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STATE COOPERATION FOR CRIME-REPRESSION

JOHN H. WIGMORE

Substantial progress is now being made in State cooperation for the repression of crime. This has come about chiefly by making use of the Interstate Compact idea,—long ago provisioned in the Federal Constitution Art. I, Sect. 10, par. 3, sanctioning “compacts” between States.

Criminal law is a constitutional function reserved for each State; and crimes within the Federal power are relatively few. Hence the offender has a ready means of impunity, by crossing the State boundary. It is not as in England, where sea and ocean confine his ambit; nor as in France, Germany, and Italy, where strict guard of the national land-frontier is maintained. Hence the helplessness of the individual State to confine the chase, or to pursue and capture. And hence State cooperation is indispensable.

1. The resort to the Interstate Compact was first fully studied and strongly recommended in the report, made in 1921, by a Committee of the National Conference of Commissioners on Uniform State Laws. This report was founded partly on a prior study made by our lamented colleague, Andrew Bruce, when he was a professor in the Law School of Minnesota University.

But for a long time no one paid any attention to this Report. Then, first of all, the Oil-Production interests came to perceive the value of the Interstate Compact for solving their problem. Then the Double Taxation interests perceived it. Then the Labor interests perceived it. And finally the Crime-Repression interests saw light. All these uses of the Interstate Compact had been specifically pointed out in the Conference Report. But in legal matters a new idea takes a long time to receive recognition.

2. What has thus far been the result in the Crime-Repression field?

There are now four distinct and powerful forces cooperating to push the adoption of four well-considered crime-repression Acts.

The four forces are:

(1) The Federal Department of Justice (which serves as a clearing house of information, and has interested the Congress to

give consent to interstate compacts, but does not actively sponsor any specific State measure);

(2) The National Conference of Commissioners on Uniform State Laws (which drafts the proposed uniform State Acts);

(3) The Interstate Commission on Crime (which devotes itself specially to following up the adoption of these measures in the different States); known for short as "Incocrime;" its chairman, an energetic organizer, is Judge Richard Hartshorne, Court of Common Pleas, Newark, New Jersey; and

(4) The Council of State Governments, and its powerful affiliated organization the American Legislators' Association, Henry W. Toll, director (which places these acts on the legislative program in the respective States).

The Four Acts on which these forces are concentrating are the following:

(1) An Act to permit officers of one State, on crossing the line into another State, there to pursue and arrest a fugitive accused;

(2) An Act to authorize the waiver of formal interstate rendition proceedings in the State of arrest;

(3) An Act to enable Courts in one State to detain and send a witness into another State where he is needed in a criminal prosecution; and

(4) An Act to authorize the supervision by the authorities of one State of a paroled person who has come from the State where he was convicted.

3. Now the clinching of this legislation is effected by the execution of a compact, between States that have thus legislated, agreeing to maintain and enforce these laws for a period of years. The method consists, first, in the Federal Congress giving its consent to such compacts (this was done in 1934, in the early period of the present Federal Administration); then in the Legislatures of the two or more States authorizing the execution of such a compact by the Governor or by Commissioners appointed for the purpose; and finally by the execution of the compact in identical terms (and perhaps by legislative ratification).

These uniform Acts may of course be individually adopted without a compact. But the compact assures a continuance of the policy and the legislation for a definite term. Several States have already

enacted one or more of the above four Uniform Acts.¹ Two States (Indiana and Michigan) have adopted a compact covering the fourth Act above named; and others will certainly follow suit in the 1937 sessions of their Legislatures.

But the most advanced action yet taken is to be credited to the adjacent States of Colorado, Kansas, New Mexico, and Wyoming. These four States have executed a compact covering *all four* of the above-named Acts.²

In view of the pioneer nature of such a compact, and its epoch-marking importance in this movement for effective crime-repression, the literal terms of the compact deserve the wide public attention that these pages can give it. The compact reads as follows:³

INTERSTATE COMPACT

ENTERED INTO BY AND BETWEEN THE STATE OF KANSAS, THE STATE OF NEW MEXICO, THE STATE OF WYOMING AND THE STATE OF COLORADO

Desiring to take advantage of the consent of the Congress of the United States of America, granted by an Act—Public No. 293, H. R.

