

whether resident or non resident, the latter class would escape the more severe sanctions of this statute although resident drivers would be clearly subjected to such penalties.

In summary, it is clear from both the plain meaning of R. S. 39:3-40 and the context in which this statute must be considered—particularly R.S. 39:3-10 and R.S. 39:3-17—that it was the legislative intent to apply the sanctions of R.S. 39:3-40 to a nonresident whose driver's license has been suspended, revoked, prohibited or refused in his home state and who thereafter operates a motor vehicle upon the highways of this State.

Very truly yours,

GROVER C. RICHMAN, JR.
Attorney General

By: CHRISTIAN BOLLERMANN
Deputy Attorney General

CB:MG

JANUARY 4, 1957

HONORABLE MERRITT LANE, JR., *Secretary*
Legalized Games of Chance Control Commission
1100 Raymond Boulevard
Newark 5, New Jersey

MEMORANDUM OPINION—P-1

DEAR MR. LANE:

You have requested our opinion as to whether organizations not qualified under the Bingo Licensing Law or the Raffles Licensing Law may conduct games of chance on United States Government military reservations within the State of New Jersey. For the reasons hereinafter stated it is our opinion that such persons would violate federal but not New Jersey law.

Persons conducting or participating in the games of chance commonly known as bingo or raffles in this jurisdiction would, absent compliance with the Bingo Licensing Law, L. 1954, c. 6, N.J.S.A. 5:8-24 et seq., or the Raffles Licensing Law, L. 1954, c. 5, N.J.S.A. 5:8-50 et seq., as the case may be, violate N.J.S. 2A:112 (gaming), N.J.S. 2A:121 (lotteries) and N.J.S. 2A:170-18 (possession of lottery or numbers slips). By N.J.S.A. 5:8-40 and 67 compliance with the Bingo Licensing Law and the Raffles Licensing Law confers immunity for what would otherwise constitute a violation of the cited sections of N.J.S. 2A. Compliance with the Acts involves, *inter alia*, licensing by municipality in which such game of chance is to be held. By N.J.S.A. 5:8-42 and 69 no municipality may issue licenses unless the provisions of the Acts have been adopted by the legal voters of such municipality pursuant to N.J.S.A. 5:8-43 to 49 and N.J.S.A. 5:8-70 to 76. As is apparent from N.J.S.A. 5:8-43 and N.J.S.A. 5:8-70, the earliest date on which the Acts could have been adopted in any New Jersey municipality is April 20, 1954.

It is provided by Article 1, sec. 8, clause 17 of the United States Constitution that:

"The Congress shall have power . . . to exercise exclusive legislation in

all cases whatsoever . . . 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 . . ."

The respective legislative jurisdiction which vests in the United States on the one hand and which is retained by the ceding State on the other upon a purchase of land pursuant to the above provisions of the United States Constitution depends upon several factors, among them the terms of the cession as evidenced by the acts of the legislature of the ceding state, the terms of acceptance, if any, of the United States, and such adjustments of jurisdiction as may take place between the two entities. *Collins v. Yosemite Park & Curry Co.*, 304 U.S. 518 (1938). It will be assumed for purposes of this opinion that the United States has accepted the terms of cession imposed by the New Jersey legislature upon the purchase and condemnation of all lands now being used as military reservations and that all such lands were acquired prior to April 20, 1954, the earliest possible effective date of the Bingo Licensing Law and the Raffles Licensing Law in any New Jersey municipality. As to specific acquisitions of such land, a list of 38 acts of the New Jersey legislature whereby jurisdiction was ceded to the federal government is set forth following R.S. 52:30-1 of New Jersey Statutes Annotated.

The New Jersey statutes dealing with cession of jurisdiction to the United States are R.S. 52:30-1, 2 and 3. R.S. 52:30-1 and 2 read as follows :

"52:30-1. Consent to acquisition of land by United States

The consent of this state is hereby given, pursuant to the provisions of article one, section eight, paragraph seventeen, of the constitution of the United States, to the acquisition by the United States, by purchase, condemnation or otherwise, of any land within this state, for the erection of dock-yards, custom houses, courthouses, post offices or other needful buildings.

