

**Subject:** [legality-of-income-tax] A Winning Strategy (Should be able to use this in a tax court also)

One of the cases is Walt Maken in Dayton, Ohio. Almost 40 months ago (Fall of 2000) he was charged with two counts of 7203 Willful Failure to file and a felony count of "interfering . . ."

At his criminal arraignment the judge read Maken the charges and asked if plead guilty or innocent. Maken, WITHOUT an attorney, replied to this effect. "I'm not going to plead. Instead at this time, I hereby challenge the JURISDICTION of the federal government to charge me with this crime inside the state of Ohio (specifically Dayton, Ohio) I hereby cite the STATUTORY requirements within 40 USCS 255 – with specific reference to interpretive note #14 – and hereby request that the court order the DOJ to produce the documentation specified PER THE STATUTE to establish their criminal jurisdiction."

Note: Maken did NOT challenge the jurisdiction of the COURT. Maken challenged the jurisdiction of the PROSECUTOR and requested the court, as an "independent" and "non-biased" THIRD PARTY, to order – as it MUST when jurisdiction is formally challenged – for the DOJ to produce the documentation as REQUIRED by the statute

Within an hour, Maken walked out and has not set foot inside again. FORTY months later (July 2003), the DOJ has still NOT responded with the required documentation and his trial has not proceeded any further. (The charges remain lingering, unprosecuted)

I believe the reason the government have not responded to Maken is that they CAN'T. No such documentation exists because NO SUCH JURISDICTION EXISTS. In addition, I believe the Judge, even if he wanted to, cannot let the trial proceed because per federal due process rules, challenges to jurisdiction STOP all further proceedings until resolved. As such, the matter is immediately appealable to the next court.

Walt's e-mail is waltmaken@hotmail.com. He has a website with all his motions posted. Links are below the following graphic

The 40 USCS 255 citation and other similar materials are found on our Truth-in-Taxation CD-ROMs from the WTP Hearing last year. This includes a several hundred page document commissioned in 1954 by Eisenhower detailing the limits federal jurisdiction and articulating the basis for the requirements of 40 USCS 255.

The second case I am aware of is a California medical marijuana (Prop 215) patient I know that had some legal scuffle with California authorities where his pot was seized

Repeatedly, he administratively asked for it back and was told that even though under STATE law he could legally possess med-pot the state authorities could NOT return his property because FEDERAL drug law, operating inside California, prevented them from doing so

WITHOUT an attorney – he filed suit in state court, motioning the court for the return of his property. Attorneys for the state responded, in writing, denying the request stating that federal drug law jurisdiction inside California prevented them from doing so

He next responded to the court with a very short memorandum of law citing 3 "points and authorities" one of which was 40 USCS 255. The other two were Lopez Supreme Court decision (PS Texas) and the Printz decision (Montana) both regarding federal police jurisdiction. Federal Jurisdiction was the ONLY issue before the court

The state attorneys did NOT directly reply. At the actual court hearing on the matter, the Attorneys for the state remained silent and did not rebut the points and authorities. The judge repeatedly chastised the state attorneys that he would HAVE TO rule on the law cited by the med-pot plaintiff. Again, the Attorneys for the state remained silent squirming in their chairs.

Guess what happens next?

One fine California afternoon, about 3 months later, a California Highway patrol car with two of California's finest pulls up to the house. Out step the officers with his bag of seized marijuana.

**JURISDICTION IS THE KEY  
IT CAN BE CHALLENGED AT ANY TIME. IT IS A THRESHOLD REQUIREMENT FOR PROSECUTION  
FORMALLY CHALLENGE THE JURISDICTION OF THE DOJ, –NOT– THE COURT**

**STATEMENT OF FACTS AND BELIEFS REGARDING  
IRS TERRITORIAL JURISDICTION**

**September 2003**

**(Attachment 3)**

## PRELIMINARY STATEMENT

The IRS lacks territorial jurisdiction The current system of enforcement of the Internal Revenue Code, Subtitle A and C is repugnant to and violative of Article I, Section 8, Clause 17 of the Constitution and its implementing statute, 40 USC 255

## FACT

### IRS LACKS TERRITORIAL JURISDICTION

The Constitution is unambiguous about defining WHAT Congress is authorized to do and WHERE they can do it The IRS cannot tax where the US cannot legislate

