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Interstate cooperation in New England

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BOSTON UNIVERSITY

GRADUATE SCHOOL

Thesis

INTERSTATE COOPERATION IN NEW ENGLAND

By

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CHAPTER I

THE PROBLEM

Inevitably, government is reaching more and more into fields of industry, human relations, and social welfare. The domain of state control over finance, labor conditions, farming, manufacturing, mining, etc., has been almost obliterated by the avalanche of federal acts dealing with unemployment relief, national industrial recovery, agricultural adjustment and codes, and public work programs. The traditional concept of forty-eight independent, sovereign states delegating a few restricted powers to the federal government no longer controls American political thinking -- or American political practice. The exact opposite seems to be the truth.

Federalism continues to exist only in the difficulty of formally amending the constitution, in the extraordinary overrepresentation of small states in our powerful Senate, and in the unnecessary multiplication of jurisdictions and bureaucracies.

The growth of our centralized federal government has come about due to several reasons. Some national problems can't be best solved by state governments, and our modern industrial society has created national problems which demand solution on a national level. Poverty, illiteracy, unemployment, inadequate educational facilities, starvation wages, are all factors which have brought about the almost revolu-

tionary change in the nature and scope of federal activities.

However, it seems that the basic fact is that state governments were adequately equipped to deal with the nation's economic and social problems of the nineteenth century, but they have not proved themselves adequate to deal with many of those same problems of the twentieth century. Interstate problems are all around us,

"Changing conditions in agriculture, industry, trade, and communication have transformed problems which were once localized into problems which refuse to be bounded by lines created by the King's Charter, etc."¹

Many social, economic, and physical problems arising in a single state cannot be solved by that state alone without a sacrifice of interests.

Consequently, many of our citizens are afraid the states will be swallowed up by an all powerful national government. Yet, they seem to forget that, to a large degree, this growth in the power of our federal government has been due to the inability of the states to handle their problems and to cooperate among themselves.

"Up to the nineteen hundred and thirties it was too often a matter of unrelated control by every state, which is obviously impracticable since it is largely responsible for many of the present difficulties."²

All through the entire history of our country,, the lack of

¹Charles J. Calrow, Interstate Cooperation, National Municipal Review, August, 1936, p. 120.

²Richard Hartshorne, Inter-Governmental Cooperation--The Way Out, New Jersey Law Review, January, 1936, p. 35.

harmony among our states has proved troublesome. Before the adoption of the federal Constitution, petty local jealousies caused constant pulling and hauling which created inefficiency, antagonisms, and other difficulties, both in the prosecution of the Revolution and in the adoption of the Constitution itself. Upon adoption of the Constitution, the creation of the Federal Sovereignty served largely to terminate this disharmony in national affairs for a time. In strictly local affairs, the several states continued to control each within its own borders, without exerting undue pressure outwards. Of recent years, however, the increasing complexity of our life has demonstrated, as seen above, that this method of control alone is no longer workable and must be changed to meet existing conditions.

The unfortunate results of the discordant policies and practices of the individual states are evident along many lines. Our public enemies, for instance, thrive on the conflicts; with high-powered cars they commit a crime in Maine and soon cross the state line into New Hampshire or Vermont. Once across, lack of interest and cooperation has all too often made their apprehension very difficult. Then, if caught, tedious extradition procedure prevails. Turning to our industrial life; in income taxes, an injustice exists to the taxpayer who must pay an income or inheritance tax not only in his home state, but also in the state in which his inheritance or income may arise, although the Supreme Court has held this

illegal in many cases. Still another example of the results of conflicting state laws is the migration of textile industries from New England states, and to a certain extent, from Middle Atlantic and Midwestern states to Southern states where minimum wages, hours of labor, etc., are less regulated, thus hurting many Northern communities.

So it is evident that we must pursue the remedy of interstate cooperation.

"This lawful cooperation method of control by states and nation acting together constitutes a 'golden mean' between aims of nationalists and those of states' righters."³

This method should be pursued to the utmost in order that we may revive our "drooping federalism" and preserve the sovereign rights of the States.

Thus it is with this purpose of finding a way to preserve our states' rights and stop the move toward overcentralization, that the writer undertakes this study. It is his basic assumption that "federalism" is still alive and that the sovereignty of the states is no mere fiction. Furthermore, he assumes that interstate cooperation and uniform state action can revive and save "federalism." Should the move toward centralization continue, it could very easily result in an authoritarian government.

The present work represents an attempt to survey the

³James V. Allred, Cooperation or Obliteration, Harvard Law Review, 1922, p. 128.

scope and to analyze the significance and possibilities of interstate relations as pertaining to New England with particular emphasis on Massachusetts. It does not in any way purport to be an historical survey of the development of interstate cooperation; it is rather an attempt to show briefly the nature and accomplishments of such cooperative relations and reciprocal agreements as have come to exist at the present time, presented with the idea that the record itself may be of interest and value to other scholars in the field of political science.

It is the belief of the writer that the material presented herewith, shows the existence of machinery by means of which cooperative and uniform policies might be adopted and utilized among all the states, but with New England in particular. All are agreed that uniformity and cooperation are urgently needed in many fields of state government activity, but many object to achieving it by Federal action. Therefore, the writer wishes to make clear a point which has not heretofore been properly recognized, namely, that we have here a practical workable alternative if we desire to use it.

The thesis and problem then, is to discover how interstate cooperation and uniform policies can be achieved in New England, to find out what has and is being done in this field, and then, to evaluate the good and bad points. It is not the writer's contention that interstate cooperation and uniformity in New England will stop centralization, but if this is

applied generally throughout the United States, it will be a practical and valuable alternative to Federal action.

The methods used to gather this material were the historical research and the interview methods for the most part, although some statistical studies were also included. A great deal of the material was obtained from the Massachusetts State House Law Library and from the Kirsten Better Business Library by the historical research method. Interviews with several members of the state legislature and members of the New England Council were especially helpful and interesting. The Massachusetts Commission on Interstate Cooperation was very cooperative in providing information on its own activities and also upon those of the five other state commissions, whose work is almost identical. Attention was devoted almost wholly to the present day efforts at cooperation in New England, both because there has been comparatively little material written on it and because the first real efforts at interstate cooperation were only started about 1937 in the New England region.

CHAPTER II

THE NEED FOR LEGISLATIVE UNIFORMITY AND
THE MOVEMENT FOR COOPERATION IN NEW ENGLAND

The problem of securing uniformity of the laws relating to those subjects which are, by the Tenth Amendment to the Federal Constitution, under the control of the states, is one which has long perplexed New England students of state government. Unless the six states can handle questions of divorce and marriage suitably, it is only a question of time as to when the people will look for help from the Federal government. When the Supreme Court more than a half a century ago held that insurance was not commerce, the regulation of that business was thrown into the hands of the States. Then it was impossible to do business here in New England under substantially identical conditions.

The effect of this lack of uniformity was to cause the payment of higher premium rates by every man, woman, and child insured at that time. The submitting of detailed financial statements and reports, in conformity with every conceivable kind of regulation; the maintenance of highly paid legal staffs to interpret this maze of legislation; the maintenance of offices; the necessity for hiring a whole corps of efficient lobbyists to protect the interests of insurance companies simultaneously in most of the New England States in those years when the majority of the legislatures were in session; all of

these things cost money, and the holders of policies paid for them in higher premium rates.

However, since the United States vs. South-Eastern Underwriters Association case (322 U.S. 533, 1944), the situation has been greatly improved. Absolute control by the states over insurance no longer holds since they must provide adequate regulation or the Federal government will step in and control it.

The laws regulating marriage show a great lack of uniformity.¹ Common law marriages are still recognized as legal in Rhode Island. The age of consent of the male is sixteen in Connecticut and of female, sixteen. In Rhode Island it is eighteen for the male and sixteen for the female. In Maine there is no legal consent of the children, but only the parental consent if the male is under twenty-one and if the female is under eighteen. The age of consent for the male in Massachusetts is fourteen and twelve for the female. In Vermont it is eighteen for the male and sixteen for the female. In New Hampshire it is fourteen for the male and thirteen for the female. All of these states except New Hampshire and Rhode Island require parental consent if the boy is under twenty-one or if the girl is under eighteen. Rhode Island requires it if either one is under twenty-one and New Hampshire lists the age of twenty for the male and eighteen

¹Uniform Laws Annotated, Miscellaneous Acts, 1949, Edward Thompson Co., Brooklyn, New York, 1949.

for the female.