52:30-2. Jurisdiction over lands acquired

Exclusive jurisdiction in and over any land so acquired by the United States is hereby ceded to the United States for all purposes except the service of process issued out of any of the courts of this state in any civil or criminal proceeding.

Such jurisdiction shall not vest until the United States shall have actually acquired ownership of said lands, and shall continue only so long as the United States shall retain ownership of said lands."

It appears from the foregoing that New Jersey is one of the states which, upon the purchase of lands pursuant to Article I, section 8, clause 17 of the United States Constitution, cedes exclusive or partially exclusive legislative jurisdiction to the United States, the only reservation being a right to serve civil and criminal process within the confines of such lands. This reservation, however, does not defeat the exclusive jurisdiction of the United States. *United States v. Unzenta*, 281 U.S. 138 (1930).

Upon the cession of exclusive legislative jurisdiction to the United States only such subsequently enacted local laws as are adopted by the United States become effective within the lands in question and where such adoption occurs the local laws

so adopted become federal laws enforceable only in the federal courts. *Johnson v. Yellow Cab Transit Co.*, 321 U.S. 383 (1944); *Collins v. Yosemite National Park & Curry Co.*, *supra.*; *Atkinson v. State Tax Commission*, 303 U.S. 20 (1938) and *United States v. Press Publishing Co.*, 219 U.S. 1 (1911). It may be noted that despite the constitutional provision conferring exclusive jurisdiction upon the federal government the United States Supreme Court has held that appropriate local law not inconsistent with national purposes *which is in effect at the time sovereignty is surrendered* continues in force until abrogated by the United States. *James Stewart & Co. v. Sadrakula*, 309 U.S. 94 (1940).

By 18 U.S.C., sec. 13, known as the Assimilative Crimes Act, it is provided as follows:

"Whoever within or upon any of the places now existing or hereafter reserved or acquired as provided in section 7 of this Title, is guilty of any act or omission which, although not made punishable by an enactment of Congress, would be punishable if committed or omitted within the jurisdiction of the State, Territory, Possession, or District in which such place is situated, by the laws thereof in force at the time of such act or omission, shall be guilty of a like offense and subject to a like punishment."

18 U.S.C., sec. 7 referred to in sec. 13, *supra.*, defines special maritime and territorial jurisdiction of the United States and includes therein lands purchased for the purposes set forth in Article 1, sec. 8, clause 17 of the Constitution. Such lands include those used for military reservations and the legislative jurisdiction thereby acquired by the United States is not confined to those portions of the reserve which are actually used for military purposes. *Benson v. United States*, 146 U.S. 325 (1892).

The authorities recognize that if the act or omission to act referred to in 18 U.S.C. sec. 13 is the subject of a federal statute, no adoption of local laws concerning this subject matter is effected. *Johnson v. Yellow Cab Transit Co.*, *supra.*

An examination of the federal statutes discloses that there is no counterpart of N.J.S. 2A:112, N.J.S. 2A:121 or N.J.S. 2A:170-18. The only prohibition against gambling found in the federal statutes is one against gambling on vessels on waters within the jurisdiction of the United States. 18 U.S.C., sec. 1081 et seq.

It is clear that the conduct of bingo, raffles and related games of chance upon United States military reservations in New Jersey would, upon the authority of 18 U.S.C., sec. 13, constitute a federal crime punishable only in the federal courts. In response to your specific request for our opinion, we therefore advise you that organizations not qualified under the Bingo Licensing Law or Raffles Licensing Law may not lawfully conduct games of chance on United States Government Military Reservations within New Jersey.

Very truly yours,

GROVER C. RICHMAN, JR.
Attorney General

By: CHRISTIAN BOLLERMANN
Deputy Attorney General