Specifically with respect to "where" Congress enjoys legislative, i e , police/taxing jurisdiction, the Constitution reads

"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,"

Constitution Article 1, Section 8, Clause 17

The Department of Justice's own Criminal Resource Manual documents the true limits of the DOJ's police authority

### 664 Territorial Jurisdiction

Of the several categories listed in 18 U S C § 7, Section 7(3) is the most significant, and provides

The term "special maritime and territorial jurisdiction of the United States," as used in this title, includes (3) Any lands reserved or acquired for the use of the United States, and under the exclusive or concurrent jurisdiction thereof, or any place purchased or otherwise acquired by the United States by consent of the legislature of the State in which the same shall be, for the erection of a fort, magazine, arsenal, dockyard, or other needful building

As is readily apparent, this subsection, and particularly its second clause, bears a striking resemblance to the 17th Clause of Article I, Sec 8 of the Constitution. This clause provides

“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, dock-Yards, and other needful Buildings* ” (Emphasis added )

The constitutional phrase "exclusive legislation" is the equivalent of the statutory expression "exclusive jurisdiction " *See James v Dravo Contracting Co.*, 302 U S 134, 141 (1937), citing, *Surplus Trading Co v Cook*, 281 U.S 647, 652 (1930)

Until the decision in *Dravo*, it had been generally accepted that when the United States acquired property with the consent of the state for any of the enumerated purposes, it acquired exclusive jurisdiction by operation of law, and any reservation of authority by the state, other than the right to serve civil and criminal process, was inoperable. *See Surplus Trading Co v Cook*, 281 U S at 652-56. When *Dravo* held that a state might reserve legislative authority, e g , the right to levy certain taxes, so long as that did not interfere with the United States' governmental functions, it became necessary for Congress to amend 18 U S C § 7(3), by adding the words "so as," to restore criminal jurisdiction over those places previously believed to be under exclusive Federal legislative jurisdiction. *See H R Rep No 1623, 76th Cong , 3d Sess 1 (1940), S Rep No 1788, 76th Cong , 3d Sess 1 (1940)*

*Dravo* also settled that the phrase "other needful buildings" was not to be strictly construed to include only military and naval structures, but was to be construed as "embracing whatever structures are found to be necessary in the performance of the function of the Federal Government " *See James v Dravo Contracting Co* , 302 U S at 142-43. It therefore properly embraces courthouses, customs houses, post offices and locks and dams for navigation purposes.

The "structures" limitation does not, however, prevent the United States from holding or acquiring and having jurisdiction over land acquired for other valid purposes, such as parks and irrigation projects since Clause 17 is not the exclusive method of obtaining jurisdiction.

The United States may also obtain jurisdiction by reserving it when sovereign title is transferred to the state upon its entry into the Union or by cession of jurisdiction after the United States has otherwise acquired the property. *See*

*Collins v Yosemite Park Co*, 304 U.S. 518, 529-30 (1938), *James v Dravo Contracting Co.*, 302 U.S. at 142, *Surplus Trading Co v Cook*, 281 U.S. at 650-52, *Fort Leavenworth R.R. Co v Lowe*, 114 U.S. 525, 526-27, 538, 539 (1885)

The United States may hold or acquire property within the borders of a state without acquiring jurisdiction. It may acquire title to land necessary for the performance of its functions by purchase or eminent domain without the state's consent. See *Kohl v United States*, 91 U.S. 367, 371, 372 (1976). But it does not thereby acquire legislative jurisdiction by virtue of its proprietorship. The acquisition of jurisdiction is dependent on the consent of or cession of jurisdiction by the state. See *Mason Co v Tax Commission*, 302 U.S. 97 (1937), *James v Dravo Contracting Co*, 302 U.S. at 141-42.

State consent to the exercise of Federal jurisdiction may be evidenced by a specific enactment or by general constitutional or statutory provision. Cession of jurisdiction by the state also requires acceptance by the United States. See *Adams v United States*, 319 U.S. 312 (1943); *Surplus Trading Co v. Cook*, 281 U.S. at 651-52.

Whether or not the United States has jurisdiction is a Federal question. See *Mason Co v Tax Commission*, 302 U.S. at 197.