The diversity in the provisions of the laws governing the granting of divorces has been urged as a cause of the increase in the number of divorces,² and it is certain that the great differences in the practices of the various New England States will account in large measure for the varying divorce rates in different states and the same number of legal causes. The minimum time of residence required before divorce proceedings may be instituted varies considerably in the New England States.³ In Connecticut and Massachusetts, the minimum is three years; in New Hampshire and Maine it is only one year; in Rhode Island it is two years, while in Vermont it is only six months. Obviously there is something wrong in a situation in which the laws of New Hampshire (ten) and Rhode Island (eleven) enumerate ten or more grounds upon which a divorce may be granted. Nevada has long been noted for its "divorce mill" but the state of Massachusetts is doing quite well along these lines, it being comparatively easy to bring divorce proceedings here.

The need for uniformity in extradition procedure is acute throughout the United States. The existing situation is a considerable source of needless friction between the States for it is a common occurrence to read in the press of

²L. W. Hutchcroft, Diversity of Laws as Cause of Increase in Divorce, United States Daily, March 4, 1930.

³Uniform Laws Annotated, Miscellaneous Acts, 1949, Edward Thompson Co., Brooklyn, New York, 1949.

interesting and spectacular cases where the governors of two states are in disagreement as to what should be done in a particular case. However, the New England States have made progress in this sphere up to February, 1949; all but Connecticut had adopted the Uniform Criminal Extradition Act which was originally proposed by the National Conference of Commissioners on Uniform State Laws.

The New England States have not adopted any uniform criminal statistics act which would facilitate the apprehension of criminals greatly; nor had the New England States adopted a uniform illegitimacy act up to 1942.⁴ A uniform Insurers Liquidation Act is needed all over the United States, but in New England only Massachusetts, in 1939, and Rhode Island, in 1940, had adopted such an act.

The control of narcotics has long been a troublesome problem to our states and certainly if they cannot handle it efficiently, it will be in the interests of the people that the Federal government step in. In New England up to February 1949, all the states but Massachusetts and New Hampshire had adopted the Uniform Narcotic Drug Act.⁵ Nor has New England as a whole adopted a uniform firearms act.

Aviation laws up to 1940 were very varied and it is

⁴Ibid.

⁵Ibid.

doubtful if they are much different now. An aviator must adapt himself to regulations which change the moment a state line is crossed. A Uniform Aeronautics Act has been adopted by the states of Vermont and Rhode Island.⁶

The milk marketing problem of New England which is one of the most serious the region has run up against, is in desperate need of some uniform laws in the administration of milk control. Federal control has resulted largely from failure of the states to handle the problem satisfactorily.⁷ Inadequate power has been given to the Milk Control Boards in Maine, New Hampshire, and Vermont so that they are unable to fix prices for milk shipped to markets outside, except in a very limited degree in New Hampshire.

Our corporation laws have exhibited some very bewildering disparities in their essential provisions, but a start toward uniformity has at least been begun in New England. In 1946 the Massachusetts Commission on Interstate Cooperation made a careful study of the principal features of the laws that bear upon the operations of industrial establishments in New England.⁸ As far as business corporations, the commission found that all six states authorize organization of corpora-

⁶Ibid.

⁷8th Annual Report of the Massachusetts Commission on Interstate Cooperation, January, 1947.

⁸10th Annual Report of the Massachusetts Commission on Interstate Cooperation, January, 1947.

tions under general laws. Procedures for organizing corporations, for amending charters, and for voluntary dissolution are not very different in the six states. The general powers that they grant to corporations are also similar.

However, as far as taxation, the commission found wide differences in state taxes. Only Massachusetts and Rhode Island impose excise taxes on corporations. On the credit side of the ledger, the Commission found that all the New England states have workmen's compensation laws; all have health and safety provisions; and all have public health authorities with the power to investigate and regulate conditions affecting public health.

Nowhere, perhaps, has the lack of uniformity been more noticeable, or actually more dangerous, than in the field of traffic control. Here, until recently, the situation has been utterly chaotic.⁹ Not only did one find a lack of uniformity between the states, but different cities in the same state, and in different sections of the same city. In some places, left turns were made from the right hand side of the street, in others from the center, and in still others they were not permitted at all. Sometimes they were made on an amber light, sometimes on green, and sometimes on red. In fact, in the city of Boston the writer knows of two in the latter category, which provide a constant source of trouble to out of state drivers.

⁹Emerson D. Fite, Government by Cooperation, the Macmillan Company, 1932, p. 100.

In the majority of the states in the Union there is a wide variation as to maximum permissible sizes and weights of motor trucks.

However, a great deal of progress toward uniform policies has been made in the past few years by the New England States, according to the Massachusetts Commission on Interstate Cooperation.¹⁰ These accomplishments total among the following: the reduction or removal of hampering interstate restrictions on highway transportation; the virtual achievement of uniformity among all the states of the region as to maximum permissible sizes and weights of motor trucks; the wide adoption of uniform regulations governing the transportation of explosives and inflammable liquids; the progress toward uniformity in requirements for marker lights on trucks and emergency flares; and the growth of reciprocity regarding motor truck licenses. Much work still remains to be done on all of these subjects and upon some which haven't even been touched.

Among problems to be considered are periodic inspection of vehicles, uniformity in pavement markings and other traffic regulations, and finally, the whole area of very important problems dealing with safety, safety education and the transportation of school children. Most of the New England states have established regulations and standards for school buses,

¹⁰11th Annual Report of the Massachusetts Commission on Interstate Cooperation, January, 1948.

but these are not uniform. Uniformity is a necessity because many motor vehicles cross state lines, and variation of school bus laws from state to state increases the danger of accidents resulting from operation of such vehicles.

Although the New England States have made good progress in adopting similar motor vehicle laws there is still an amazing lack of uniformity among the six states in laws regulating speed, the manner in which speed limits may be established and penalties that may be imposed for their violation. Of all the New England states, Massachusetts alone appears to meet practically all the most important standards and requirements of safety.¹¹

A uniform bill for the regulation and control of insecticides, fungicides, rodenticides, and other economic poisons and devices was introduced into the Massachusetts legislature in 1947 and 1948, but it failed to pass. In view of the rapid increase in the numbers and use of these materials and their dangerous character, provisions for controlling their distribution and use are essential. However, it appears that certain interests have so far been able to outweigh the agricultural organizations who are sponsoring this worthy piece of legislation.

There has been no real uniformity in the laws governing banking, bank domination, etc. Business and industry are affected differently in the six states. According to reports

¹¹Ibid.

made by C. H. Weeks,¹² sometimes manufacturing concerns change their State locations and have machinery and other equipment which has been equipped in compliance with the regulations of a certain State, and in order to comply strictly with the new requirements, they are often compelled to change some part of their equipment. It is perfectly obvious to anyone that uniformity is of vital importance with regard to these matters, and with regard to the other matters discussed herein; the control of the New England States over insurance, marriage and divorce, the issuance of corporate charters, traffic control, public health, aviation, as well as with regard to large numbers of other subjects which have not even been mentioned.

By way of summary, it may be said that the need for uniformity has been felt the most with regard to two types of questions. First, there are those things that are now universally recognized as subject to state regulation, subjects of concern in every state, typical illustrations of which are briefly noted above. Uniformity in such matters may be justified as inherently desirable, and as a stimulus to backward jurisdictions toward higher standards. Secondly, there are matters which are of common concern only to the New England region, such as river and stream pollution control, flood control, forest fire control, etc. Such things seem to require

¹²Charles H. Weeks, Need for Uniform Safety Code for Factories, United States Daily, December 8, 1932.

direct cooperation among the affected New England states, because otherwise there would exist inharmonious and conflicting (and possibly rival) regulations governing engineering problems, property rights and other matters. Moreover, the jurisdiction of a state does not extend beyond its own territorial boundaries, while competent and effective regulation of such matters often requires control beyond them. Flood control will certainly be taken over by the Federal government completely in the New England region if the states cannot reach an agreement. The same may prove true for many other activities if the states cannot do an efficient job.

As far as the boundary lines are concerned, the inevitability of such a situation becomes apparent when one considers the highly artificial character of many of these boundary lines. They are either the result of geographical accident, or of a compromise, usually adopted by the Supreme Court for the purpose of settling a dispute. This being true, it is a small wonder that so many problems fail to recognize the existence of the lines which separated the different colors on the maps in our old geography books.

