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STATE LEGISLATURE ENACTS THREE UNIFORM CRIME LAWS

By DONALD J. GILLIAM*

ON June 1934, the Federal congress enacted the Ashhurst-Sumners Act (Public No. 293, H. R. 7353), giving blanket consent for the states to enter into agreements on compacts for cooperative effort and mutual assistance for the suppression of crime. Following the passage of the Act, attorney generals of the various states at their annual conference in Washington were urged to bring about cooperation of the efforts and agencies of the states under the Act.

To ensure an effective means of promoting intrastate compacts, a national body known as the Interstate Commission on Crime was created. The Commission was the outgrowth of a conference held at Trenton, New Jersey, in October, 1935, and attended by representatives of forty states and of the Federal government. Today this Commission, consist-

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ing of official representatives of every state and of the Federal government, is devoting itself to the control of crime through administrative and legislative action. It has recommended and prepared legislative acts for consideration by the state legislatures. Edward V. Dunklee of Denver is the member of the Commission from Colorado.

On September 24th and 25th of last year, representatives from twenty-five states assembled in Kansas City to bring into being compacts between those states under the provision of the uniform act for the supervision of probationers and parolees. Colorado was one of the first of the states to set up machinery to enter into interstate compacts. The legislature in its regular session of 1935, adopted a measure which established the Attorney General as a commissioner with power to enter into compacts with other states for such purposes, subject to ratification of the compacts by the General Assembly (Ch. 141, Session Laws of Colorado, 1935), and pursuant to which a compact between the states of Kansas, New Mexico, Wyoming and Colorado was signed and subsequently ratified by the General Assembly, and is now in force and effect (Ch. 180, Session Laws of Colorado, 1937). Each state has followed its own procedure, however, for compliance with the Federal act.

As a member of the present legislature, I introduced five uniform bills into the senate providing for interstate compacts. The first of these bills, known as Senate Bill 168, has been signed by the governor and is now a law. It is known as Uniform Act concerning the Fresh Pursuit of Criminals, and its purpose is to prevent state lines from handicapping law-enforcing agents in the apprehension of criminals. At the present time our most desperate criminals immediately attempt to cross the state line after the commission of a crime, which does not involve Federal laws, knowing that there is comparative safety beyond the border; for in the foreign state the pursuing officer from the state wherein the crime was committed is no longer an officer. This situation, which is contrary to all justice and reason, is remedied in a simple manner by this act. The moment an officer who is in fresh pursuit of a criminal crosses a state line, the state he enters will authorize him to catch and arrest such criminal within its bounds. The statute

grants this right only when the officer is in fresh pursuit of a criminal; that is, pursuit without unreasonable delay, by a member of a duly organized peace unit, and only in cases of felonies or supposed felonies occurring outside the boundaries of the state adopting the act.

The second bill (S. B. 169), known as the Uniform Act concerning Witnesses, has likewise been signed by the governor and is now a law. Its purpose is to secure the attendance of witnesses from without a state in criminal proceedings. At the present time in most states it is impossible to obtain the testimony of witnesses, important to the prosecution, who either live outside a state or have fled from the state. This act provides a procedure to enforce their attendance at such criminal proceedings, at the same time protecting their rights as citizens.

The third bill (S. B. 170) was buried in committee. It facilitated the transfer of criminals from one state to another and was known as the Uniform Criminal Extradition Act. The need for a procedure of extradition between the states was recognized by the Constitution of the United States, even at a time when the ramifications of criminal organizations as they exist today were unknown. The Constitution, Section 2, Article IV, provides that the governor of the state may demand the return of a criminal to the state having jurisdiction of the crime, a provision not self-executing and therefore developed by Federal and state statutes with a lack of uniformity and much confusion in administration. This act brings uniformity in such matters. It gives to the governor the power to extradite a person who has come into the state involuntarily. It provides for requisition of a person already under prosecution or undergoing punishment in another state, so that he may be prosecuted in the demanding state while the evidence is still fresh; but with the understanding that at the termination of the prosecution he will be returned to the state which extradited him.

The adoption of the proposed act by the various states will constitute a definite recognition of the duty imposed by the Constitution, and of the importance of mutual and reciprocal action by the states, in carrying out that duty in all cases, whenever the proper procedural machinery has been set in mo-

tion. Moreover, it will provide a method by which complete uniformity of action and harmony of purpose among the states can be achieved in a very difficult field.