Prior to February 1, 1940, it was presumed that the United States accepted jurisdiction whenever the state offered it because the donation was deemed a benefit. See *Fort Leavenworth R.R. Co v Lowe*, 114 U.S. at 528. This presumption was reversed by enactment of the Act of February 1, 1940, codified at 40 U.S.C. § 255. This statute requires the head or authorized officer of the agency acquiring or holding property to file with the state a formal acceptance of such "jurisdiction, exclusive or partial as he may deem desirable," and further provides that in the absence of such filing "it shall be conclusively presumed that no such jurisdiction has been acquired." See *Adams v United States*, 319 U.S. 312 (district court is without jurisdiction to prosecute soldiers for rape committed on an army base prior to filing of acceptance prescribed by statute). The requirement of 40 U.S.C. § 255 can also be fulfilled by any filing satisfying state law. *United States v Johnson*, 994 F.2d 980, 984-86 (2d Cir. 1993). The enactment of 40 U.S.C. § 255 did not retroactively affect jurisdiction previously acquired. See *Markham v United States*, 215 F.2d 56 (4th Cir.), cert. denied, 348 U.S. 939 (1954), *United States v Heard*, 270 F. Supp. 198, 200 (W.D. Mo. 1967).

In summary, the United States may exercise plenary criminal jurisdiction over lands within state borders.

A Where it reserved such jurisdiction upon entry of the state into the union,

- B. Where, prior to February 1, 1940, it acquired property for a purpose enumerated in the Constitution with the consent of the state,
- C. Where it acquired property whether by purchase, gift or eminent domain, and thereafter, but prior to February 1, 1940, received a cession of jurisdiction from the state, and
- D. Where it acquired the property, and/or received the state's consent or cession of jurisdiction after February 1, 1940, and has filed the requisite acceptance

U.S. DOJ Criminal Resource Manual,  
October 1997 Section 664

The police power is vested in the States and not the federal government See Wilkerson v Rahrer, 140 U S 545, 554, 11 S Ct 865, 866 (1891) (the police power "is a power originally and always belonging to the States, not surrendered to them by the general government, nor directly restrained by the constitution of the United States, and essentially exclusive"), Union National Bank v Brown, 101 Ky 354, 41 S W 273 (1897), John Woods & Sons v Carl, 75 Ark 328, 87 S W 621, 623 (1905), Southern Express Co v Whittle, 194 Ala 406, 69 So 2d 652, 655 (1915), Shealey v Southern Ry Co, 127 S C 15, 120 S E 561, 562 (1924) ("The police power under the American constitutional system has been left to the states It has always belonged to them and was not surrendered by them to the general government, nor directly restrained by the constitution of the United States Congress has no general power to enact police regulations operative within the territorial limits of a state"), and McInerney v Ervin, 46 So 2d 458, 463 (Fla 1950)

"No sanction can be imposed absent proof of jurisdiction " Standard v Olson, 74 S.Ct 768 "It has also been held that jurisdiction must be affirmatively shown and will not be presumed." Special Indem Fund v Prewitt, 205 F2d 306, 201 OK 308

Even the IRS's own CID manual shows it does not have jurisdiction inside the fifty states

"The Criminal Investigative Division enforces the criminal statutes applicable to income, estate, gift, employment, and excise tax laws involving United States citizens residing in foreign countries and non-resident aliens subject to federal income tax filing requirements "  
IRS Criminal Investigation Division

The Supreme Court says the government has an obligation to ascertain bona fide authority "Anyone entering into an arrangement with the government takes the risk of having accurately ascertained that he who purports to act for the government stays within the bounds of this authority." Federal Crop Insurance v Merrill, 33 U.S. 380 at 384 (1947).