These considerations constitute at the same time an explanation of why we have not had uniformity and cooperation, and of why the achievement of them both is imperative. Before the present Union was achieved, the separate political entities, which were ultimately to enter it, had developed along somewhat different lines. Fearful concerning "states' rights"

and desiring to maintain their individual characteristics, they were reluctant either to confer powers upon the Federal government, or to establish any uniform rules among themselves. Certain of these influences have continued under the constitution, diminishing, however, under the changed conditions of modern life. We are coming to see that uniformity and cooperation are not inconsistent with the preservation of individuality or with the practise of democracy. We are coming to view cooperative and uniform state action, as one writer puts it, "as succor to the public and salvation for the bar."¹³

The development of modern methods of transportation and communication has made uniformity of policy and cooperation in interstate matters absolutely imperative; the need for both will be strengthened in the future as still further developments in the methods of transportation and communication make our civilization more complex and mobile. In times when families and even whole communities were isolated units, it made little difference whether common problems were handled in the same way or not, but in a day when scientific and technical improvements, and demands of commerce and industry has made the whole world one, not even state units can afford to ignore the existence of their neighbors. To do so is to cultivate friction and encourage a lack of harmony, thereby ignoring the interests and conveniences of its citizens. It

¹³Nathan W. MacChesny, Uniform State Laws, Proceedings, Illinois State Bar Association, 1916.

has often been claimed that the purpose of government was to secure the greatest good for the greatest number of people. If this doctrine is to be accepted as even partly true, no one of the six New England states can in the future ignore its responsibility for harmonious cooperative action with its neighbors, in the solution of many common problems.¹⁴

It has been the intention of the writer to demonstrate to the reader the need of cooperation and uniform policies in New England by revealing to him something of the present situation. It is his belief that the New England States can and should develop, through cooperative legislative, administrative, and judicial action, uniform policies and procedures for the handling of these common problems.

If the need for uniformity and cooperation in New England has been demonstrated, let us turn next to the question of the purposes to be served by it. An excellent summary of the purposes of uniform state action and interstate cooperation which can be applied to New England is given by a Professor Ernest Freund of the University of Chicago, now deceased.¹⁵

1. Identical legislative policies identically formulated.

¹⁴Report of Minnesota Commissioners on Uniform State Laws, 1931. pp. 6-8 (comment on the need for uniformity).

¹⁵Report of the Committee on Inter-State Compacts at the Thirty-first Annual Meeting (Cincinnati, 1921). National Conference of Commissioners on Uniform State Laws, p. 61.

2. Adoption of uniform technical or conventional standards, leaving each state to incorporate such standards by laws which in other respects would be framed by each state independently.

3. Uniform or joint control of common or interdependent resources or facilities, ports, irrigation works, forest conservation, etc.

4. To grant extra-territorial privileges, etc., to overcome the territorial limitations of each jurisdiction.

5. The avoiding of conflict and duplication, e.g., in inheritance taxation.

To these may be added another purpose of interstate cooperation and uniform policies in New England. It serves as a check or substitute to centralization. Although it is doubtful if too much interstate cooperation will ever come about, there is a possibility of making a fetish of uniformity. A reasonable amount of uniformity with regard to matters of common concern does not always mean a suppression of individuality; it may mean simply an expression of common sense. Yet it is frankly to be recognized and admitted that there are matters, such as taxation, with regard to some phases of which, uniformity is probably neither possible nor feasible, and that there are other matters such as education, where the enforcement of anything further than a minimum standard would result in the lowering of the standards of the more advanced states. Many years ago, a Mr. Henry C. Tompkins in his report before the American Bar Association, gave an admirable statement on the subject of uniformity:

"Uniformity of Laws is not needed on all subjects. Though modern invention and discovery have done so much to bring the people of this great country together and make those residing in distant states near neighbors in

the large majority of matters that affect the daily life of the citizens, it is not only not necessary that there should be uniformity in the laws of the several States regulating and controlling them, but on the contrary such uniformity is undesirable and absolutely impracticable. There is and there will continue to be, a difference in the character and surroundings of the people residing in the different portions of the Union that will require a difference in the law governing them; but while this is so, it is equally true that the laws governing those matters in which the people of the different States are equally interested, those matters which arise daily in their business intercourse with one another, should be uniform so that the citizen of one State may know the exact character of his act and contract, the full extent of his liability attaching to it, without regard to the locality in which the act is done or the contract made, and without regard to the tribunal which passes on it."¹⁶

In the further discussion of cooperative interstate action and uniform policies in New England, it is proposed to follow this brief chapter on the need for such action with a brief summary of the methods being used in New England at the present time to secure interstate cooperation and uniform policies. The concluding chapter will discuss the future of interstate cooperation, which if pursued, would help the present situation which so many people feel is leading us into complete centralization.

The three charts on the following pages will give the reader a clearer picture of the lack of uniform laws on many subjects in New England.

¹⁶Henry C. Tompkins, in 13 Reports, American Bar Association, 247, 1891.

	Conn.	Mass.	Ver.	N. H.	Me.	R. I.
Laws limited to corrupt practices						
Registration required	X	X	X	X	X	X
Legal Distinction "Counsel" "Agent"		X	X		X	X
Financial Report required	X	X		X		X
Fines	Not over \$1000 and/or in addition a corp. must file a statement of legal expenses within time limit or forfeit \$100 a day	\$100 to \$1000	\$100 to \$500	Not over \$1000	\$100 to \$500	\$100-1000 to \$200-500 applies to ind. other than leg. counsel or agent, corp., or assoc.
Imprisonment	Not over 1 year			Not over 5 years		
3 yrs. Disbarment after conviction	Disbar runs until end of the 3rd regular (annual) session					

STATE REGULATION OF LOBBYING

Compiled by the Council of State Gov'ts., The Book of the States, 1948-49, Volume 7, Chicago, Illinois.

QUALIFICATIONS FOR VOTING IN NEW ENGLAND

	Maine	N. H.	Conn.	Mass.	R. I.	Vermont
Minimum Age	21	21	21	21	21	21
U.S. Citizen	X	X	X	X	X	X
State Residence	6 mos.	6 mos.	1 yr.	1 yr.	2 yrs.	1 yr.
District Residence	3 mos.	6 mos.	6 mos.	6 mos.	6 mos.	3 mos.
Literacy Test	X	X	X	X		
Poll Tax (Prerequisite for voting)	X					
Absentee registration		X		X	X	
Absentee voting	X	X	X	X	X	X

Compiled by the Council of State Gov'ts., The Book of the States, 1948-49, Volume 7, Chicago, Illinois.

RECORD OF UNIFORM AND MODEL STATE LAWS
AS REPORTED TO SEPTEMBER 1, 1947 IN THE
1948-49 EDITION OF THE BOOK OF THE STATES

	Mass.	N. H.	Vt.	Maine	R. I.	Conn.
Conditional Sales Act		X				
Warehouse Receipts, 1906	X	X	X	X	X	X
Sales, 1906	X	X	X	X	X	X
Bills of Lading, 1909	X	X	X	X	X	X
Stock Transfer, 1909	X	X	X	X	X	X
Desertion & Non-Support, 1910	X		X			
Partnership, 1914	X		X			
Limited Partnership	X	X	X		X	
Flag Act, 1917			X	X	X	
Fraudulent Conveyance, 1918	X	X				
Proof of Statute, 1920					X	
Foreign Deposition, 1900						

	Mass.	N. H.	Vt.	Maine	R. I.	Conn.
Declaratory Judgment, 1922			X	X		
Fiduciaries, 1922					X	
Federal Tax Lien Reg., 1926					X	
Reciprocal Transfer Tax, 1928						
Veterans' Guardianship, 1928	X	X	X	X	X	
Principal and Income						X
Extradition Act					X	
Narcotic Drug Act	X		X	X	X	X
Narcotic Drug Amendments, 1942			X			
Trust Receipts, 1933	X	X				X
Transfer of Dependents, 1935			X			
Vendor and Purchasers Risk, 1935						
Criminal Extradition, 1936	X	X	X	X		

RECORD OF UNIFORM AND MODEL STATE LAWS
 AS REPORTED TO SEPTEMBER 1, 1947 - Continued

RECORD OF UNIFORM AND MODEL STATE LAWS
AS REPORTED TO SEPTEMBER 1, 1947 - Continued

	Mass.	N. H.	Vt.	Maine	R. I.	Conn.
Business Records as Evidence, 1936			X		X	
Official Reports as Evidence, 1936			X			
Trusts, 1936						
Property, 1938						
Common Trust Fund, 1938						
Absentees Property, 1939	X					
Acknowledgment, 1939	X	X				X
Joint Tortfeasors, 1939	X				X	
Insurers Liquidation, 1939					X	
Pistol, 1940			X			
Simultaneous Death, 1940	X	X	X	X	X	X
Compromise of Death Taxes, 1943			X			X
Arbitration of Death Taxes, 1943	X		X			X

RECORD OF UNIFORM AND MODEL STATE LAWS
AS REPORTED TO SEPTEMBER 1, 1947 - Continued

	Mass.	N. H.	Vt.	Maine	R. I.	Conn.
Expert Testimony, 1937			X			
Administrations of Charitable Trusts, 1944			X			

Compiled by the Council of State Gov'ts. The Book of the States, 1948-49,
Chicago, Illinois.

