citizens as well as legislators has been held to rest upon the doctrine that a committee may appoint all outside help or counsel needed to accomplish its purpose,[14] and to hold differently would seriously hamper the legislature in handling an important part of its work, namely interstate cooperation. Moreover, the commissions as so composed demonstrate an actual development by the states, within the framework of their present separation of powers, toward accomplishing a degree of the executive-legislative coordination thought desirable by political science theorists.[15]

R. S. S.

EFFECT OF CIVIL RIGHTS OF PARDON IN FORUM FOR CRIME COMMITTED IN ANOTHER JURISDICTION

Defendant was convicted of a felony in a federal court. For this crime he would have served two years in a federal penitentiary, but was released on a federal parole after serving part of his term. The full period of his sentence having expired, he was issued a certificate of restoration of the rights of citizenship by the Kentucky governor, and he thereupon sought nomination for the position of sheriff in a county in that state. Plaintiffs contended that by virtue of his conviction he became disqualified either to vote or hold office under the constitution and laws of the state[1] and could not be nominated in the primary election because of such disqualification, despite the gubernatorial pardon. *Held,* that even though the conviction was in the federal court of a federal crime, the disqualification which resulted, *viz.*, the

14. The court so held in Terrell v. King (1929) 118 Tex. 237, 14 S. W. (2d) 786, where the legislature directed the payment of expenses of a Tax Survey Committee, composed of legislators and non-legislators, from its contingent fund. *Held,* this was a proper exercise of the committee power of the legislature. The California court in the principal case uses strong dictum to the effect that such is the view of that court.

15. For example, section 29 of the Model State Constitution (National Municipal League (1921)) would provide for a legislative council composed of seven legislators and the governor.

1. Ky. Const. (1891) §§145, 150. Section 145, part 1, provides: "Persons convicted in any court of competent jurisdiction of treason, or felony, or bribery in an election, or of such high misdemeanor as the General Assembly may declare shall operate as an exclusion from the right of suffrage" shall not have the right to vote; "but persons hereby excluded may be restored to their civil rights by executive pardon."

Section 150 provides: " * * * All persons shall be excluded from office who have been, or shall hereafter be, convicted of a felony, or of such high misdemeanor as may be prescribed by law, but such disability may be removed by pardon of the governor." These are typical constitutional provisions of the American states. Cf. Mo. Const. (1875) art. VIII, §2.

right to vote and seek office under the state, was not derived from the laws of the United States but rested solely on the constitution of Kentucky. The right to vote and hold office in a state comes from the state and is subject to its regulations and control. The governor therefore had the power to restore the citizenship rights of the defendant. *Arnett v. Stumbo.*[2]

Research indicates that this is the first case passing on the point in question.[3] It is obvious that the sovereign under which conviction is had can be the only one to relieve an individual of the punishments it has imposed. A state governor could not relieve an individual of a punishment or fine meted out in another state or foreign country.[4] This has been extended in some jurisdictions to prevent a gubernatorial pardon for a municipal ordinance violation within the state.[5] Similarly Presidential pardoning power is limited to offenses against the United States.[6] The question then arises whether the denial of the right to vote and hold office for the commission of a crime is (1) a punishment going with the crime, or (2) a denial of privilege made on the social consideration that felons are neither capable nor trustworthy enough to exercise such privileges. It is generally regarded that the latter is the more proper conception.[7] Under this view, a conviction in a sister state or federal jurisdiction would require a pardon from some source, but perhaps that source might be a jurisdiction other than the place of conviction, since such a pardon would not be removing a penalty imposed.

From the very nature of the pardoning power as it developed historically, however, there is difficulty in getting a pardon in a jurisdiction other than that in which the individual was convicted. Pardons are usually granted by the executive branch of the punishing sovereignty.[8] Where no such pardon has been granted, it is possible that the forum will not recognize the commission of the wrong in a sister state or federal jurisdiction as a mar to the capability or trustworthiness of the individual in exercising civil rights.[9] The conviction would be disregarded

2. (Ky. 1941) 153 S. W. (2d) 889.
3. See Note (1941) 135 A. L. R. 1493.
4. 24 Am. & Eng. Encyc. of Law 569.
5. Paris v. Hinton (1909) 132 Ky. 654; Allen v. McGuire (1911) 100 Miss. 781, 57 So. 217; State ex rel. Kansas City v. Renick (1900) 157 Mo. 292, 57 S. W. 713; Shoop v. Commonwealth (1846) 3 Pa. 126.
6. U. S. Const. Art. II, §2.
7. Weihofen, The Effect of a Pardon (1939) 88 U. Pa. L. Rev. 177.
8. Jensen, Christen, *The Pardoning Power in the American States* (1922) c. I.
9. State ex rel. v. Du Bose (1890) 88 Tenn. 753, 13 S. W. 1088, where the court said, in considering the disqualification as a penalty which at-