The Federal Rules of Civil Procedure even states there is no jurisdiction inside the States " 'Act of Congress' includes any act of Congress locally applicable to and in force in the District of Columbia, in Puerto Rico, in a territory or in an insular possession." See 18 USC, Rule 54 of the Federal Rules of Criminal Procedure Note. There is NO reference to the 50 "states "

The IRS must establish jurisdiction or it will be sanctioning FRAUD. "Silence is a species of conduct, and constitutes an implied representation of the existence of facts in question. When silence is of such character and under such circumstances that it would become a fraud, it will operate as an Estoppel" Carmine v Bowen, 64 U.S. 932

"Silence can only be equated with fraud where there is a legal or moral duty to speak or where an inquiry left unanswered would be intentionally misleading. We cannot condone this shocking conduct by the IRS. Our revenue system is based upon the good faith of the taxpayers and the taxpayers should be able to expect the same from government in its enforcement and collection activities. This sort of deception will not be tolerated and if this is

the 'routine' it should be corrected immediately " [U. S. v. Tweel, 550 F 2d 297, 299 (1977)][quoting U S v. Prudden, 424 F 2d 1021, 1032 (1970)]

The USC codifies the Constitutional requirement at Article I, Section 8, Clause 17 and proscribes the procedure and required documentation for the federal government to successfully assert jurisdiction inside one of the fifty states To wit. 40 USCS § 255 (now 3111 and 3112) clearly and specifically requires that a "notice of acceptance" is to be filed "with the Governor of such State or in such manner as may be prescribed by the laws of the State where such lands are situated " "Such lands," of course, referring to those lands that the federal government, through its agents, is claiming exclusive or concurrent jurisdiction over the people living thereon.

The text of § 255 concludes with the statement "Unless and until the United States has accepted jurisdiction over lands hereafter to be acquired as aforesaid, *it shall be conclusively presumed that no such jurisdiction has been accepted.*" [Emphasis added]

Obviously, if the requirements of Article 1, Section 8, Clause 17 of the Constitution of the United States are not complied with, and/or if the procedural requirements of 40 USCS § 255 are not complied with, then no public servant who is acting as an agent of the United States, i e the federal government, has any bona fide authority whatsoever to attempt to force compliance with any federal law, rule, code, statute, etc on anyone living in such an area that is not subject to any bona fide jurisdiction of the federal government

In support of this rather obvious conclusion, the second paragraph of interpretive note 14 of 40 USCS § 255 says "In view of 40 USCS § 255, **no jurisdiction exists in United States to enforce federal criminal laws, unless and until consent to accept jurisdiction over lands acquired by United States has been filed in behalf of United States as provided in said**

**section**, and fact that state has authorized government to take jurisdiction is immaterial Adams v United States (1943) 319 US 312, 87 L Ed 1421, 63 S Ct 1122." (plaintiff's emphasis)

[Federal jurisdiction] " . must be considered in the light of our dual system of government and may not be extended in view of our complex society, would effectually obliterate the distinction between what is national and what is local and create a completely centralized government " United States v Lopez, 514 U S 549, 115 S Ct 1624 (1995)

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**Sec. 255. - Approval of title prior to Federal land purchases; payment of title expenses; application to Tennessee Valley Authority; Federal jurisdiction over acquisitions**

Unless the Attorney General gives prior written approval of the sufficiency of the title to land for the purpose for which the property is being acquired by the United States, public money may not be expended for the purchase of the land or any interest therein.

The Attorney General may delegate his responsibility under this section to other departments and agencies, subject to his general supervision and in accordance with regulations promulgated by him.

Any Federal department or agency which has been delegated the responsibility to approve land titles under this section may request the Attorney General to render his opinion as to the validity of the title to any real property or interest therein, or may request the advice or assistance of the Attorney General in connection with determinations as to the sufficiency of titles.

Except where otherwise authorized by law or provided by contract, the expenses of procuring certificates of titles or other evidences of title as the Attorney General may require may be paid out of the appropriations for the acquisition of land or out of the appropriations made for the contingencies of the acquiring department or agency.

The foregoing provisions of this section shall not be construed to affect in any manner any existing provisions of law which are applicable to the acquisition of lands or interests in land by the Tennessee Valley Authority.