CHAPTER III

CONCERTED ACTION: THE COMPACT

This chapter is concerned with the use of the interstate compact as an instrument to facilitate joint action between two or more states in New England.

The Legal Basis of the Interstate Compact

The compact is a contracted agreement between states, and relations between states are subject to the Federal Constitution. The power of the States to make independent negotiations is limited by two clauses of Article I, Section 10:

No state shall enter into any treaty, alliance or confederation

No state shall without the consent of Congress, . . . enter into agreement or contract with another state or with a foreign power¹

Thus one type of negotiation is prohibited and another type is by implication, conditionally permitted. The distinction between these two types has been interpreted as follows: Treaties, alliances and confederations, affecting the political status of the compacting parties, are absolutely prohibited to the states. Compacts not politically significant are permitted under varying conditions; certain agreements not

¹United States Constitution, Article I, Section 10.

affecting political conditions in any degree are sanctioned unapproved by Congress; other intermediate types require Congressional assent, which may be permissive -- in advance -- a ratifying, express or implied.

The states are sovereign powers, their action as independent nations limited only by the self-imposed grants of power made to the Federal government under the agreements of federation.

In making compacts, the states must get congressional approval when the pacts refer to political agreements, since the constitutional fathers feared that the clause in article I, Section 10, "no State shall, without the consent of Congress... enter into any agreement or compact with another state....", might prove embarrassing to the central government.

However, in any agreement, the compact must be ratified by the legislature of each of the cooperating states. If it pertains to a simple bridge compact, congressional approval may not be necessary. A compact may be effected by direct legislative act, or by negotiations through delegated and authorized commissioners.

Interstate compacts once agreed to by states are protected against impairment by action taken by individual states party to the compact. Article I, Section 10 of the United States Constitution specifically says: "No state shall pass any law.....impairing the obligation of contracts."² A

²Ibid.

compact is a form of contract and is as sacred as any contract between states could be, in case the Federal Courts chose to so interpret it, although the Federal machinery for the enforcement of agreements between states has not been emphatically applied in all cases, no doubt this clause in the Constitution would serve as a deterring factor.

The Interstate Compact Among New England States

Until 1934 the compact clause of the United States Constitution (Art. I, Sec. 10, Clause 3), was the basis for interstate compacts primarily concerned with boundary disputes, the construction of interstate public services, or for the allocation of the water of several rivers. The compact method was used much more extensively in the early years by the West; between 1925 and 1930 many of the states west of the Mississippi entered into one or more interstate agreements, and others were negotiated without successful consummation.³

Two compacts which might help New England tremendously but which have not been approved by all the states for various reasons are the Merrimack Valley Flood Control Compact, and the Connecticut River Flood Control Compact. The Merrimack Valley Compact which was drawn up by representatives of New Hampshire and Massachusetts in 1937, provides for the creation of a Merrimack Valley Flood Control Commission, consisting of

³MacMahon, Arthur W. "Compacts and Interstate", Encyclopedia of the Social Sciences, 1931.

six members, three from each state.⁴ A majority of the members from each state constitutes a quorum for the transaction of business but no binding action may be taken unless at least two members from each state vote therefor. The Commission, as a body politic and corporate has the power to take leases of the reservoirs and to secure from the states the funds necessary for the acquisition of lands, easements, and rights of way, and for the maintenance and operation of the reservoirs, including the tax reimbursements to the affected towns.

The Compact provides for an "Initial Plan for Flood Control" to consist of two reservoirs, one at Franklin, New Hampshire on the Pennekwasset River, and one at Webster on the Blackwater River.⁵ These reservoirs would control approximately 22.5% of the total drainage basin, 29% of the basin at Nashua, 39% at Manchester, and 47% at Concord.

The reservoir at Webster on the Blackwater River, at the option of the state, can be further developed by the state for conservation or power purposes, on payment of the added cost of construction of the higher dam as well as the payment of additional land costs. The compact provides that, at the option of the state, the dam at this side may be so

⁴Compact Covering Flood Control in Merrimack River Basin, Approved by the Rep. of Mass. & N. H., 1937, Printed by Granite State Press, Manchester, N. H., 1937, a Public Document.

⁵Ibid.

designed and constructed as to provide for further development at some future time. The Franklin reservoir is designed primarily for flood control but would be so constructed as to permit the retaining of 50% of the capacity during the periods of low flood expecting for conservation or recreational purposes at the option of the state.

The cost of the reservoirs would be divided between the two states, each contributing 50%. The operating and maintenance expenses would be borne proportionately by the two states. The purposes of this worthwhile compact are:

1. To promote interstate friendship, amity, between the two states.
2. To provide adequate storage capacity for impounding the waters of Merrimack River and its tributaries, primarily for protection of life and property from flood.
3. To provide a joint or common agency through which the states, may more effectively cooperate in accomplishing the object of flood control in the basin of Merrimack River and its tributaries, while promoting, protecting, and preserving to each the local interest and sovereignty of the respective states.⁶

According to United States Army engineers who helped in the drawing up of the compact, the construction of the reservoirs would afford an annual average saving of about 700,000 dollars to the state of New Hampshire and proportionate amount to Massachusetts. At last reports however, the compact is still lying at the bottom of the list in the Governors' offices.

⁶Ibid.

The Connecticut Valley Flood Control Compact which was also drawn up in 1937 would serve the same purposes as the Merrimack port, i.e., promote amity, provide storage capacity, etc.⁷ The compact provides for the creation of a Connecticut River Valley Flood Control Commission consisting of twelve members, three from each state. Here again no binding action may be taken unless two members from each state are present. The lands, easements, and rights of way would be acquired by the appropriate agencies of the state under the supervision and expense of the commission.

The compact contemplates the construction over a period of several years of flood control reservoirs in several areas of Connecticut River to control approximately 21% of the drainage basin. It would probably mean the construction of two flood control reservoirs in Massachusetts, three in Vermont, and three in New Hampshire.

This plan would afford the three states a great saving; from seventy-five to one hundred thousand dollars annually in New Hampshire. It seems that this proposed compact provides the best possible approach now to flood control in the Connecticut River Basin. However, under the plan the federal government assumes much the greater portion of the expense of

⁷Compact Covering Flood Control in Connecticut River Basin, 1937. Printed by Granite State Press, Manchester, N. H. A Public Document.

providing an efficient system of flood control and several of the states are afraid this may head to too much federal control or intervention.

The table which follows gives a list of the compacts into which one or more of the New England states have entered up to the present time. It is plain that up to recent years the subjects dealt almost completely with boundary problems. Little attention has been given to the use of compacts for other interstate problems.

INTERSTATE COMPACTS IN WHICH
NEW ENGLAND STATES HAVE BEEN PARTY

Year	States	Subject	Ratified by
1853	Mass. N.Y.	Cession of district of Boston Corner by Mass. to New York	Mass. Act of May 14, 1853, Mass. Acts, 1852- 53, chap. 340, p. 564. N. Y. Act of July 21, 1853, N.Y. Laws, 1853, chap. 586, p. 1102. U.S. Act of Jan. 3, 1855 (10 Stat. 602, Chap. 20)
1859	Mass. R. I.	Attorney General directed to assent to agreement between states in adjustment of boundary dispute before S. C.	Authorized U.S.: Joint Resolution Feb. 21, 1861 (12 Stat. Chap. 69, p. 459) R.I. Act of March 8, 1860, R.I. Acts, 1859, 60 Chap. 320, p. 139. Mass. Act. of Feb. 9, 1859 (11 Stat. 382, chap. 28) Ratified not req., as Attorneys General of States were authorized to make adjustment.
1879	New York Vermont	Boundary Line	N.Y.-Act of Mar. 20, 1879, N.Y. Laws 1879, chap. 93, p. 138. Vt.-Act of Nov. 27, 1876, Vt. Laws 1876, No. 201, p. 380 U.S.-Act of April 7, 1880 (21 Stat. 72 Chap. 49)
1879	New York Conn.	Boundary Line	N.Y.-Act of May 8, 1886, N.Y. Laws 1880, Chap. 213, p. 329. Conn.-Act of Mar. 12, 1880, 8 Conn. Spec. Laws, 1104. U.S.-Act of Feb. 26, 1881, (21 Stat. 351).

