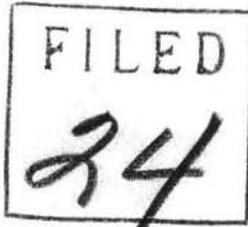


CRIMINAL LAW: Secs. 12.010 and 12.020 RSMo 1949 divest State of Missouri of jurisdiction over violations of criminal law occurring on land occupied by Public Health Service Hospital, 525 Couch Avenue, Kirkwood, Missouri.

1.22-53



January 19, 1953

Honorable Phil M. Donnelly
Governor of Missouri
Executive Office
Jefferson City, Missouri

Dear Governor Donnelly:

The following opinion is rendered in reply to your immediate predecessor's request reading, in part, as follows:

"The Federal Bureau of Investigation has inquired as to the question of who has jurisdiction over violations of criminal law occurring on land occupied by the Public Health Service Hospital, 525 Couch Avenue, Kirkwood, Missouri."

In reply to our recent inquiry, the General Services Administration, Washington, D.C., gave the following information relative to the acquisition by the United States of title to the land on which is located Public Health Service Hospital, 525 Couch Avenue, Kirkwood, Missouri:

"Titles to the land vested in the United States July 9, 1937, upon the filing of a declaration of taking in condemnation proceedings entitled United States of America v. Emma E. Craig, et al., numbered 12256 in the United States District Court for the Eastern District of Missouri."

For the purpose of this opinion it is conceded that the land in question was acquired by the United States by condemnation, and for the purpose of establishing a hospital.

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Sections 12.010 and 12.020 RSMo 1949, constitute Missouri's general grant of consent in accordance with the seventeenth clause, eighth section of the first article of the Constitution of the United States to the acquisition by the United States of land to be used for hospital, and other purposes named in said sections. We quote the two statutes as follows:

"The consent of the state of Missouri is hereby given in accordance with the seventeenth clause, eighth section of the first article of the Constitution of the United States to the acquisition by the United States by purchase or grant of any land in this state which has been or may hereafter be acquired, for the purpose of establishing and maintaining post offices, internal revenue and other government offices, hospitals, sanatoriums, fish hatcheries, and land for reforestation, recreational and agricultural uses. Land to be used exclusively for the erection of hospitals by the United States may also be acquired by condemnation." (Sec. 12.010 RSMo 1949).

"The jurisdiction of the state of Missouri in and over all such land purchased or acquired as provided in section 12.010 is hereby granted and ceded to the United States so long as the United States shall own said land; provided, that there is hereby reserved to the state of Missouri, unimpaired, full authority to serve and execute all process, civil and criminal, issued under the authority of the state within such lands or the buildings thereon." (Sec. 12.020 RSMo 1949).

It should be noted that Section 12.010 RSMo 1949, quoted above, did not, as of July 9, 1937, contain its last clause relating to condemnation of land to be used exclusively for the erection of hospitals by the United States, for such provision was added by the Sixty-Fifth General Assembly of Missouri in 1949 (L-1949, p. 316). However, acquisition by "purchase" or grant was authorized by Section 12.010 RSMo 1949 as it stood on our statute books as Section 11072, R.S. Mo. 1929, and it had not been changed in that regard on July 9, 1937. In the case of Arledge v. Mabry, 52 N. M. 303, 197 Pac. (2d) 884, the Supreme Court of New Mexico was re-

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ferring to the seventeenth clause, eighth section, of the first article of the Constitution of the United States, and spoke as follows at 197 Pac. (2d) 884, l.c. 890:

"Although the United States constitution, in the clause quoted, mentions acquisition by purchase, it has long been settled that the same consequences attach from a jurisdictional standpoint where land is acquired through condemnation proceedings. Indeed, land so acquired is deemed to have been secured by purchase and the same consequences attach. Kohl v. United States, 91 U.S. 367, 23 L. Ed. 449; Hanson Lumber Co. v. United States, 261 U.S. 581, 43 S. Ct. 442, 67 L. Ed. 809; United States v. Beckett Co., 8 Cir., 129 F. 2d 473; United States v. Beaty, D. C., 198 F. 284; United States v. 2.74 Acres of Land, D. C., 32 F. Supp. 55. Furthermore, the term 'exclusive legislation' employed in said Clause 17 of the federal constitution is held to be synonymous with and to carry the same meaning as if the term 'exclusive jurisdiction' had been employed."

From the language quoted from Arledge v. Mabry, supra, we rule that even though Section 12.010 RSMo 1949 did not, as of July 9, 1937, contain its present, final clause relating to acquisition of land by condemnation proceedings, a condemnation proceeding carried out in 1937 under the statute as then existing was as effective to convey jurisdiction to the United States as though acquisition of the land had been by purchase or grant.

Section 12.020 RSMo 1949, quoted above, discloses that the State of Missouri reserved unto itself "unimpaired, full authority to serve and execute all process, civil and criminal, issued under the authority of the state within such lands or the buildings thereon." We must now determine if this type of reservation is adequate to give the State of Missouri jurisdiction to prosecute crimes committed on land occupied by Public Health Service Hospital. Sections 12.010 and 12.020 RSMo 1949 disclose that such general act of consent, with its specific reservations, by the State of Missouri will cause any land so acquired by the United States to be considered as having been acquired by the "constitutional method" as that term is used when the Supreme Court of New Mexico laid down the following rule in Arledge v. Mabry, 197 Pac. (2d) 884, l.c. 889:

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"When acquisition is made in the constitutional method, ordinarily exclusive jurisdiction for all purposes over the lands acquired attaches in favor of the federal government, with the single exception of the right in the state to serve civil and criminal process through its officers on such land relating to acts and offenses outside such land."

As we read Missouri's general act of consent as found in Sections 12.010 and 12.020 RSMo 1949, we are constrained to the view that the legislature had in mind the general rule relative to exclusive jurisdiction in the United States over lands acquired by consent of the state, and that its incorporation, in its grant of consent, of the reservation relative to service of criminal and civil process must have been made with full knowledge of the rule quoted above from *Arledge v. Mabry*.

CONCLUSION

It is the opinion of this office that Sections 12.010 and 12.020 RSMo 1949, giving general consent to acquisition of land in Missouri by the United States divests the State of Missouri of jurisdiction over violations of criminal law occurring on land occupied by Public Health Service Hospital, 525 Couch Avenue, Kirkwood, Missouri, and such jurisdiction is vested in the United States.

Respectfully submitted,

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