Notwithstanding any other provision of law, the obtaining of exclusive jurisdiction in the United States over lands or interests therein which have been or shall hereafter be acquired by it shall not be required; but the head or other authorized officer of any department or independent establishment or agency of the Government may, in such cases and at such times as he may deem

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desirable, accept or secure from the State in which any lands or interests therein under his immediate jurisdiction, custody, or control are situated, consent to or cession of such jurisdiction, exclusive or partial, not theretofore obtained, over any such lands or interests as he may deem desirable and indicate acceptance of such jurisdiction on behalf of the United States by filing a notice of such acceptance with the Governor of such State or in such other manner as may be prescribed by the laws of the State where such lands are situated. Unless and until the United States has accepted jurisdiction over lands hereafter to be acquired as aforesaid, it shall be conclusively presumed that no such jurisdiction has been accepted

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within boundaries of state is not sufficient to exclude state from exercising any legislative authority, including its taxing and police power, in relation to property and activities of individuals and corporations within territory, but it must appear that state, by consent or cession, has transferred to United States that residuum of jurisdiction which otherwise it would be free to exercise. *Silas Mason Co v Tax Com of Washington* (1937) 302 US 186, 82 L Ed 187, 58 S Ct 233

Federal government has power to acquire land within state by purchase or by condemnation without consent of state. *Paul v United States* (1963) 371 US 245, 9 L Ed 2d 292, 83 S Ct 426 (ovrld on other grounds by *Kleppe v New Mexico* (1976) 426 US 529, 49 L Ed 2d 34, 96 S Ct 2285, 6 ELR 20545) as stated in *Minnesota* by *Alexander v Block* (1981, CA8 Minn) 660 F2d 1240, 16 Env't Rep Cas 2199, 11 ELR 21033, cert den (1982) 455 US 1007, 71 L Ed 2d 876, 102 S Ct 1645, 16 Env't Rep Cas 2216

United States may lawfully make title to land in one of states by expropriation of eminent domain of such state, and with assent thereof (1855) 7 Op Atty Gen 114

#### 14. Acceptance of jurisdiction, generally

Jurisdiction obtained by United States from state by consent or cession may be qualified by agreement or through offer and acceptance or ratification. *Collins v Yosemite Park & Curry Co* (1938) 304 US 518, 82 L Ed 1502, 58 S Ct 1009

In view of 40 USCS § 255, no jurisdiction exists in United States to enforce federal criminal laws, unless and until consent to accept jurisdiction over lands acquired by United States has been filed in behalf of United States as provided in said section, and fact that state has authorized government to take jurisdiction is immaterial. *Adams v United States* (1943) 319 US 312, 87 L Ed 1421, 63 S Ct 1122

Since 1940, Congress has required United States to assent to transfer of jurisdiction over property, however it may be acquired. *Paul v United States* (1963) 371 US 245, 9 L Ed 2d 292, 83 S Ct 426 (ovrld on other grounds by *Kleppe v New Mexico* (1976) 426 US 529, 49 L Ed 2d 34, 96 S Ct 2285, 6 ELR 20545) as stated in *Minnesota* by *Alexander v Block* (1981, CA8 Minn) 660 F2d 1240, 16 Env't Rep Cas 2199, 11 ELR 21033, cert den (1982) 455 US 1007, 71 L Ed 2d 876, 102 S Ct 1645, 16 Env't Rep Cas 2216

Under 40 USCS § 255, which provides that unless and until United States has accepted jurisdiction over lands acquired in accordance therewith, "it shall be conclusively presumed that no such jurisdiction has been accepted," United States' assent is necessary to its exercise of exclusive jurisdiction over lands acquired by it. *United*

*States v State Tax Com* (1973) 412 US 363, 37 L Ed 2d 1, 93 S Ct 2183

Missouri had criminal jurisdiction over Mark Twain National Forest, there was no evidence that United States had accepted jurisdiction over lands in way statute requires. *Hankins v Delo* (1992, CA8 Mo) 977 F2d 396

Mere fact that United States needs title to property within boundaries of state, which may be acquired irrespective of consent of state, does not necessitate assumption by United States of burdens incident to exclusive jurisdiction. *United States v Thompson* (1941, DC Wash) 41 F Supp 13

#### 15 —Procedure

Fact that state has enacted statute ceding jurisdiction to United States does not constitute acceptance of jurisdiction by United States as envisioned by 40 USCS § 255, language "or in such other manner as may be prescribed by the laws of the State" does not relate to decision of United States whether it shall or shall not acquire jurisdiction, but to mode by which acceptance is indicated once appropriate officer has deemed it desirable to acquire jurisdiction. *De Kalb County v Henry C Beck Co* (1967, CA5 Ga) 382 F2d 992