INTERSTATE COMPACTS - Continued

Year	States	Subject	Ratified by
1887	Conn. R. I.	Boundary Line	Conn.-Act of May 4, 1887, 10 Conn.Spec. Laws, 717 R.I.-Act of May 5, 1887, R.I. laws 1886-87, chap. 635, p.146, U.S.-Act of Oct. 12, 1888, (25 Stat. 553, Chap. 1094).
1912	New York Conn.	Boundary Line	N.Y.-Act of April 15, 1912 Amended Feb.14, 1913, N.Y. Laws 1912, Chap.352, p.692, N.Y. Laws, 1913, Chap.18, p. 27, Conn.-Act of June 6, 1913, 16 Conn. Spec. Laws 1104. U.S. Act of Jan.10, 1925 (43 Stat. 731-387).
1914	Mass. Conn.	Boundary Line	Mass.-Act of Mar.10, 1908, Mass.Acts Chap.192, p.142 Conn.-Act of June 6, 1913; 16 Conn.Spec.Laws, No.365, p. 1104. U.S.-Act of Oct.3, 1914, (38 Stat. 727. Chap. 315)
1927	New York Vermont	Bridge Across Lake Champlain	N.Y. - 1927 Vermont - 1927 U.S. Joint Resolution of Feb. 16, 1928. (45 Stat. 120-128) Chap. 82.
1934	Conn. Mass. Maine N. H. Vermont R. I.	Crime Compact of 1934 Interstate super- vision of Paroles & Probations	Conn: 1943 Maine: 1939 N.H., Mass., R. I., Vt.: 1937 U.S.: 1934

INTERSTATE COMPACTS - Continued

Year	States	Subject	Ratified by
1934	Mass. N. H. R. I.	Concord Compact of 1934 for minimum wages for women and children.	Mass. 1934, abrogated 1945 N.H.: 1935, abrogated 1943 R.I.: 1936 U.S.: 1937 (50 Stat. 633)
1935	New York N. J. Conn.	Tri. State Pollution Compact-Sanitation district to deal with Pollution in N. Y. Harbor.	N.Y.: 1935 N.J.: 1935 Conn.: 1941 U.S.: 1935 (49 Stat. 932).
1937	Maine N. H.	Me.-N.H. Interstate Bridge Authority	Maine: 1937 N.H.: 1937 U.S.: 1937 (50 Stat. 538)
1942	Conn. Maine Mass. N. H. R. I.	Atlantic Marine Fisheries Compact- authorizes any two or more states of Atlantic Seaboard to make compact to promote better utilization of marine, shell, fisheries.	Conn.: 1943 Maine: 1942 Mass.: 1941 N.H.: 1942 R.I.: 1941 U.S.: 1942 (56 Stat.267)
1944	New York R. I.	N.Y.-R.I. Boundary Line Compact	N.Y.: 1943 R.I.: 1942 U.S.: 1944 (58 Stat.672)
1947	Conn. Mass. R. I. N. H. Vt.	New England Pollution Compact	Conn.: 1947 Mass.: 1947 R. I.: 1947 N. H.: 1948 Vt.: 1948 U.S.: 1947(49 Stat. 1490)

INTERSTATE COMPACTS - Continued

Year	States	Subject	Ratified by
1949	Conn. R. I. Vt. Mass. N. H. Maine N. Y.	New England Forest Fire Compact	Conn.: 1949 all others same U.S.: 1949

The above data was obtained from The Book of the States, 1948-49, Volume 7, compiled by the Council of State Gov'ts., Chicago, Illinois.

CHAPTER IV

CONCERTED ACTION: THE INTERSTATE COOPERATION COMMISSION

One of the most important agencies of interstate cooperation now at work in New England is the Interstate Co-operation Commission. Each of the six states has a commission, Massachusetts being the first to establish one in 1937, by the Legislative Acts of 1937, Chapter 404:

an act establishing a commission on interstate cooperation as successor to commission on interstate compacts affecting Labor and Industries and defining its powers and duties, and providing for a commission required to be established under an interstate compact on the minimum wage.¹

The act provided for a Commission of fifteen members, three were to be members of the Senate designated by the President of the Senate, six of the House designated by the Speaker, one was to be a Commissioner on Uniform State Laws designated by said Commission, and five, one of whom must be the chairman or a member of the State Planning Board, were to be appointed by the Governor. The executive secretary is the only paid member. The Commission may establish any committees and advisory boards to conduct conferences, especially concerning subjects of intergovernmental cooperation.

Each of the other New England States has a similar commission created under an act upon the same idea as that of Massachusetts. It would seem pertinent here to summarize the

¹Legislative Acts of 1937, Chapter 404.

various functions of these commissions in New England in the words of the Council of State Governments:

1. To facilitate the participation of the States as members of the Council of State Governments;
2. To encourage and assist the legislative, executive, administrative, and judicial officials of the states to develop and maintain contracts by correspondence, by conferences with officials of other states, of the federal government, and of local units of government;
3. To advance cooperation between the states and between a state and other units of government by formulating proposals for and by facilitating:
 - (a) the adoption of interstate compacts,
 - (b) the enactment of uniform or reciprocal legislation,
 - (c) the adoption of uniform or reciprocal administrative rules and regulations,
 - (d) informal cooperation among government officials,
 - (e) the interchange and clearance of research and information, and
 - (f) any other suitable procedures.²

As far as the organization of the commissions, the chairman of the commissions provides the necessary leadership, guidance, and direction to ensure an effective organization and to develop and administer an aggressive program of interstate cooperation.

Generally, the Commission Secretary has the job of keeping the members of the Commission up on new developments and he must "follow-up" on commission plans and programs. In some states, the Secretary is a full time paid employee, and such is the case in Massachusetts where Mr. John W. Plaisted

²Council of State Governments, Commissions on Interstate Cooperation, Chicago, Illinois, 1947.

is the Secretary.

Since the start of the first New England Commission in Massachusetts in 1937, all the commissions have found that they work most effectively when sub-committees are designated to concern themselves with definite and specific projects and programs of interstate cooperation. The following is a list of sub-committees operating in Massachusetts and found generally in the other New England States.³

1. Tax and Fiscal Policy: This is one of the most important committees since it concerns a subject that will be confronting the New England States during the next few years; and it is also a problem that has far-reaching implications extending beyond each state's boundaries.

2. Veterans Affairs: This is also a very important subject now and one that will become increasingly important in the next few years. The Committee's big job here is to provide suggestions, advice and guidance in developing state programs for veterans' affairs to which the state legislature can look.

3. Highway Safety, Problems, Aeronautics: This is a tremendously important committee which is doing all it possibly can to awaken wider interest and participation by the state legislature in these problems. It tries to develop, analyze and make available information and data which can be of great value to over-all state administration and to the state legislature.

4. Water Resources (including Flood Control and Pollution): This committee is especially concerned with developing flood control ports, pollution control etc., from which the state legislature can now develop a sound program.

5. Welfare: Social Security and welfare programs are of vital importance to every state in New England at the present time. This committee, working with the state

³John W. Plaisted, Executive Secretary, Commission on Interstate Cooperation, Boston, June, 1949.

welfare people and with the other New England commissions on Interstate cooperation make available much data and information which will be very helpful to the legislatures and administrations.

6. Agriculture and Conservation: This committee is doing much valuable research in the subjects of crop control, irrigation, and interstate compacts for conservation. Their work should help the states to better solve their problems without the help of the federal government.

7. Crime and Defense: This committee has accomplished a great deal in getting uniformity into certain laws. Through these committees it is hoped that the commission on Interstate Cooperation can persuade the New England States to bring about complete uniformity in criminal procedure, etc.

These are examples of subjects of major interest in all the New England states at this time. State administrative departments and state legislators should be able to look to these Commissions on Interstate Cooperation for information, suggestions, and guidance in developing state programs. In turn, the commissions, through their close relations with other state commissions, would be able to know what is being done toward interstate cooperation in the six states, and be able to make helpful suggestions to these commissions.

It would seem worthwhile to describe the many accomplishments of the Massachusetts Commission on Interstate Cooperation since its start in 1937, whose makeup is described for the reader in a chart of the second page of this chapter. In the first year of activity, the Committee on Labor and Industry made an extensive survey into the reasons for the migration of industrial establishments from Massachusetts, and succeeded in offering several suggestions for the improvement

of the situation.⁴ It was shown that after 1921, Massachusetts was definitely losing ground in industry, but the commission believed that in the long run Massachusetts could improve the situation. The reasons found for industries moving from Massachusetts were as follows: out of state competition, high wages, restrictive laws, labor troubles, taxation, inefficient management, obsolescence of plant and equipment, and technological changes. Other state commissions in New England found the same reasons at this time.

All the Commissions followed Massachusetts' leadership and recommended that the states review their industrial policies. The Massachusetts Commission wanted all the states to cooperate in the policy making. Their specific recommendations were as follows:

1. that such authorities as are now promoting industrial development in Massachusetts, present in their advertising as accurate facts as possible regarding state policies, e.g., industrial, legislative, taxing, which affect industry, in order to give a true picture of industrial conditions in the state.
2. that such authorities try to attract new industries and help those already here.
3. that steps be taken to determine if found necessary, to give loans to industrial companies for improvements and new equipment more readily than now.
4. that in adopting additional labor and industrial legislation, due regard be given to states of such legislation in competing states.⁵

⁴2nd Annual Report of Commission on Interstate Cooperation to General Court of Massachusetts, February, 1939.