¹ According to Judge Hartshorne, writing in the September, 1937, number of the *American Legion Magazine* (p. 51), the tally of states to date is as follows:

State	Act I.	Act II.	Act III.	Act IV.
Arizona	*	*	*	*
California	*	*	*	*
Connecticut	*	*	*	*
Delaware	*	*	*	*
Kansas	*	*	*	*
Louisiana	*	*	*	*
Maryland	*	*	*	*
Massachusetts	*	*	*	*
Minnesota	*	*	*	*
Montana	*	*	*	*
Nebraska	*	*	*	*
New Hampshire	*	*	*	*
New Jersey	*	*	*	*
New Mexico	*	*	*	*
New York	*	*	*	*
North Carolina	*	*	*	*
Ohio	*	*	*	*
Oregon	*	*	*	*
Pennsylvania	*	*	*	*
Rhode Island	*	*	*	*
Utah	*	*	*	*
Vermont	*	*	*	*
Virginia	*	*	*	*
Washington	*	*	*	*
West Virginia	*	*	*	*

² Information kindly furnished by Mr. Gordon Dean, of the Department of Justice, on the status of this legislation indicates that a further stage of ratification may still be required for the State of Kansas.

³ Copy furnished by courtesy of Mr. John H. Woelfle, formerly on Judge Hartshorne's staff, and now on the staff of the Council of State Governments.

7353—entitled “An Act Granting the Consent of Congress to Any Two or more States to Enter into Agreements or Compacts for Cooperative Effort and Mutual Assistance in the Prevention of Crime and for Other Purposes,” effective June 6, 1934, the States of Kansas, New Mexico, Wyoming and Colorado solemnly agree:

I

*Arrest of Persons Who Have Committed a Felony or Who
Are Fugitives from Justice*

(1) That it shall be competent for any member of a duly organized state, county or municipal peace unit of a State, party to this Compact, to enter any and all other States, parties to this Compact, without interference:

- (a) While in pursuit of any person who has committed a felony in said State; or
- (b) While in pursuit of any person who has been charged with the commission of a felony in said State; or
- (c) While in pursuit of any person who has escaped from the custody of any penitentiary, jail or other penal institution, sheriff or other peace officer in said State.

(2) That any member of a duly organized State, county or municipal peace unit of said State may at any time enter another State, party to this Compact, and there apprehend and take into custody any person who has committed a felony in said State, or who is a fugitive from justice as herein designated, and for that purpose no formalities shall be required, other than establishing the authority of the arresting officer.

(3) All legal requirements to obtain extradition of any person who has committed a felony in said State, or who is a fugitive from justice as herein designated, arrested under conditions herein specified, are hereby expressly waived by the compacting States, and said duly constituted officer shall be permitted to transport said prisoner through any and all States, parties to this Compact, without interference whatsoever.

(4) That when any officer within compacting States, in conformity with a valid writ, order of court or the provisions of this Compact, arrests a person in or transports a person through a compacting State, the right of said officer to the custody of a person and to use the state penal institutions, or county jails for temporary lodging of such person, shall be recognized by the compacting States, their courts and court officials, as though the person were in custody of the sheriff or proper officer of the compacting State where the arrest is made or through which he is transported.

II

Attendance of Witnesses

(1) On the trial in any of the above-named compacting States, of one charged with a crime therein committed, if any person within any compacting State is wanted by either party as a witness in such trial, said compacting States, their courts and court officials will recognize as valid any subpoena, summons or court order issued or made in accordance with the law of the compacting State where trial is to be had, for the appearance of the person in said State where trial is to be had as a witness at such trial, the same as though such subpoena, summons or court order had been duly issued or made by a court of the State where said witness is found: *Provided*, That a resident of a State so called upon to attend as a witness in another compacting State shall not be required so to attend unless and until there is paid to him compensation, including mileage, equal to that provided by law of the State requiring attendance, for the time he necessarily would be gone from home; and *provided further*, that he be immune from the service of civil or criminal process upon him while in attendance at said trial and when enroute to and from the place where he is to testify, as to all matters occurring prior thereto.

III

Probation and Parole

(1) That it shall be competent for the duly constituted judicial and administrative authorities of a State, party to this Compact, to permit any person convicted of any offense within such State and placed on probation or released on parole or under suspended sentence, to reside in any other State, party to this Compact, while on probation or parole or under suspended sentence, if:

- (a) Such person is in fact a resident of or has his family residing within another compacting State and can obtain employment there:
- (b) Though not a resident of another compacting State and not having his family residing there, the receiving State consents to such person being sent there.

Before granting permission, an opportunity shall be granted to the other compacting State to investigate the home and prospective employment of such person.

