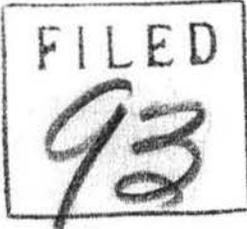


CRIMINAL JURISDICTION OF: The land area embraced by Fort Leonard Wood, including that portion of such area which is occupied by Highway No. 17, is under the exclusive jurisdiction of the United States so far as criminal jurisdiction is concerned.

FORT LEONARD WOOD:

JOHN M. DALTON  
XXXXXXXXXXXX



March 16, 1953

J. C. JOHNSON  
XXXXXXXXXX

Honorable Wayne W. Waldo  
Prosecuting Attorney  
Pulaski County  
Waynesville, Missouri

Dear Sir:

This department is in receipt of your request for an official opinion. You thus state your request:

"The opinion of the attorney general is respectfully requested on the following situation.

"The Military Reservation of Fort Leonard Wood is situated in Pulaski County. Missouri State Highway No. 17 goes from one side of the reservation to the other and over property within the boundaries of the Military Reservation. The officials at Fort Leonard Wood contend that they have no jurisdiction to try civilians for an offense committed on Missouri State Highway No. 17 within the reservation boundaries. It is my contention that civilian authorities of Pulaski County have no jurisdiction to try a civilian for such an offense. This situation also applies to the remainder of the area covered by Fort Leonard Wood as well as that portion used by Missouri Highway No. 17.

"The opinion of the attorney general is respectfully requested concerning the jurisdiction and venue of Pulaski

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County in dealing with criminal offenses committed on the reservation of Fort Leonard Wood, Missouri, and criminal offenses committed on Missouri Highway No. 17 within the boundaries of Fort Leonard Wood."

We here note that the land acquired by the United States Government for the site of Fort Leonard Wood was, as the name indicates, acquired for a "fort."

We would here direct attention to Section 12.030, RSMo 1949, which section reads:

"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, condemnation, or otherwise, of any land in this state which has been acquired, prior to the effective date of sections 12.030 and 12.040, as sites for customhouses, courthouses, post offices, arsenals, forts, and other needful buildings required for military purposes."

And, to Section 12.040, RSMo 1949, which reads:

"Exclusive jurisdiction in and over any land so acquired, prior to the effective date of sections 12.030 and 12.040, by the United States shall be, and the same is hereby, ceded to the United States for all purposes, saving and reserving, however, to the state of Missouri the right of taxation to the same extent and in the same manner as if this cession had not been made; and further saving and reserving to the state of Missouri the right to serve thereon any civil or criminal process issued under the authority of the state, in any action on account of rights acquired, obligations incurred,

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or crimes committed in said state, but outside the boundaries of such land, but the jurisdiction so ceded to the United States shall continue no longer than the said United States shall own such lands and use the same for the purposes for which they were acquired."

Both of the above sections were enacted in 1947, and are found as enacted in Laws of Missouri, 1947, Vol. I, p. 366, paragraphs 1 and 2, respectively, the effective date of these sections being July 1, 1947.

The land which comprises the Fort Leonard Wood area was acquired by purchase and/or condemnation prior to July 1, 1947. It will be noted that Sections 12.030 and 12.040, supra, apply to any lands acquired by the United States by purchase, condemnation, or otherwise, prior to the effective dates of Sections 12.030 and 12.040, supra, as sites for various governmental purposes including forts. Therefore, Sections 12.030 and 12.040, supra, constitute acts of consent by the State of Missouri to the acquisition by the United States of the land embraced in the Fort Leonard Wood area. These sections granted "exclusive jurisdiction" to the United States except for some purposes, i.e., taxation and the service of civil and criminal process, none of which is here in issue, the issue here being whether the State of Missouri has jurisdiction of crimes committed on the Fort Leonard Wood area. Since "exclusive jurisdiction" certainly includes jurisdiction of crimes, then it would follow that the State of Missouri does not have jurisdiction of crimes committed on the Fort Leonard Wood area, but that such jurisdiction is vested exclusively in the United States.

Your letter poses the additional problem of criminal jurisdiction over that portion of what you designate as Missouri State Highway No. 17, which passes across the Fort Leonard Wood area from one side to the other.

We would here point out that the 13.003 miles of highway, being that portion of Highway No. 17 which passes across the Fort Leonard Wood area, is no longer, officially, known as Missouri State Highway No. 17. We would further point out that prior to the acquisition by the United States of the Fort Leonard Wood area, Missouri State Highway No. 17 occupied substantially the same land area and location which it now occupies, and that on January 11, 1941, in the District Court of the

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United States for the Southern Division of the Western District of Missouri, a condemnation suit was filed, the style of which was: United States of America, plaintiff, vs. 1.114.54 acres of land, more or less, situated in Pulaski and Texas Counties, Missouri.

The sixteenth count of the above petition reads:

"Rights of the State of Missouri in and to a strip of land occupied by Missouri State Highway No. 17."

On the same day, January 11, 1941, a judgment and declaration for the aforesaid count sixteen was entered in the United States District Court for the Southern Division of the Western District of Missouri, at which date and time the United States acquired right and title to the 13.003 miles of Highway No. 17 discussed above. For this reason this aforesaid area acquired by the United States is in the same legal position as the remainder of the Fort Leonard Wood area. Since we have held that the State of Missouri does not have criminal jurisdiction over that portion of the Fort Leonard Wood area not occupied by Highway No. 17, it follows that it does not have criminal jurisdiction over that portion of the area occupied by Highway No. 17, but that criminal jurisdiction over the entire area is exclusively vested in the United States.

It will be noted that Section 12.040, supra, states that "the jurisdiction so ceded to the United States shall continue no longer than the said United States shall own such lands and use the same for the purposes for which they were acquired." It is a matter of common knowledge that the Fort Leonard Wood area, since its acquisition by the United States, has been continuously used for the purpose for which it was acquired.

#### CONCLUSION

It is the opinion of this department that the land area embraced by Fort Leonard Wood, including that portion of such area which is occupied by Highway No. 17, is under the exclusive jurisdiction of the United States so far as criminal jurisdiction is concerned.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Mr. Hugh P. Williamson.

Respectfully submitted,

JOHN M. DALTON  
Attorney General

HPW:lrt