⁵1st Annual Report of the Commission on Interstate Cooperation to General Court of Massachusetts, February, 1938.

Mr. Plaisted of the Massachusetts Commission reports that all the interstate commissions are thinking of undertaking the same type of survey in the near future again, due to the protests of so many industries who are either leaving or thinking of leaving New England.⁶ Certainly cooperation among all six states is desperately needed in this field if New England is to keep her place as a top industrial region.

In its second year of work, the Commission in Massachusetts found that all six states needed to know each other better, to know each one's activities and methods better, and that many unnecessary laws hampered free trade.⁷ It studied the traffic systems of New England and brought out the glaring differences, such as in Maine and New Hampshire where out of state motor carriers were shown discrimination. These surveys were done with the idea of promoting uniformity and interstate cooperation. Later on, the Commission's reports show their success in the several fields. In the year's work the Commission assisted the state of Maine in getting information, drafts of bills, etc., in order to form an interstate commission on cooperation in that state.

The third year of activity began to show the results of the Commission's hard work in promoting cooperation in New

⁶Ibid.

⁷John W. Plaisted, Executive Secretary, Mass. Comm. on Interstate Cooperation, Boston, Mass., June, 1949.

England.⁸ In that year, 1939, commissions on cooperation were established in Maine, Rhode Island, and New Hampshire. Work was continued on the migration of industries problem and also on highway safety and motor vehicle problems. At a New England conference of the cooperation commissions held in Boston, all states agreed on the necessity of uniform traffic regulations and reciprocity in motor vehicle requirements, a committee was also appointed to study the subject. A step forward in interstate cooperation commissions and the tax administrators of New England to consider the tax situation. Here, it was voted to favor a uniform assessment date and recommended that legislatures put a sales tax through, uniform in character, to be used in such manner as would cause a reduction on real property.

The fourth year of the commission's work, 1940, revealed a continuance of the crime prevention, labor and industry, and highway problems. An informal organization of the public welfare administrators of New England as a regional committee was also brought about due mainly to the efforts of the Massachusetts Commission.⁹ This year was marked by intense promotional efforts to get not only Massachusetts but all the New England States to ratify the Interstate Maine Fisheries Compact--

"to promote better utilization of fisheries, marine and

⁸3rd Annual Report of Comm. on Interstate Cooperation to the General Court of Massachusetts, February, 1940.

⁹4th Annual Report of Commission on Interstate Cooperation to the General Court of Massachusetts, February, 1941.

shell, of Atlantic seaboard by development of a joint program for the promotion and protection of fishing industry, and the prevention of physical waste of the fisheries from any cause."¹⁰

The year of 1941 was marked by the passage of a bill making the regulations of industries in Massachusetts more liberal, and continued work on uniformity in highway laws, crime, and truck weights.¹¹ Massachusetts followed the commission's advice and ratified the Atlantic States Marine Fisheries Compact. A bill by the commission's Committee on Labor and Industry was passed in the legislature to make records and statistics of industry more complete in the state. At this time the Committee on Highway Safety and Motor Vehicle Problems met to formulate standards for sizes and weights of motor trucks which would be uniform with those of other states. At the end of the year's work, John W. Plaisted, the executive secretary of the Massachusetts Commission, said in the annual report,

"The commission's contacts with other state commissions has helped build up a system of cooperation among the New England states that has made great progress toward better interstate unity and cooperation in solving common problems."

In the following year, 1942, the Commission was particularly active with highway and motor vehicle problems. According to the annual report the commission's work was rewarded by the passage of specific standards for sizes and weights of

¹⁰Ibid.

¹¹5th Annual Report of the Commission on Interstate Cooperation to the General Court of Massachusetts, February, 1942.

commercial motor vehicles.¹² The Commission also worked with the other state commissions in attempting to develop a uniform forestry program for New England. A regional committee was appointed to study forest fire prevention, cutting practices, forest totals, and to work out a forestry program on interstate cooperation and state-federal cooperation. The commission urged the passage of a uniform fireworks control law as it had done before.

The year of 1943 again revealed progress being made by all the states' cooperation commissions. In Massachusetts, the legislature finally passed a bill to restrict the sale, use, and keeping or offering for sale of fireworks on May 18, by the Acts of 1943, Chapter 291. This was definitely a feather in the cap of the Massachusetts Commission on Interstate Cooperation.¹³ The work it started is now almost complete in all the six states and by next year, it looks as if the control of fireworks would be pretty uniform throughout New England.

In the next year, 1944, a special committee was appointed by the Commission to study and recommend what could be done to obtain more uniform action by New England on milk marketing problems, i.e., administration, control.¹⁴ So a conference was

¹²6th Annual Report of the Commission on Interstate Cooperation to the General Court of Massachusetts, January, 1943.

¹³7th Annual Report of Commission on Interstate Cooperation to the General Court of Massachusetts, February, 1944.

¹⁴8th Annual Report of Commission on Interstate Cooperation to the General Court of Massachusetts, March, 1945.

arranged with other New England states at which all agreed on the necessity of giving state authorities enough power to handle milk problems effectively without requiring approval by Congress. They wanted more uniform laws and more uniformity in actual administration of milk control. It was pointed out that federal control resulted largely from the failure of the states to handle the problem satisfactorily. So they concluded that an interstate organization was needed desperately, an agency for maintaining the proper authority and responsibility of the states against federal encroachments, and for keeping the states together.

An organization such as that prescribed lends itself especially to regional undertakings which the federal government is not so well suited to operate, as its officials rarely give due weight to local points of view. This is still a serious problem in New England and an overall interstate authority with the power to act would appear to be a solution.

The year of 1945 saw the commission continuing its work on the milk problem but continually meeting obstacles in getting anywhere, according to Mr. Plaisted of the Massachusetts Commission. A bill recommended by the commission for soil conservation did pass June 20, 1945, Chapter 531.

In 1945 a great deal of time was spent by the Commission in the field of social welfare and relief, and a study was also made of the state laws of New England affecting industrial establishments to bring up to date a study on the same subject

made in 1938.¹⁵ It was shown that all six of the states authorize organization of corporations under general laws, and that the procedures of organizing corporations, for amending charters, and for voluntary dissolution were not very different in the six states, also, the general powers that they grant to corporations are similar. However, they did find that state taxes vary tremendously in New England, a strong reason for industries leaving New England, and Massachusetts and Rhode Island in particular since those two states were the only ones imposing excise taxes on corporations at that time. All have workmen's compensation laws, health and safety provisions, public health authorities with the power to investigate and regulate conditions affecting the public health.

A conservation conference of the six states was held at which proposals for flood control, stream pollution, irrigation, etc., were discussed. The desire for state control of these subjects was raised as against federal control.

The milk situation in New England was again discussed at length.¹⁶ Inadequate power has been given the Milk Control Boards of Maine, New Hampshire, and Vermont all of which produce more milk than their people consume. The laws of these

¹⁵10th Annual Report of the Commission on Interstate Cooperation to the General Court of Mass., January, 1947.

¹⁶Ibid.

three states do not give the Milk Control Boards power to fix prices for milk shipped outside their respective states, except in a limited degree in New Hampshire, or to make agreements regarding prices and marketing conditions with milk control authorities in other states. As New York State in 1946 became a larger source of milk supply for Massachusetts and Connecticut markets, agricultural officials in New York have become increasingly interested in the adoption of uniform policies and laws by all the New England states. Many state officials in Massachusetts and New York hinted that if the states are not ready to meet marketing problems in the New England area the federal government may well step in. Any agreement among the states would not be a hard and fast compact, but subject to modification or revocation at the discretion of any party at any time.

In this problem Vermont is a much more important factor than Maine or New Hampshire, because its dairies supply much larger quantities of milk to other states, particularly to Massachusetts and Rhode Island. Vermont dealers, like those in New Hampshire appeared to be satisfied up to 1946 with the present pools and other arrangements in their principal markets, and very wary of any proposed changes in their state law that they feared might prove disadvantageous, so the cooperation commissions concluded the year's work with the belief that the possibility of Vermont joining the other five states of New England in adopting uniform milk control laws very slight.¹⁷

¹⁷Ibid.

