

OFFICERS: Sheriffs may serve civil and criminal process in military reservations.

June 2, 1943.



Hon. Wayne V. Slankard  
Prosecuting Attorney  
Newton County  
Neosho, Missouri

Dear Mr. Slankard:

This is to acknowledge receipt of your letter of May 27th, 1943, in which you request the opinion of this Department on the following:

"Does the Sheriff of Newton County have the authority to serve warrants and civil processes in the Camp Crowder military reservation. I would like to know just what the extent of his authority would be."

This department has no information as to the ownership of the land occupied by Camp Crowder. The only method of obtaining this information accurately, is by examining the deed records in the counties wherein this military reservation is located. However, we feel that under the condition of the law at the present time, it makes no difference, as far as your problem is concerned, as to the ownership of this property.

The United States Government is given the authority to acquire land for certain purposes by the Federal Constitution, one of such purposes being for "forts." The provision in the Constitution is Article I, Section 8, Clause 17, and provides as follows:

"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 government of the United States, and to execute 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; \*"

It is clear from this provision that the United States Government can acquire property for use in projects like Camp Crowder by purchasing such property with the consent of the State Legislature of the State wherein such real estate lies.

The Legislature of this State has given permission to the United States Government to acquire land in this State for certain purposes. This permission is of course in the form of a statute, and is Section 12691, R. S. Mo. 1939. This section provides 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 postoffices, internal revenue and other government offices, hospitals, sanatoriums, fish hatcheries, game and bird preserves and land for reforestation, recreational and agricultural uses."

However, as to the regulation of civil and criminal process in such government acquired territory, we find that Section 12693, R. S. Mo. 1939, prescribes the following:

"The jurisdiction of the state of Missouri in and over all such land purchased or acquired as provided in section 12691 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."

This department feels that there are possibly some questions as to whether Section 12691, supra, would apply to a military reservation, since the statute gives the Government the authority to acquire lands for the purpose of "establishing and maintaining postoffices, internal revenue and other government offices, hospitals, sanatoriums, fish hatcheries, game and bird preserves and land for reforestation, recreational and agricultural uses." However, a discussion as to this question is unnecessary since the State will still retain permission to serve both civil and criminal process in this territory even though this statute does or does not apply. If the statute applies and the United States has permission to purchase this property, the Legislature has specifically retained the right to execute civil and criminal process under Section 12693, supra. If the statute does not apply, then if the Government has purchased the land, it has done so without legislative authority as required by the Federal Constitution, and consequently under the decisions of the court the State wherein the property lies would still retain political jurisdiction. In the case of *United States v. San Francisco Bridge Co.*, 88 Fed. 891, the District Court of California held that a state retains complete and exclusive political jurisdiction over lands within its limits purchased by the United States as a site for a public building, unless such purchase was with the consent of its legislature, or jurisdiction had been otherwise ceded to the United States, and any offense against its laws committed thereon is punishable in its courts.

The only other method by which the United States can gain exclusive possession and control of property within a state would be by the Legislature ceding property to them. We can find no act of the Legislature which does cede to the Government the property occupied by Camp Crowder.

Therefore, if the property has been purchased by the Government, the State in any instance has retained political jurisdiction and has the right to issue both civil and criminal process in such military reservation.

Conclusion

Therefore, it is the opinion of this department that the Sheriff of Newton County has authority to serve warrants and civil processes in the Camp Crowder Military Reservation.

Respectfully submitted,

JOHN S. PHILLIPS  
Assistant Attorney-General

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APPROVED:

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ROY McKITTRICK  
Attorney-General