just as if it were in a foreign country.[10] Some states, however, give a special regard to conviction under the federal jurisdiction, with a resulting loss of state civil rights.[11] A federal conviction primarily disqualifies a person from holding any office or place of honor, profit or trust under the Constitution and laws of the United States.[12] As between the state and federal governments where there is a jurisdictional intertwining, it would seem that the state courts could logically and properly regard a conviction for felony in federal courts as such a mar on the individual as to warrant suffrage and office holding disqualifications.[13] Further, on the matter of pardons, some of these states, either by constitutional mandate or judicial decision, recognize the effectiveness of a federal pardon for federal crime to restore state civil rights, and some states by statute require a Presidential pardon as a condition precedent to the restoration of state rights.[14] On the other hand, gubernatorial pardon is a necessity in some states,

taches to the conviction: "Construing the article as a whole, we conclude the offense specified is limited by the delegation of authority to punish. Each state has the exclusive jurisdiction to try and punish offenders within its territory. To fight a duel, to aid and abet in one, to give or to bear a challenge in Arkansas, is no offense against the laws of Tennessee." This same principle of the territorial limitation of a conviction is applied in cases of federal conviction. In Hildreth v. Heath (1878) 1 Ill. App. 82, it was held that conviction in a federal court of a Congressional statute violation creates no disqualification in the state. In State ex rel. Mitchell v. McDonald (1933) 164 Miss. 405, 145 So. 508, 86 A. L. R. 290, a plea of guilty to an indictment of perjury in a federal court was held not to disqualify an individual under the state provisions. The court followed the principle that this was a conviction in another jurisdiction. See also Logan v. U. S. (1892) 144 U. S. 263; Commonwealth v. Green (1822) 17 Mass. 515; In re Ebbs (1908) 150 N. C. 44, 63 S. E. 190, 19 L. R. A. (N. S.) 892.

12. Brown, The Restoration of Civil and Political Rights by Presidential Pardon (1940) 34 Am. Pol. Sci. Rev. 295, 299.

13. Crampton v. O'Mara (1923) 193 Ind. 551, 139 N. E. 360; In re Comyns (1925) 132 Wash. 391, 232 Pac. 269. For a carefully considered case, see State ex rel. Olsen v. Langer (1934) 65 N. D. 68, 256 N. W. 377, 387, where the court discusses the state's provision for electoral disqualification: "It seems to us unthinkable in view of the purposes underlying section 127, * * * and the inter-relationship between the state and the United States, that an elector who has committed the most serious of offenses—for example, treason, or murder, or robbery—and who has been convicted therefor in the federal court, should not be disqualified to exercise the elective franchise in North Dakota where the offense was committed." The court says further concerning the provision: "That purpose is the protection of the state by denying the privilege of the franchise to those whose unfitness is evidenced by conviction of felony. This disqualification is not a penalty. It is a mere consequence attendant on, and incidental to, the doing of the felonious act."

14. Brown, supra note 12, at 296. Cowan v. Prowse (1892) 93 Ky. 156, 19 S. W. 407; Jones v. Board of Registrars (1879) 56 Miss. 766; State ex rel. Cloud v. State Election Board (1934) 169 Okla. 363, 3 P. (2d) 20.

since the courts deny effect to a Presidential pardon to restore state citizenship rights lost as a result of federal conviction.[15] Another situation is that of the principal case where there is no indication of denial of effect to a Presidential pardon, but nevertheless, without considering such a possibility, there is no denial of the governor's power in that matter.

Pardons may be granted on one of two general assumptions: (1) That the person was wrongfully convicted and that under subsequent disclosures his conviction appears to have been a mistake. The pardon is then an attempt to rectify the mistake by a return of full citizenship status to the wronged party with an eye to blotting out the odium of guilt. (2) Without denying the propriety of the former conviction, the pardon may be an attempt to restore the privileges of suffrage and office holding which it is now felt that the individual should again be allowed to assume. Courts in general fail to bother with the distinction between a pardon blotting out guilt and a pardon which recognizes rehabilitation.[16] If the pardon were of the first type, it would seem that such a pardon should be recognized anywhere. Where the pardon is of the second type, it is more properly a matter of policy in a particular jurisdiction whether an individual has truly been rehabilitated. Since the disqualification for conviction of a crime is a state imposed restriction, the present case, in holding that gubernatorial pardon is effective to restore state civil rights which have been withdrawn by state provision as a result of conviction in the federal courts, reaches a result which is in logical harmony with either view. There would be a question whether the same rule would apply where the office sought under the state is that of representative from the state in the national House of Representatives or Senate.

D. A.

15. State ex rel. Attorney General v. Irby (1935) 190 Ark. 786, 81 S. W. (2d) 419; State v. McIntire (1853) 46 N. C. 1, 59 Am. Dec. 580; Ridley v. Sherbrook (1866) 43 Tenn. 569.

16. Weihofen, supra note 7.