The eleventh year of the Commission's work, 1947, proved to be an extremely busy one. Problems of water resources and pollution occupied a great deal of the members' time. The interstate water Pollution Control Compact was pushed rather strongly by the commission and was ratified by the states and Congress in short order. The Compact establishes an interstate commission of five members from each ratifying state, which commission is directed to establish reasonable physical, chemical, and bacteriological standards of water quality satisfactory for various classifications of use.¹⁸

Further discussions of possible interstate agreements for regulating milk marketing did not lead to any practical results. The three Northern New England states continued to be satisfied with the federal pool controlling the Boston Market, so that they were still not interested in making any interstate compacts on the subject or in giving their milk control agencies power to do so. As long as the federal pool for the Boston milk market continues in effect, no interstate agreement or compact applying to that market appears to be practicable, but according to Mr. Plaisted of the Massachusetts Commission, if some state supplying Massachusetts markets should authorize interstate agreements on milk marketing, other states might follow and change the present situation

¹⁸11th Annual Report of the Commission on Interstate Cooperation to the General Court of Massachusetts, January, 1948.

materially.¹⁹

The Commission also recommended to the legislature a uniform bill for regulation and control of insecticides, fungicides, rodenticides, and other economic poisons and devices. In view of the rapid increase in the numbers and use of these materials and their dangerous character, provisions for controlling their distribution and use are essential. However, the bill was rejected.²⁰

The last year for which reports are available on the Massachusetts Commission's activities is the year 1948.²¹ The Commission again introduced the uniform law for regulation and control of insecticides, but it was again rejected. A survey of the milk problem was again made as to whether the situation had become any more favorable for obtaining interstate agreement on this subject with other New England states, but no change was found.

A very important step forward in 1948 was the proposal by this commission along with those of the other New England states for an interstate fire control compact, a compact which would establish a central agency and supply depot for all New

¹⁹Interview with John W. Plaisted, Mass. Commission on Interstate Cooperation, Boston, June, 1949.

²⁰11th Annual Report of the Commission on Interstate Cooperation to the General Court of Mass., January, 1948.

²¹12th Annual Report of the Commission on Interstate Cooperation to the General Court of Mass., February, 1949.

England, with a pool of supplies and equipment. Although this compact was not drafted fully in 1948, it was passed this year.

A brief glimpse into the work of the other commissions in New England reveals that they parallel rather closely the work of the Massachusetts Commission. The reports available were very limited in number, no reports from New Hampshire and Rhode Island being available anywhere in Boston.

The Maine Commission on interstate cooperation was created in 1939 by chapter 250 of the Public Laws of that year. The report for the year 1942 revealed that the first two years of work did not accomplish very much due to the Commission's lack of funds.²² However, in 1941 and 1942, commission members attended regional conferences on the fishing industry, forest conservation, and motor transportation. The Commission urged the passage in 1941 of the Uniform Narcotic Drug Act, chapter 251 of the Public Laws of 1941.

The report covering January 1, 1943, to January 1, 1945, described legislation enacted which the commission was instrumental in pushing through.²³ An interstate compact for the supervision of parolees and probationees, (Chapter 23, R.S. 1944), a narcotic drugs act, (Chapter 62, R.S. 1944), a

²²Report for the year 1942 of the Maine Commission on interstate Cooperation.

²³Report for January 1, 1943-January 1, 1945 of the Maine Commission on interstate Cooperation.

fireworks control act, (Chapter 24, R.S. 1944), and several other uniform laws were enacted.

The report for the period from January 1, 1945 to January 1, 1947, showed that the commission was definitely succeeding in its efforts.²⁴ A motor trucks reciprocity act was passed, (Chapter 342, Laws of 1945), a veterans service officer act, (Chapter 40, Laws of 1945), a proof of wills act, (Chapter 18, Laws of 1945), and several others were passed.

The report covering January 1, 1947 to January 1, 1949 was the most noteworthy report ever made by the Maine Commission. In this period a great deal was accomplished. The final passage of reciprocal legislation affecting motor truck registration between the states, or the so-called Deciprocity Law, came about.²⁵ Several acts relating to changes in Maine motor vehicle laws were enacted, thus bringing more uniformity between states. Discussions were held with the other New England states on forest fire legislation.

The only report available on the Connecticut commission covers the year 1940.²⁶ However, it also shows progress toward

²⁴Report for January 1, 1945 - January 1, 1947 of the Maine Commission on interstate Cooperation.

²⁵Report for January 1, 1947 - January 1, 1949 of the Maine Commission on interstate Cooperation.

²⁶Report of the Connecticut Commission on inter-governmental Cooperation, January 22, 1941.

uniformity and cooperation. The commission attended the Atlantic Marine Fisheries Conference and accepted the proposed pact. The commission recommended more adequate traffic laws, driver exams, etc. It also advocated strenuously a Tri-State Sanitation Compact with New York and New Jersey, along with a Model Sabotage Prevention Act and a Model Explosives Act.

Two reports of the Vermont Commission were available which covered the years 1939 and 1940²⁷. In these the commission recommended the enactment of a Uniform Pistol Act as drafted by the interstate Commission on crime, and a narcotic drug act. A model state fireworks control law was also proposed. Thus, the work of the Vermont Commission quite closely parallels that of the other New England Commissions.

It would now seem desirable to summarize several of the major achievements of the Massachusetts Commission on Inter-state Cooperation which has worked in conjunction with the commissions of the five other New England states.

1. New England States now have generally uniform motor laws.
2. The New England Water Pollution Control Compact is now in effect in all the states but Maine, and the latter state doesn't have many interstate waters.

²⁷Reports of the Vermont Commission on interstate Cooperation, 1939, 1939 - 1940.

3. Flood control compacts have been pushed and prepared for the Connecticut Valley region and the Merrimack Valley but as yet have not been acted upon; the Connecticut Valley pact because Vermont is afraid it may have to build dams on her small area of tenable land and that the Federal government may move in by the Federal Power Commission.

4. At the present time the Massachusetts commission is trying to establish civil machinery under which fugitive husbands would be required to support dependents. This is a reciprocal act valid only among states with similar or same laws. At the present time it costs the states and police too much for extradition proceedings and then the husband often deserts the wife again.²⁸

5. A big conservation conference is coming up this August at which all the New England Commissions will meet to discuss plans for forest conservation, soil erosion, etc.²⁹

6. The New England Forest Fire Control Compact was passed by Congress only this June and it marks a long step forward in interstate cooperation. As an editorial in the Boston Globe described it:

The signature of the President, affixed last week to the new interstate compact among New England states on fire fighting, launches a timely experiment in mutual aid in this region, and suggests that even greater use might well be made of arrangements of this kind in other fields of mutual interests. The six states have succeeded in forming a pact which will enable them to muster regional assistance in fighting fires when necessary, without reference to the old limitations imposed by state boundaries.***** As a method of solving regional problems, whether affecting public safety or economic well being, it offers great advantages. In some degree, it would appear to provide an answer to the tendency to centralize power and authority in Washington. That it is a product of local interest and cooperative

²⁸Interview with John Plaisted, Executive Secretary of Mass. Commission on Interstate Cooperation, Boston, June, 1949.

²⁹Ibid.

effort is beyond question. The factor of local control and direction is equally obvious. During the coming decade, perhaps the states in this corner of the nation may find other and even more fruitful opportunities to avail themselves of this intensely practical procedure."³⁰

The Commissions on Interstate Cooperation in New England have been supported so far very well both financially and vocally. The Vermont, New Hampshire and Maine Commissions do suffer from the lack of an official and permanent secretary and this hurts their efficiency at times. As the commissions grow in strength and become more cohesive they may ultimately turn aside the trend toward central authority in matters of government to which the states can and should attend themselves.

"By demonstrating the states' competence to handle these vexing interstate problems it may no longer be necessary to give lip service to the former legal-shibboleth of states' rights as the only bulwark against complete centralization of authority at Washington. The success of the cooperation commissions in New England shows the fallacy of believing that when a state is confronted by a problem of government, it cannot handle adequately within its own jurisdiction, it must yield all authority in the matter to the federal government."³¹

