

March 12, 1965

R.S. 2A:160-1 et seq.

COPY NO. 2

Legislative History of R.S. 2A:160-1 et seq
(Uniform Extradition Act)

The first Uniform Criminal Extradition Act was drafted by the
Conference of Commissioners of Uniform State Laws in 1926:

TB100 National Conference of Commissioners
N277 of Uniform State Laws.
1936 Handbook, 1926. see p. 589.

This was adopted by few states.

New Jersey was instrumental in forming the Interstate Commission
on Crime in 1935. (U.S. Congress had passed enabling legislation
in 1934.)

For background see:

974.901 N.J. Commission on Interstate
142 Cooperation.
Report no. 1, 1936.
Hartshorne, Richard.
Intergovernmental cooperation -
the way out. 3 N.J. Law Review (1936)
(Bound with above report)

The Sixth Report of the

974.901 N.J. Judicial Conference recommended:
J91

IX. Interstate Cooperation.

We recommend that the legislature consider
the enactment of uniform legislation to
provide:

2. To make uniform the procedure on interstate
cooperation. (p. 50)

J353.92 State Government.
S797 Cooperation in New Jersey.

New Jersey's enactment was:

1935, Chapter 42 - S40

Introduced January 20 by Senator Durand.
Not amended during passage.
Bill had statement (copy enclosed).

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STATEMENT

This is one of the series of acts approved by the Interstate Commission on Crime which was formed at the instance of the New Jersey Commission on Interstate Co-operation. The basis of present interstate extradition of fugitive criminals is Article IV, section 2, subdivision 2 of the Constitution of the United States. In 1793 Congress set up a general framework for the extradition process, but left many matters incidental to extradition to be dealt with by the States. As to all of these matters there is undesirable variation in the provisions of law of the several States and in their interpretation.

This diversity hinders State co-operation and the administration of justice. It is imperative that each State adopt and enforce regulations which will satisfy its own views as to the safeguards to be afforded accused persons, and as to the precedence to be given its own criminal and civil proceedings, which will also give the most efficient aid possible to other States; and that such regulations be uniform throughout the United States and therefore reciprocal in their operation.

In 1926 the Conference of Commissioners on Uniform State Laws adopted a draft of a uniform criminal extradition act. This act has been the basis of legislation in the following ten States: Alabama, Idaho, Maine, New Mexico, North Carolina, Pennsylvania, South Dakota, Utah, Vermont and Wisconsin. The Commission has incorporated certain slight modifications and additions in the draft herewith, which are intended simply to supplement and round out the uniform act.

The act as approved by the Interstate Commission on Crime brings uniformity as to such matters as the form of requisition and the documents to accompany it, the arrest pending requisition as well as after requisition, bail, habeas corpus proceedings, confinement in transit, and the right to withhold extradition while a criminal prosecution is pending in the asylum State against the person claimed or while he is serving a sentence there. It also recognizes and regulates waiver of extradition. These provisions substantially accord with the provisions of the present New Jersey statute on waiver of extradition (P. L.

, Chapter 183, page). The uniform act gives to the Governor of an asylum State the very important power to extradite, in his discretion, one who was not in the demanding State when the crime is alleged to have been committed—a power not covered by the Federal provisions as to extradition, but which may be exercised by each State under its constitutional residuum of sovereignty in its co-operative warfare on crime that such provisions are constitutional. See the United States Supreme Court decision of *Burton vs. New York Central Railroad*, 245 U. S. 315, 318, and other authorities. 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 Interstate Commission on Crime has studied the uniform act with care and strongly urges its immediate general adoption.

• This is one of the uniform acts drafted and proposed by the Interstate Commission on Crime, officially representing every State in the Union, as well as the Federal government.