A resident of a compacting State, within the meaning of this section, is one who has been an actual inhabitant of a State continuously for more than one year prior to his going to another compacting State and has not resided continuously within the other compacting State more than six months immediately preceding the commission of the offense for which he has been convicted.

(2) That each compacting State assume the duties of visitation and of supervision over probationers or parolees or those under suspended

sentence from any other compacting State, and in the exercise of those duties will be governed by the same standards that prevail for its own probationers and parolees and those under suspended sentence.

(3) That duly constituted officers of compacting States may at all times enter another compacting State and there apprehend and retake any person on probation or parole or under suspended sentence. For these purposes no formalities will be required other than establishing the authority of the officer and the identity of the person to be retaken. All former legal requirements to obtain extradition of a person on probation or parole or under suspended sentence are hereby expressly waived. The decision of a compacting State to retake a person on probation or parole or under suspended sentence shall be conclusive upon and not reviewable by any other compacting State: *Provided, however*, That if at the time when a State seeks to retake a probationer or parolee or one under suspended sentence, there should be pending against him, within the other compacting State, any criminal charge, or he should be suspected of having committed a criminal offense within such State, he shall not be retaken without the consent of the other compacting State until discharged from prosecution or from imprisonment for such offense.

(4) That the duly constituted officers of a compacting State shall be permitted, without interference, to transport persons being retaken through any and all States, parties to this Compact.

IV

Force and Effect of Compact

(1) That the Governor of each compacting State shall appoint the Attorney General of said State, who, acting jointly with like officers of other compacting States, shall promulgate such rules and regulations as may be deemed necessary to more effectively carry out the purposes of this Compact. The necessary expenses incurred by the Attorney General in effecting the purposes of this Compact shall be payable from any existing appropriations for the effecting of interstate crime compacts, or from any other fund provided by law.

(2) That this Compact shall become operative immediately upon its ratification by any State, as between it and any other State or States so ratifying. When ratified, it shall have the full force and effect of law within such State. The form of ratification shall be in accordance with the laws of the ratifying State.

(3) That this Compact shall continue in force and remain binding upon each ratifying State until renounced by it. The duties and obligations hereunder of any renouncing State shall continue as to probationers and parolees and those under suspended sentence residing therein at the time of withdrawal until retaken or finally discharged by the other compacting States. Renunciation of this compact or any part thereof shall be by the same authority that ratified it and shall be by sending a ninety-day notice in writing to the Governor of each compacting State of intention to withdraw from the Compact.

IN WITNESS WHEREOF, I, ALF M. LANDON, Governor of the State of Kansas, have set my hand for and on behalf of the said State of Kansas, and affixed the seal of said State of Kansas, this 13th day of July, A. D. 1936.

.....
ATTEST:

.....
Secretary of State.

By.....
Assistant Secretary of State.

Since the statutes of the State of Kansas only authorize compacts for summoning of witnesses and the custody of prisoners, the signing of this compact by me is limited to the provisions of subdivision two of this compact, which subdivision deals with the attendance of witnesses, and subdivision I (4).

Done at Topeka, Kansas, this thirteenth day of July, 1936.

.....
Governor of the State of Kansas.

ATTEST:
Secretary of State.

By
Assistant Secretary of State.

IN WITNESS WHEREOF, I, FRANK H. PATTON, Commissioner of the State of New Mexico, have set my hand for and on behalf of the said State of New Mexico, and affixed the seal of the State of New Mexico, this 6th day of July, A. D. 1936.

.....
ATTEST:

.....
Secretary of State.

IN WITNESS WHEREOF, I, RAY E. LEE, Commissioner of the State of Wyoming, have set my hand for and on behalf of the State of Wyoming and affixed the seal of the said State of Wyoming, this 6th day of July, A. D. 1936.

.....
ATTEST:

.....
Secretary of State.

IN WITNESS WHEREOF, I, BYRON ROGERS, Commissioner of the State of Colorado, have set my hand for and on behalf of said State of Colorado, and affixed the seal of the said State of Colorado, this 6th day of July, A. D. 1936.

.....

ATTEST:

.....
Secretary of State.

It should be added that the wording of the compact itself, covering the four measures above named, is more condensed than the wording of the State statutes themselves; the latter needing more elaboration, for the guidance of officials in acting under the statutes. But the wording of the statutes is here not material.

It is the confident expectation of all who are supporting these measures that the year 1938 will see their adoption by a majority of our State Legislatures.