

## Sec. 10—Powers Denied to the States Cl. 3—Tonnage Duties and Interstate Compacts

*Tennessee*,<sup>2159</sup> decided more than a half century later, the Court shifted position, holding that the unqualified prohibition of compacts and agreements between states without the consent of Congress did not apply to agreements concerning such minor matters as adjustments of boundaries, which have no tendency to increase the political powers of the contracting states or to encroach upon the just supremacy of the United States. Adhering to this later understanding of the clause, the Court found no enhancement of state power in relation to the Federal Government through entry into the Multistate Tax Compact, and thus sustained the agreement among participating states without congressional consent.<sup>2160</sup>

**Subject Matter of Interstate Compacts**

For many years after the Constitution was adopted, boundary disputes continued to predominate as the subject matter of agreements among the states. Since the turn of the twentieth century, however, the interstate compact has been used to an increasing extent as an instrument for state cooperation in carrying out affirmative programs for solving common problems.<sup>2161</sup> The execution of vast public undertakings, such as the development of the Port of New York by the Port Authority created by compact between New York and New Jersey, flood control, the prevention of pollution, and the conservation and allocation of water supplied by interstate streams, are among the objectives accomplished by this means. Another important use of this device was recognized by Congress in the act of June 6, 1934,<sup>2162</sup> whereby it consented in advance to agreements for the control of crime. The first response to this stimulus was the Crime Compact of 1934, providing for the supervision of parolees and probationers, to which most of the states have given adherence.<sup>2163</sup> Subsequently, Congress has authorized, on varying conditions, compacts touching the production of tobacco, the conservation of natural gas, the regulation of fishing in inland waters, the furtherance of flood and pollution control, and other matters. Moreover, many states have set up permanent commissions for interstate cooperation, which have led to the formation of a Council of State Governments, the creation of special commissions for the study

<sup>2159</sup> 148 U.S. 503, 518 (1893). See also *Stearns v. Minnesota*, 179 U.S. 223, 244 (1900).

<sup>2160</sup> *United States Steel Corp. v. Multistate Tax Comm'n*, 434 U.S. 452 (1978). See also *New Hampshire v. Maine*, 426 U.S. 363 (1976).

<sup>2161</sup> Frankfurter and Landis, *The Compact Clause of the Constitution: A Study in Interstate Adjustments*, 34 *YALE L.J.* 685 (1925); F. ZIMMERMAN AND M. WENDELL, *INTERSTATE COMPACTS SINCE 1925* (1951); F. ZIMMERMAN AND M. WENDELL, *THE LAW AND USE OF INTERSTATE COMPACTS* (1961).

<sup>2162</sup> 48 Stat. 909 (1934).

<sup>2163</sup> F. ZIMMERMAN AND M. WENDELL, *INTERSTATE COMPACTS SINCE 1925* 91 (1951).