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## JUDICIAL CONSTRUCTION OF THE MANN ACT

Congress in 1910 enacted the "White Slave Traffic Act," most often termed the "Mann Act."<sup>1</sup> The primary purpose of the legislation, as a reading of the statute demonstrates, is to prevent commercialized vice in interstate commerce and to minimize the movement of females for immoral purposes. Even in the light of this legislative intention, however, the courts have refused to hold that pecuniary gain is an essential element of the crime, and the profit motive is not a *sine qua non* to the application of the Act.<sup>2</sup> The words "debauchery" and "for any other immoral purpose," employed in the statute, give a wide sweep to the Act to embrace such acts as polygamy,<sup>3</sup> and concubinage.<sup>4</sup> Convictions have been had in cases where women were transported to manage houses of prostitution,<sup>5</sup> take part in nude dances,<sup>6</sup> and entice men to enter houses of prostitution.<sup>7</sup>

The gist of the offense hinges around interstate transportation and in order to come within the statute, the transportation must be of a woman or girl and for one or more of the immoral purposes designated in the Act.<sup>8</sup> In an automobile trip from a point near O'Neill, Nebraska to Moran, Wyoming, the evidence showed that upon reaching the state line, the women got out and walked across, then the defendant picked them up again on the other side and continued the journey to its immoral conclusion. Because of the emphasis placed on the crossing of a state line, as requisite for interstate commerce, it might have been believed that a way had been found to evade the restrictions imposed by the statute. The court frowned on this view and took the position that the transportation in its entirety would determine if there had been a violation.<sup>9</sup> It is well

1. Act of June 25, 1910, c. 395, § 2, 36 Stat. 825, as amended c. 139, § 47, 63 Stat. 96, 18 U.S.C. § 2421 (1952 ed). Whoever knowingly transports in interstate or foreign commerce, or in the District of Columbia or in any Territory or Possession of the United States, any woman or girl for the purpose of prostitution or debauchery, or for any other immoral purpose, or with the intent and purpose to induce, entice, or compel such woman or girl to become a prostitute or to give herself up to debauchery or to engage in any other immoral practice; or

Whoever knowingly procures or obtains any ticket or tickets, or any form of transportation or evidence of the right thereto, to be used by any woman or girl in interstate or foreign commerce, or in the District of Columbia or a Territory or Possession of the United States, in going to any place for the purpose of prostitution or debauchery, or for any other immoral purpose, or with the intent or purpose on the part of such person to induce, entice, or compel her to give herself up to the practice of prostitution, or to give herself up to debauchery, or any other immoral practice, whereby any such woman or girl shall be transported in interstate or foreign commerce, or in the District of Columbia or any Territory or Possession of the United States—

Shall be fined not more than \$5000 or imprisoned not more than five years, or both.

2. *Cleveland v. U.S.*, 329 U.S. 14, 67 S.Ct., 13, 91 L.Ed. 12 (1946).

3. *Ibid.*

4. *Caminetti v. U.S.*, 242 U.S. 470, 37 S.Ct. 192, 61 L.Ed. 442 (1917).

5. *Simpson v. U.S.*, 245 Fed. 278 (9th Cir. 1917), cert. den., 245 U.S. 667, 38 S.Ct. 133, 62 L.Ed. 538 (1917).

6. *U.S. v. Lewis*, 110 F.2d 460 (7th Cir. 1940), cert. den. 310 U.S. 634, 60 S.Ct. 1077, 84 L.Ed. 1403 (1940).

7. *Beyer v. U.S.*, 251 Fed. 39 (9th Cir. 1918).

8. *Robinson v. U.S.*, 142 F.2d 276 (10th Cir. 1944).

9. *Mellor v. U.S.*, 160 F.2d 757 (8th Cir. 1947).

established that when the inducer supplies the female with means or the money to purchase a train or bus ticket, or purchases the ticket and mails it to her, he has brought himself under the Act.<sup>10</sup> It is interesting to note that where the defendant furnished the money for the transportation of the woman, in violation of the Act, it was immaterial whether the victim used the identical money or not.<sup>11</sup>

Debauchery is defined as excessive indulgence in sensual pleasures, sexual immorality or excesses, or the unlawful indulgence of lust.<sup>12</sup> The term is not limited to seduction but includes a purpose to influence a woman in ways which will naturally lead her into acts of immorality.<sup>13</sup> "Other immoral purposes" is an all-inclusive term adopted to include any other immoral relation not covered in prostitution and debauchery.<sup>14</sup>

The relationship of the accused to the female involved has very little effect upon the guilt or innocence of the defendant. A wife may be unlawfully transported for immoral purposes by her husband in violation of the Act.<sup>15</sup> Where a common-law marriage was shown to have existed between the defendant and a woman, it was immaterial in respect to the liability of the accused.<sup>16</sup>