An important provision of the act is that which permits an accused person to be delivered to a demand state even though he is not a fugitive from justice in the terms of the Constitution as interpreted by the courts; namely, where the accused shall have committed an action in one state which has the effect of constituting a crime in another state, in which the accused is not present in person at the time of the act, into which he does not thereafter go, and from which, as a consequence, he does not flee. The importance of this provision is easily understood when thought is given to the vast conspiracies indulged in by organized criminals which may, and often do, involve operations across the borders of several states. Unless the demanding state—the one in which the criminal injury occurs—can have the cooperation of other states in securing the accused person for trial, he is largely immune from prosecution and punishment. The only exceptions to this unjust result are those few instances where such interstate operations constitute Federal crimes, or where in certain states he may be held as a conspirator or accessory, though the final crime occurs in another state. While the power given by these provisions of the act is not covered by the Federal law relating to extradition, it is one which may properly be granted and exercised by each state.

Another important provision of the proposed act permits the waiver of extradition. In the few states in which a waiver provision has been previously adopted, extradition is actually waived in a large majority of all cases. There is no reason why the beneficent result which has been achieved in a few states through waiver of extradition should not be attained by the others, eliminating tedious and expensive processes of extradition.

The fourth bill (S. B. 171) has been signed by the governor and is likewise a law. It provides for supervision of out-of-state parolees and probationers in order to aid in the rehabilitation of these convicted of crime, by permitting such persons, either before or after having served a sentence in custody, as the circumstances warrant, to take their place in soci-

ety again, but under proper supervision. Cases constantly arising where, due to the existence of their family in another state, better opportunities for employment there, or similar reasons, such rehabilitation would be facilitated by transfer to such other state. The act is reciprocal in character, authorizing the states adopting it to enter into compacts whereby under certain circumstances each agrees to supervise parolees from the other state.

The last bill which I introduced was likewise buried in committee.

The Interstate Commission on Crime has been very successful in having its legislation enacted in the various states. Prior to the meeting of the legislatures this year, the uniform acts have been enacted into law 88 times.

Twenty-nine states have taken action and have adopted a part or all of the program, while five additional states have legislation closely akin to the Uniform Parolee Act.

The Fresh Pursuit Law has been enacted by twenty-three states. The Extradition Act has been approved by the legislatures of nineteen states, the Witnesses Act by twenty-three states and the Parolee Act by twenty-three states. Arizona, California, Delaware, Maryland, Massachusetts, Michigan, Montana, New Hampshire, New Jersey, New Mexico, New York, Ohio, Oregon, Utah, Vermont and West Virginia have adopted all of the acts; Nebraska, Pennsylvania and Rhode Island have adopted three of the acts; Connecticut, Kansas, Louisiana, North Carolina and Washington have adopted two of the acts; and Arkansas, Illinois, Iowa, Minnesota and Virginia have adopted one of the acts.

Perhaps the greatest achievement to date of the Commission has been the adoption by twenty-five states of the interstate compact for the supervision of out-of-state parolees and probationers, and the preparation and submission of uniform rules and regulations to effect the operation of the compact. This compact was signed by the governors of commissioners of Arkansas, Arizona, Colorado, Delaware, Illinois, Indiana, Iowa, Kansas, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, Ohio, Oregon, Pennsylvania, Rhode Island, Utah, Vermont, Washington and Wyoming.

Aside from the direct benefits which will accrue to the states from the operation of this compact, it is significant that this undertaking marks the beginning by a large number of states to accomplish by coordinated state action that which states have too long considered beyond their jurisdiction and consequently a matter for Federal regulation. It ushers in a determination by the states to protect state's rights through their own actions, rather than have them taken over by our central government.

Two highly respected members of the bar of Colorado Springs, Hon. James F. Sanford, County Judge of El Paso County, and Hon. L. W. Cunningham, formerly a member of the County, District and Court of Appeals Bench, have passed away during the last month.

Irvin E. Jones has been appointed to succeed Judge Sanford upon the county bench of El Paso County. Judge Jones was a former President of the El Paso County Bar Association and formerly served as Assistant District Attorney. His choice by the County Commissioners was made because it appeared to be the consensus of the bar that he was best suited to fill the vacancy.

More than 100 lawyers of the Fourth Judicial District of Colorado attended the Law Institute held at the Broadmoor Hotel in Colorado Springs on April 15. Dexter Blount, President of the State Association, presided over all sessions. Golding Fairfield of Denver led the conference in the afternoon on "Developments in Real Estate Law and Conveyancing." James D. Parriott of Denver spoke at the dinner meeting. At the evening meeting Edward L. Wood of Denver discussed the "Handling of Automobile Liability Cases." Arrangements for the meeting were handled by President Leon Snyder and Clyde Babcock, secretary of the local association.

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