
THE CONSTITUTION
of the
UNITED STATES OF AMERICA
ANALYSIS AND INTERPRETATION

ANALYSIS OF CASES DECIDED BY THE
SUPREME COURT OF THE UNITED STATES
TO JUNE 28, 2002



PREPARED BY THE
CONGRESSIONAL RESEARCH SERVICE
LIBRARY OF CONGRESS

JOHNNY H. KILLIAN
GEORGE A. COSTELLO
KENNETH R. THOMAS
CO-EDITORS

DAVID M. ACKERMAN
HENRY COHEN
ROBERT MELTZ
CONTRIBUTORS

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 2004

77-500 PS

Sec. 8—Powers of Congress

Cl. 17—District of Columbia; Federal Property

gress remains the legislature of the Union, so that it may give its enactments nationwide operation to the extent necessary to make them locally effective.¹⁷⁰⁷

AUTHORITY OVER PLACES PURCHASED

“Places”

This clause has been broadly construed to cover all structures necessary for carrying on the business of the National Government.¹⁷⁰⁸ It includes post offices,¹⁷⁰⁹ a hospital and a hotel located in a national park,¹⁷¹⁰ and locks and dams for the improvement of navigation.¹⁷¹¹ But it does not cover lands acquired for forests, parks, ranges, wild life sanctuaries or flood control.¹⁷¹² Nevertheless, the Supreme Court has held that a State may convey, and the Congress may accept, either exclusive or qualified jurisdiction over property acquired within the geographical limits of a State, for purposes other than those enumerated in clause 17.¹⁷¹³

After exclusive jurisdiction over lands within a State has been ceded to the United States, Congress alone has the power to punish crimes committed within the ceded territory.¹⁷¹⁴ Private property located thereon is not subject to taxation by the State,¹⁷¹⁵ nor can state statutes enacted subsequent to the transfer have any operation therein.¹⁷¹⁶ But the local laws in force at the date of cession that are protective of private rights continue in force until abro-

District of Columbia Court of Appeals and pursuant to Article III in continuing the United States District Court and the United States Court of Appeals for the District of Columbia. The Article I courts were sustained in *Palmore v. United States*, 411 U.S. 389 (1973). See also *Swain v. Pressley*, 430 U.S. 372 (1977). The latter, federal courts, while Article III courts, traditionally have had some non-Article III functions imposed on them, under the “hybrid” theory announced in *O’Donoghue v. United States*, 289 U.S. 516 (1933). *E.g.*, *Hobson v. Hansen*, 265 F. Supp. 902 (D.D.C. 1967), appeal dismissed, 393 U.S. 801 (1968) (power then vested in District Court to appoint school board members). See also *Keller v. Potomac Electric Co.*, 261 U.S. 428 (1923); *Embry v. Palmer*, 107 U.S. 3 (1883).

¹⁷⁰⁷ *Cohens v. Virginia*, 19 U.S. (6 Wheat.) 264, 428 (1821).

¹⁷⁰⁸ *James v. Dravo Contracting Co.*, 302 U.S. 134, 143 (1937).

¹⁷⁰⁹ *Battle v. United States*, 209 U.S. 36 (1908).

¹⁷¹⁰ *Arlington Hotel v. Fant*, 278 U.S. 439 (1929).

¹⁷¹¹ *James v. Dravo Contracting Co.*, 302 U.S. 134, 143 (1937).

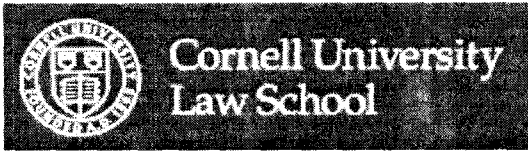
¹⁷¹² *Collins v. Yosemite Park Co.*, 304 U.S. 518, 530 (1938).

¹⁷¹³ 304 U.S. at 528.

¹⁷¹⁴ *Battle v. United States*, 209 U.S. 36 (1908); *Johnson v. Yellow Cab Co.*, 321 U.S. 383 (1944); *Bowen v. Johnston*, 306 U.S. 19 (1939).

¹⁷¹⁵ *Surplus Trading Co. v. Cook*, 281 U.S. 647 (1930).

¹⁷¹⁶ *Western Union Tel. Co. v. Chiles*, 214 U.S. 274 (1909); *Arlington Hotel v. Fant*, 278 U.S. 439 (1929); *Pacific Coast Dairy v. Department of Agriculture*, 318 U.S. 285 (1943). The Assimilative Crimes Act of 1948, 18 U.S.C. § 13, making applicable to a federal enclave a subsequently enacted criminal law of the State in which the enclave is situated entails no invalid delegation of legislative power to the State. *United States v. Sharpnack*, 355 U.S. 286, 294, 296–297 (1958).



Search Law School Search Cornell

LII / Legal Information Institute

U.S. Code collection

TITLE 40 > SUBTITLE I > CHAPTER 1 > SUBCHAPTER I > § 102

§ 102. Definitions

The following definitions
apply in chapters 1

through 7 of this title and in title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.):