Quite often the situation arises where the accused has simultaneously transported more than one female for immoral purposes. The question of whether there are two separate offenses presents itself. In a very recent decision from the United States Supreme Court, it has been held that transportation of two women on the same trip and in the same vehicle in violation of the "Mann Act" constituted but a single offense.<sup>17</sup>

The matter of intent is expressly provided for in the language of the statute. Transportation for other than immoral purposes, and the commission of an immoral act with a woman while on an interstate trip, where the act was merely incidental, does not bring the transportation within the Act.<sup>18</sup> However, the immoral intent or purpose need not be the only purpose if it can be proven that such immoral purpose constitutes the primary reason for the transportation.<sup>19</sup> It has been held that the immoral intention must exist before the conclusion of the journey and must be the dominant motive of such interstate transportation.<sup>19a</sup> This has been referred to as the rule of "dominant motive" and was first applied in a case where defendants operated a house of prostitution in Nebraska. Accompanying them on a vacation trip to Utah via Yellowstone National Park were two

10. *Heitler v. U.S.*, 244 Fed. 140 (7th Cir. 1917); *Hoke v. U.S.*, 227 U.S. 308, 33 S.Ct. 281, 57 L.Ed. 523, 43 L.R.A., N.S., 906 (1913).

11. *Cholakos v. U.S.*, 2 F.2d 447 (6th Cir. 1924).

12. *Black's Law Dictionary* (4th ed. 1951).

13. *Van Pelt v. U.S.*, 240 Fed. 346, 348 L.R.A. 1917E, 1135 (4th Cir. 1917).

14. *Johnson v. U.S.*, 215 Fed. 679 (7th Cir. 1914).

15. *Pappas v. U.S.*, 241 Fed. 665 (9th Cir. 1917).

16. *Wilson v. U.S.*, 167 F.2d 223 (6th Cir. 1948).

17. *Bell v. U.S.*, 349 U.S. 81, 75 S.Ct. 620 (1955).

18. *Long v. U.S.*, 160 F.2d 706 (10th Cir. 1947).

19. *Simon v. U.S.*, 145 F.2d 345 (4th Cir. 1944).

19a. *Ibid.*

women, inmates of the house. The defendants paid all the expenses of the trip but no immoral acts were committed during the trip. After returning to Nebraska, the women resumed their immoral occupation. Mr. Justice Murphy in delivering the majority opinion for the United States Supreme Court stated: "To punish those who transport inmates of a house of prostitution on an innocent vacation trip in no way related to the practice of commercialized vice is consistent neither with the purpose nor the language of the Act."<sup>20</sup> Consummation of purpose is not an essential element of the crime. The offense has been completed when there has been a transportation in interstate commerce with an intent denounced by the Act.<sup>21</sup>

The Mann Act does not attempt to cover illicit relationship standing alone and is not punishable as such, for that is clearly within the police powers of the states and most states have criminal statutes covering adultery, fornication and seduction.<sup>22</sup> Under the Act it is the transportation in interstate commerce that is condemned and the courts have uniformly held it to be a valid exercise of the power of Congress to regulate commerce.<sup>23</sup> The Act is not an anti-seduction statute and is only incidentally concerned with the chastity or unchastity of the woman being transported.<sup>24</sup>

In order to constitute an offense under the White Slave Traffic Act, it is necessary to show: (1) interstate transportation; (2) that it was for an immoral purpose; (3) and that intent was formed or present before the female reached the state to which the defendant intended to transport her.

The courts have been very liberal in construing the language of the statute to cover a variety of situations concerning immorality. The existence of the Act since 1910 and the numerous convictions following its enactment, leads one to believe that it has had the dual effect of punishing violators and serving as a means of reaching organized crime where other methods have failed because of difficulty in obtaining evidence that would support convictions.

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### THE RIGHTS OF A WRONGDOING PARTNER

Whether a partner who causes a wrongful dissolution of his firm, is then entitled to any benefits of the firm from the time of dissolution until there is a final accounting and winding up, is a problem not specifically covered by the Uniform Partnership Act. However, this is a problem which has recurred frequently before and after the Act.

The Act provides in section 38 (2b) that those partners who have not

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20. *Mortensen v. U.S.*, 322 U.S. 369, 64 S.Ct. 1037, 88 L.Ed. 1331 (1944).

21. *Malaga v. U.S.*, 57 F.2d 822 (1st Cir. 1932).

22. E.g., *Wyo. Comp. Stat.* §§ 9-503, 9-504, 9-505 (1945).

23. *Harris v. U.S.*, 227 U.S. 340, 33 S.Ct. 289, 57 L.Ed. 534 (1934); *Wilson v. U.S.*, 232 U.S. 563, 34 S.Ct. 347, 58 L.Ed. 728 (1914).

24. *Pine v. U.S.*, 135 F.2d 353 (5th Cir. 1943).