

Also, it was held that such acceptance might be presumed. *People v. Sullivan*, 151 Colo. 434, 378 P.2d 633 (1963).

The land purchased with consent of the state ipso facto fell within the exclusive jurisdiction of the United States. *People v. Sullivan*, 151 Colo. 434, 378 P.2d 633 (1963).

In conformity with the rule that the government has power to accept exclusive jurisdiction or less, congress, in order to create a definite method of acceptance of jurisdiction so that all persons could know whether, as to particular property, the government had obtained no jurisdiction at all, or partial jurisdiction, or exclusive jurisdiction, enacted a law providing that United States agencies

and authorities may accept exclusive jurisdiction of lands acquired by the United States by filing a notice with the Governor of the state, and that unless and until that is done, it shall be conclusively presumed that no such jurisdiction has been accepted. *People v. Sullivan*, 151 Colo. 434, 378 P.2d 633 (1963).

The lack of federal responsibility within federal enclaves resulted in recognition at a relatively early time of the doctrine that the state law in force at the time of cession or purchase continues in full force so as to determine private rights within the territory and thus fill the vacuum which would otherwise exist. *Bd. of County Comm'rs v. Donoho*, 144 Colo. 321, 356 P.2d 267 (1960).

The presumption of United States acceptance of a grant in the absence of evidence of a contrary intent is no longer applicable. *People v. Sullivan*, 151 Colo. 434, 378 P.2d 633 (1963).

Notice of acceptance is required, whether the United States is to obtain exclusive or concurrent jurisdiction. *People v. Sullivan*, 151 Colo. 434, 378 P.2d 633 (1963).

A system of dual authority may be created by agreement between the state and federal government. *Bd. of County Comm'rs v. Donoho*, 144 Colo. 321, 356 P.2d 267 (1960).

Colorado very well may cede or tender exclusive jurisdiction over land to the United States. *People v. Sullivan*, 151 Colo. 434, 378 P.2d 633 (1963).

Colorado may even go further and declare that there shall be no vesting until the United States actually gets title. *People v. Sullivan*, 151 Colo. 434, 378 P.2d 633 (1963).

But Colorado cannot compel the United States to accept exclusive jurisdiction over land acquired by purchase or condemnation. *People v. Sullivan*, 151 Colo. 434, 378 P.2d 633 (1963).

Until the United States accepts this tender of sovereignty, the state of Colorado retains its jurisdiction to the end that it may enforce its criminal laws within the geographical confines of the land granted. *People v. Sullivan*, 151 Colo. 434, 378 P.2d 633 (1963).

Generally in order to deprive state courts of criminal jurisdiction over lands ceded to the United States there must be a surrender of jurisdiction by the state and an acceptance by the United States. *People v. Sullivan*, 151 Colo. 434, 378 P.2d 633 (1963).

Where the federal government has not given notice of acceptance of jurisdiction over land acquired by it in a state, the federal courts are without jurisdiction of prosecution for an alleged crime committed therein although a state statute authorizes the United States to take jurisdiction. *People v. Sullivan*, 151 Colo. 434, 378 P.2d 633 (1963).

At least the United States is without exclusive jurisdiction over the offense, and a state may enforce its criminal laws within the area acquired by the United States. *People v. Sullivan*, 151 Colo. 434, 378 P.2d 633 (1963).

Where on the date an offense was allegedly committed the United States had acquired title to state property but nothing in record indicated that it had accepted exclusive jurisdiction thereover, the state courts were not deprived of jurisdiction of criminal offenses committed thereon. *People v. Sullivan*, 151 Colo. 434, 378 P.2d 633 (1963).

Since exclusive legislative jurisdiction of the United States over a military reservation does not operate as an absolute prohibition against state laws, it does not operate to prohibit the payment of relief benefits to a resident of such reservation. *Bd. of County Comm'rs v. Donoho*, 144 Colo. 321, 356 P.2d 267 (1960).

Exclusive jurisdiction does not operate as an absolute prohibition against state laws but has for its purpose protection of the federal sovereignty. *Bd. of County Comm'rs v. Donoho*, 144 Colo. 321, 356 P.2d 267 (1960).

Exclusive jurisdiction does not operate to prohibit the payment of relief benefits to a resident of such reservation. *Bd. of County Comm'rs v. Donoho*, 144 Colo. 321, 356 P.2d 267 (1960).

The state is not absolutely precluded from exercising power not inconsistent with that of the federal government. *Bd. of County Comm'rs v. Donoho*, 144 Colo. 321, 356 P.2d 267 (1960).

It seems that state laws passed for the public welfare should be applied to federal enclaves within the state, for the state is best fitted to know the requirements of its particular locality and to deal with them. *Bd. of County Comm'rs v. Donoho*, 144 Colo. 321, 356 P.2d 267 (1960).

Such measures, it appears, would not interfere with the functions of the federal government, but, on the contrary, they furthered the national interest. *Bd. of County Comm'rs v. Donoho*, 144 Colo. 321, 356 P.2d 267 (1960).

Moreover, cl. 17 of § 8 of art. I, U.S. Const. does not operate to prevent or preclude relief payments to a resident of a federal enclave. *Bd. of County Comm'rs v. Donoho*, 144 Colo. 321, 356 P.2d 267 (1960).