- (1) Care and handling.**— The term “care and handling” includes—
- (A)** completing, repairing, converting, rehabilitating, operating, preserving, protecting, insuring, packing, storing, handling, conserving, and transporting excess and surplus property; and
 - (B)** rendering innocuous, or destroying, property that is dangerous to public health or safety.
- (2) Contractor inventory.**— The term “contractor inventory” means—
- (A)** property, in excess of amounts needed to complete full performance, that is acquired by and in possession of a contractor or subcontractor under a contract pursuant to which title is vested in the Federal Government; and
 - (B)** property that the Government is obligated or has the option to take over, under any type of contract, as a result of changes in specifications or plans under the contract, or as a result of termination of the contract (or a subcontract), prior to completion of the work, for the convenience or at the option of the Government.
- (3) Excess property.**— The term “excess property” means property under the control of a federal agency that the head of the agency determines is not required to meet the agency’s needs or responsibilities.
- (4) Executive agency.**— The term “executive agency” means—
- (A)** an executive department or independent establishment in the executive branch of the Government; and
 - (B)** a wholly owned Government corporation.
- (5) Federal agency.**— The term “federal agency” means an executive agency or an establishment in the legislative or judicial branch of the Government (except the Senate, the House of Representatives, and the Architect of the Capitol, and any activities under the direction of the Architect of the Capitol).
- (6) Foreign excess property.**— The term “foreign excess property” means excess

property that is not located in the States of the United States, the District of Columbia, Puerto Rico, American Samoa, Guam, the Northern Mariana Islands, the Federated States of Micronesia, the Marshall Islands, Palau, and the Virgin Islands.

(7) Motor vehicle.— The term “motor vehicle” means any vehicle, self-propelled or drawn by mechanical power, designed and operated principally for highway transportation of property or passengers, excluding—

(A) a vehicle designed or used for military field training, combat, or tactical purposes, or used principally within the confines of a regularly established military post, camp, or depot; and

(B) a vehicle regularly used by an agency to perform investigative, law enforcement, or intelligence duties, if the head of the agency determines that exclusive control of the vehicle is essential for effective performance of duties.

(8) Nonpersonal services.— The term “nonpersonal services” means contractual services designated by the Administrator of General Services, other than personal and professional services.

(9) Property.— The term “property” means any interest in property except—

(A)

(i) the public domain;

(ii) land reserved or dedicated for national forest or national park purposes;

(iii) minerals in land or portions of land withdrawn or reserved from the public domain which the Secretary of the Interior determines are suitable for disposition under the public land mining and mineral leasing laws; and

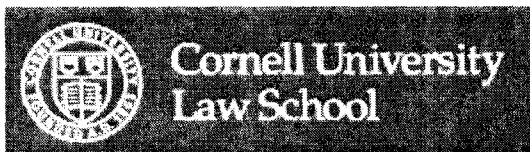
(iv) land withdrawn or reserved from the public domain except land or portions of land so withdrawn or reserved which the Secretary, with the concurrence of the Administrator, determines are not suitable for return to the public domain for disposition under the general public land laws because the lands are substantially changed in character by improvements or otherwise;

(B) naval vessels that are battleships, cruisers, aircraft carriers, destroyers, or submarines; and

(C) records of the Government.

(10) Surplus property.— The term “surplus property” means excess property that the Administrator determines is not required to meet the needs or responsibilities of all federal agencies.

LII has no control over and does not endorse any external Internet site that contains links to or references LII.



[Search Law School](#) [Search Cornell](#)

LII / Legal Information Institute

U.S. Code collection

TITLE 40 > SUBTITLE I > CHAPTER 13 > § 1314

§ 1314. Easements

(a) Definitions.— In this section—

(1) Executive agency.— The term “executive agency” means an executive department or independent establishment in the executive branch of the Federal Government, including a wholly owned Government corporation.

(2) Real property of the government.— The term “real property of the Government” excludes—

(A) public land (including minerals, vegetative, and other resources) in the United States, including—

(i) land reserved or dedicated for national forest purposes;

(ii) land the Secretary of the Interior administers or supervises in accordance with the Act of August 25, 1916 (16 U.S.C. 1, 2, 3, 4) (known as the National Park Service Organic Act);

(iii) Indian-owned trust and restricted land; and

(iv) land the Government acquires primarily for fish and wildlife conservation purposes and the Secretary administers;

(B) land withdrawn from the public domain primarily under the jurisdiction of the Secretary; and

(C) land acquired for national forest purposes.

(3) State.— The term “State” means a State of the United States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

(b) Grant of Easement.— When a State, a political subdivision or agency of a State, or a person applies for the grant of an easement in, over, or on real property of the Government, the executive agency having control of the real property may grant to the applicant, on behalf of the Government, an easement that the head of the agency decides will not be adverse to the interests of the Government, subject to reservations, exceptions, limitations, benefits, burdens, terms, or conditions that the head of the agency considers necessary to protect the interests of the Government. The grant may be made without consideration, or with monetary or other consideration, including an interest in real property.

(c) Relinquishment of Legislative Jurisdiction.— In connection with the grant of an easement, the executive agency concerned may relinquish to the State in which the

real property is located legislative jurisdiction that the executive agency considers necessary or desirable. Relinquishment of legislative jurisdiction may be accomplished by filing with the chief executive officer of the State a notice of relinquishment to take effect upon acceptance or by proceeding in the manner that the laws applicable to the State may provide.

(d) Termination of Easement.—

(1) When termination occurs.— The instrument granting the easement may provide for termination of any part of the easement if there has been—

- (A)** a failure to comply with a term or condition of the grant;
- (B)** a nonuse of the easement for a consecutive 2-year period for the purpose for which granted; or
- (C)** an abandonment of the easement.

(2) Notice required.— If a termination provision is included, it shall require that written notice of the termination be given to the grantee, or its successors or assigns.

(3) Effective date.— The termination is effective as of the date of the notice.

(e) Additional Easement Authority.— The authority conferred by this section is in addition to, and shall not affect or be subject to, any other law under which an executive agency may grant easements.

(f) Limitation on Issuance of Rights of Way.— Rights of way over, under, and through public lands and lands in the National Forest System may not be granted under this section.

LII has no control over and does not endorse any external Internet site that contains links to or references LII.