

## Sec. 2—Interstate Comity

## Cl. 2—Interstate Rendition

at the time of the commission of the crime charged.<sup>237</sup> For the purpose of determining who is a fugitive from justice, the words "treason, felony or other crime" embrace every act forbidden and made punishable by a law of a state,<sup>238</sup> including misdemeanors.<sup>239</sup>

**Procedure for Removal.**—Only after a person has been charged with a crime in the regular course of judicial proceedings is the governor of a state entitled to make demand for his return from another state.<sup>240</sup> The person demanded has no constitutional right to be heard before the governor of the state in which he is found on the question whether he has been substantially charged with crime and is a fugitive from justice.<sup>241</sup> The constitutionally required surrender is not to be interfered with by *habeas corpus* upon speculations as to what ought to be the result of a trial.<sup>242</sup> Nor is it proper thereby to inquire into the motives controlling the actions of the governors of the demanding and surrendering states.<sup>243</sup> Matters of defense, such as the running of the statute of limitations,<sup>244</sup> or the contention that continued confinement in the prison of the demanding state would amount to cruel and unjust punishment,<sup>245</sup> cannot be heard on *habeas corpus* but should be tested in the courts of the demanding state, where all parties may be heard, where all pertinent testimony will be readily available, and where suitable relief, if any, may be fashioned. A defendant will, however, be discharged on *habeas corpus* if he shows by clear and satisfactory evidence that he was outside the demanding state at the time of the crime.<sup>246</sup> If, however, the evidence is conflicting, *habeas corpus* is not a proper proceeding to try the question of alibi.<sup>247</sup> The *habeas* court's role is, therefore, very limited.<sup>248</sup>

**Trial of Fugitives After Removal.**—There is nothing in the Constitution or laws of the United States that exempts an offender,

<sup>237</sup> *Hyatt v. People ex rel. Corkran*, 188 U.S. 691 (1903).

<sup>238</sup> *Kentucky v. Dennison*, 65 U.S. (24 How.) 66, 103 (1861).

<sup>239</sup> *Taylor v. Taintor*, 83 U.S. (16 Wall.) 366, 375 (1873).

<sup>240</sup> *Kentucky v. Dennison*, 65 U.S. (24 How.) 66, 104 (1861); *Pierce v. Creecy*, 210 U.S. 387 (1908). See also *Matter of Strauss*, 197 U.S. 324, 325 (1905); *Marbles v. Creecy*, 215 U.S. 63 (1909); *Strassheim v. Daily*, 221 U.S. 280 (1911).

<sup>241</sup> *Munsey v. Clough*, 196 U.S. 364 (1905); *Pettibone v. Nichols*, 203 U.S. 192 (1906).

<sup>242</sup> *Drew v. Thaw*, 235 U.S. 432 (1914).

<sup>243</sup> *Pettibone v. Nichols*, 203 U.S. 192 (1906).

<sup>244</sup> *Biddinger v. Commissioner of Police*, 245 U.S. 128 (1917). See also *Rodman v. Pothier*, 264 U.S. 399 (1924).

<sup>245</sup> *Sweeney v. Woodall*, 344 U.S. 86 (1952).

<sup>246</sup> *Hyatt v. People ex rel. Corkran*, 188 U.S. 691 (1903). See also *South Carolina v. Bailey*, 289 U.S. 412 (1933).

<sup>247</sup> *Munsey v. Clough*, 196 U.S. 364, 375 (1905).

<sup>248</sup> *Michigan v. Doran*, 439 U.S. 282, 289 (1978). In *California v. Superior Court*, 482 U.S. 400 (1987), the Court reiterated that extradition is a "summary procedure."