40 USCS § 255 authorizing head of department to accept cession of jurisdiction, merely provides method for cession of jurisdiction, and does not limit character or ownership of lands acquired. *United States v Petersen* (1950, DC Cal) 91 F Supp 209, aff'd (1951, CA9 Cal) 191 F2d 154, cert den (1951) 342 US 885, 96 L Ed 664, 72 S Ct 174

In Secretary of Army's letter of acceptance, omission of word "exclusive" does not signify intent to accept partial jurisdiction, federal jurisdiction was accepted without qualification. *United States v Warne* (1960, ND Cal) 190 F Supp 645, cert den (1963) 372 US 907, 9 L Ed 2d 716, 83 S Ct 716 and aff'd in part and vacated in part on other grounds (1963) 371 US 245, 9 L Ed 2d 292, 83 S Ct 426 (ovrld on other grounds by *Kleppe v New Mexico* (1976) 426 US 529, 49 L Ed 2d 34, 96 S Ct 2285, 6 ELR 20545) as stated in *Minnesota* by *Alexander v Block* (1981, CA8 Minn) 660 F2d 1240, 16 Env't Rep Cas 2199, 11 ELR 21033, cert den (1982) 455 US 1007, 71 L Ed 2d 876, 102 S Ct 1645, 16 Env't Rep Cas 2216

Since legislature of state of Ohio has not provided any other manner for acceptance, notice of acceptance of jurisdiction by Federal Government must be filed with Governor of State of Ohio. *Cincinnati v Nussbaum* (1968) 14 Ohio Misc 19, 42 Ohio Ops 2d 359, 233 NE2d 152

#### 16 —Evidence

In absence of controversy over federal acceptance of jurisdiction, letter from Executive Assistant Administrator of Veterans Administration

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## 664 Territorial Jurisdiction

Of the several categories listed in 18 U S C § 7, Section 7(3) is the most significant, and provides

The term "special maritime and territorial jurisdiction of the United States," as used in this title, includes

(3) Any lands reserved or acquired for the use of the United States, and under the exclusive or concurrent jurisdiction thereof, or any place purchased or otherwise acquired by the United States by consent of the legislature of the State in which the same shall be, for the erection of a fort, magazine, arsenal, dockyard, or other needful building

As is readily apparent, this subsection, and particularly its second clause, bears a striking resemblance to the 17th Clause of Article I, Sec 8 of the Constitution This clause provides

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Prior to February 1, 1940, it was presumed that the United States accepted jurisdiction whenever the state offered it because the donation was deemed a benefit. See *Fort Leavenworth R.R. Co v Lowe*, 114 U S at 528. This presumption was reversed by enactment of the Act of February 1, 1940, codified at 40 U S C § 255. This statute requires the head or authorized officer of the agency acquiring or holding property to file with the state a formal acceptance of such "jurisdiction, exclusive or partial as he may deem desirable," and further provides that in the absence of such filing "it shall be conclusively presumed that no such jurisdiction has been acquired." See *Adams v United States*, 319 U S 312 (district court is without jurisdiction to prosecute soldiers for rape committed on an army base prior to filing of acceptance prescribed by statute). The requirement of 40 U S C § 255 can also be fulfilled by any filing satisfying state law. *United States v Johnson*, 994 F 2d 980, 984-86 (2d Cir 1993). The enactment of 40 U S C § 255 did not retroactively affect jurisdiction previously acquired. See *Markham v United States*, 215 F 2d 56 (4th Cir), cert denied, 348 U S 939 (1954), *United States v Heard*, 270 F Supp 198, 200 (W D Mo 1967).

COMMENT In summary, the United States may exercise plenary criminal jurisdiction over lands within state borders

- A. Where it reserved such jurisdiction upon entry of the state into the union,
- B. Where, prior to February 1, 1940, it acquired property for a purpose enumerated in the Constitution with the consent of the state,
- C. Where it acquired property whether by purchase, gift or eminent domain, and thereafter, but prior to February 1, 1940, received a cession of jurisdiction from the state, and
- D. Where it acquired the property, and/or received the state's consent or cession of jurisdiction after February 1, 1940, and has filed the requisite acceptance