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UNITED STATES GOVERNMENT — PROPERTY ACQUIRED IN OHIO UNDER ARTICLE I, SECTION 8, CONSTITUTION OF UNITED STATES — AUTHORITY TO ENFORCE HEALTH LAWS NOT VESTED IN STATE DEPARTMENT OF HEALTH, NOR DISTRICT HEALTH BOARDS.

SYLLABUS:

Neither the State Department of Health nor the district health boards are vested with the authority to enforce state health laws and regulations upon property acquired in this state by the United States Government under Article I, Section 8 of the Constitution of the United States.

Columbus, Ohio, April 18, 1941.

Dr. R. H. Markwith, Director, Department of Health,
Columbus, Ohio.

Dear Sir:

This will acknowledge your recent letter wherein you review the fact that the United States Government has recently acquired large areas of land within the state, particularly in Erie and Portage counties for governmental purposes. You then inquire as follows:

“Do the State Department of Health and also district boards of health have authority to enforce laws and regulations that have been adopted in accordance with the statutes of this state in areas that are purchased in Ohio by the United States government for national defense?”

As you have noted in your letter, the United States Government is empowered by Article I, Section 8 of the Constitution of the United States to acquire land within the various states and to exercise exclusive jurisdiction over such property when the Legislature of the state concerned has consented to the acquisition by the United States Government. That portion of the Constitution is as follows:

“The Congress shall have power * * *;

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 the Government of the United States, and to exercise 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, dockyards, and other needful buildings; * * *

In speaking of such acquisition of property by the United States Government within this state, the Supreme Court of this state, in the case of John F. Sinks vs. David W. Rees, 19 O.S. 306, said as indicated by the second branch of the syllabus:

“When territory for such purpose is so purchased by ‘the consent of the legislature of the State in which the same shall be,’ the Government of the United States is invested, under the provisions of the same section, with exclusive jurisdiction over the same and its appurtenances, in all cases whatsoever.”

See also 40 O. Jur. 622.

The Legislature of Ohio, by an act of May 6, 1902, found in 95 O.L. 368, entitled “An act ceding to the United States exclusive jurisdiction over certain lands acquired for public purposes within this state and authorizing the acquisition thereof,” has so consented to the acquisition of lands within the state by the United States. This act is now identified as Sections 13770, 13771 and 13772, Ohio General Code. Sections 13770 and 13771 are as follows:

Section 13770, General Code:

“That the consent of the state of Ohio 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 required for sites for custom houses, court houses, post offices, arsenals, or other public buildings whatever, or for any other purposes of the government.”

Section 13771, General Code:

“That 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 upon

such sites 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 lands."

It, therefore, follows that since the Legislature by Sections 13770 and 13771, supra, has consented to the acquisition of land by the United States Government, the jurisdiction of the United States over that land is complete and exclusive and it in turn follows that the legislative acts of this state are of no more effect in such federal areas than in another state or in a foreign country. See *Standard Oil Company of California vs. California*, 291 U.S. 242; *United States vs. Unzeuta*, 281 U.S. 138, the first headnote of which is as follows:

"When the United States acquires title to lands by purchase with the consent of the legislature of the State within which they are situated 'for the erection of forts, magazines, arsenals, dockyards, and other needful buildings (Const. Art. 1, §8,) the federal jurisdiction is exclusive of all state authority."

See also Opinion No. 94, Opinions of the Attorney General for the year 1933, Vol. I, page 91; Opinion No. 1320, Opinions of the Attorney General for 1937, Vol. III, page 2255.

You are accordingly advised, therefore, that neither the State Department of Health nor the district health boards are vested with the authority to enforce state health laws and regulations upon property acquired in this state by the United States Government under Article I, Section 8 of the Constitution of the United States.

Respectfully,

THOMAS J. HERBERT,

Attorney General.