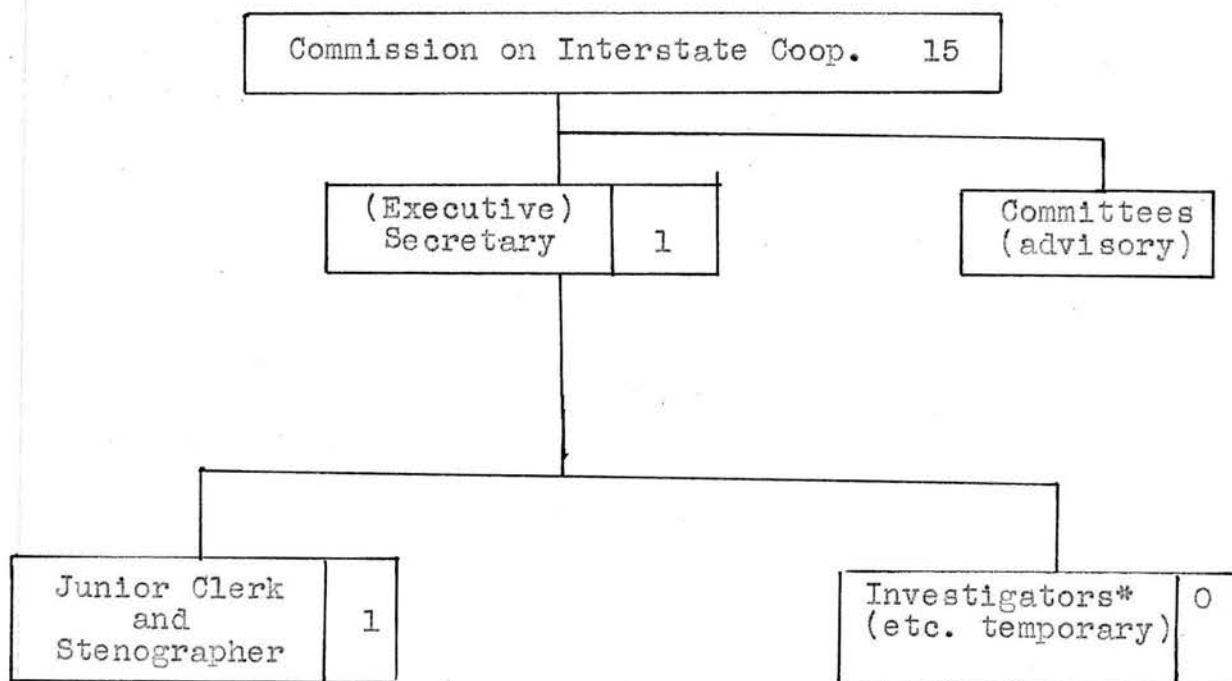
³⁰Editorial in Boston Daily Globe, Boston, Mass., June 19, 1949.

³¹Hubert Gallagher, The Development of Interstate Government, National Municipal Review, July, 1937, pp. 345-351.

ORGANIZATION CHART

MASSACHUSETTS COMMISSION ON INTERSTATE CO-OPERATION

(Assigned to Dep't. of the State Secretary; but in no way
subject to his control)



*Authorization of Employment rarely used.

CHAPTER V

CONCERTED ACTION: ADMINISTRATIVE COOPERATION

In all probability, it will be more through administrative action than through legislative procedures that uniformity and interstate cooperation in New England will be attained. This is apt to be the case since if identical statutes are passed in a number of states, and these statutes are variously interpreted by the administrative officials in the regular routine of enforcement work, the goal of uniformity and cooperative action will not be attained; nor will it be, if as so often happens, the courts of Massachusetts with one set of precedents before them, interpret the laws one way, while the courts of New Hampshire or Connecticut with a different set of precedents, interpret the same law in a very different way. The difference in these two cases would seem to be that the courts cannot, or at least do not, cooperate effectively, while administrative officials can and do so more often.

Much in the direction of interstate cooperation and uniform policies has been and can still be achieved through the cooperation of the Governors of the six New England states. The Governors come together in an annual two-day conference at least once a year, in which matters of perfecting the economic growth of the entire area and the individual states are discussed in group and general session. The Governors also come together in special conferences which may be called when a

pressing need arises.

The New England Governors met unofficially from 1915 to 1937. In 1925 the New England Council was formed due largely to the efforts of the Governors. From 1925 to 1936 the Governors met unofficially at the New England Council's meetings. Finally, the first official meeting of the New England Governors was held in September, 1937 at the Eastern States Exposition, Springfield, Massachusetts.¹

These conferences first started to become important in the early thirties. In July, 1930, Governor Allen of Massachusetts invited the Governors of the neighboring states to a conference to arrange a program for a safety campaign.² Early in 1932, it was reported that the

"Governors of the New England States and their representatives recently conferred regarding the milk situation in New England's chief market. No accomplishment can yet be reported, but efforts to improve the situation have not yet been given up."³

In the summer of the same year, a request was made of the President that he call a "job sharing parley," a national conference for the discussion of a plan matured by the New England Joint Conference on Re-employment. This plan grew out of agreements arrived at by the conferences of groups representing

¹Beal, Judith, Statistical assistant, New England Council, Boston, Mass.

²United States Daily, July, 1930.

³Article by Governor William T. Gardiner of Maine, in United States Daily, January 30, 1932.

the Governors of the New England states, business, industrials, agricultural, and social agencies. The Governors recommended the plan to the Governors of other states in the United States.⁴

In 1931, the Governors of the states of Massachusetts, Rhode Island, Connecticut, met with those of New York, New Jersey, Pennsylvania, and Ohio in a Conference on Unemployment and Other Interstate Industrial Problems.⁵ It was brought out at this conference that much could be done by cooperation between the states to improve the existing facilities offered by public and private employment agencies. In some states the public employment agencies appeared to be operating fairly successfully, and in some states there was at least partial supervision over private employment agencies. It was decided that much could be done to improve the whole system.

They also decided that with this, goes hand in hand the necessity for collecting and interchanging information and statistics regarding employment and unemployment. The Governors decided their objective was to create, at least temporarily, a central clearing house for the seven states. By having such a clearing house, they hoped that unnecessary migration of labor could be checked and concentration of unemployment in any one locality be greatly lessened in future years.

⁴New York Herald-Tribune, July 21, 1932.

⁵Proceedings of Conference on Unemployment by Governors, Albany, N. Y., January, 1931.

The interest of the Governors in the development of uniform administrative policy is indicated by the following list of recommendation, (in some instances statutory changes were necessary to implement the administrative program recommended):

1947: The governors urged the adoption of uniform traffic codes by all states, and also urged the adoption by states of legislation requiring driver education in high schools as a necessary prerequisite for safety on the highways. They also urged all state governments to be on their guard against proposals which tend to create interstate trade barriers.⁶

1948: The Governors all recognized the fact, that to keep our "federalism" alive the states must cooperate.⁷ They urged more self reliance by the states themselves and less dependence upon the federal government to perform services the states can do as well or better. The development of interstate cooperative activities was urged as a method of handling common problems and especially to develop the use of interstate compacts. At this conference they stated that the states are establishing and should continue to establish joint cooperative programs for regional institutional care, educational facilities, flood and pollution control, fire protection, etc. A great many of these have come about and will be described later on.

⁶New England Council Newsletter for January, 1947.

⁷New England Council Newsletter for January, 1948.

One of the most decidedly forward steps yet taken in interstate cooperation was taken in the summer of 1948 by the New England governors when they appointed a New England Co-operation Commission on Education. This commission is composed of leading educators in the six state area. As a result of its studies, it recommended that the Governors of New England take immediate steps to remove any legal barriers to interstate co-ordination and urged the passage of uniform legislation in all New England States to establish an interstate body to be known as the New England Educational Council. It further recommended that this Council be granted funds to make an inventory of all the education services now available and needed so that it would be in a position to recommend specific opportunities for co-ordination in educational planning and development. Only in this way, it stated, can there be the most advantageous use of present facilities and the economical development of such additional facilities as may be needed now and in the future.⁸

It seems valuable to point out again the major points of the text of the New England Commission on Education's report because it indicates the objective for which all the Governors are striving.

First, the Commission endorsed the principle of co-ordination in educational planning to the end that better edu-

⁸New England Council Newsletter for October, 1948.

ational opportunities may be economically provided for the people of New England.

Second, the Commission recommended that the Governors of the New England States take immediate steps to remove any legal barriers which may prevent interstate co-ordination.

Third, the Commission recommended the adoption of uniform legislation in all New England states establishing an interstate body to be known as the New England Educational Council, such council to be composed of representatives of the boards of control of the various New England state supported institutions of learning.

Another major step forward in interstate cooperation in New England was taken in December of 1948, by the Special Commission on Institutional Care appointed at the New England Governors' Conference.⁹ Since the need for facilities for defective delinquents is not sufficient for separate institutions in each state, the commission has recommended that a single institution be established to serve all the New England states. Since such people should not be at large or placed in types of training schools not equipped to care for them, the commission believes a special facility should be established for them at some suitable place, perhaps Bridgewater, Massachusetts.

Other recommendations of the Commission which have not

⁹New England Council Newsletter for December, 1948.

yet been followed up to any great extent are increased research and clinical facilities which would be made more available to institutional personnel. The Commission also wants to establish a special monthly publication, to revise residency laws to bring about uniformity, and to improve preventive work at the community level.

One very recent step toward uniformity was taken in Boston, on June first, at the suggestion of the New England Governors' Conference when the New England Conference of Public Utility Commissioners was appointed. It is hoped that this region wide organization will be able to bring about more uniform policies by the various utilities operating in New England.

A tremendous step forward was recently attempted by the New England Governors' Conference in June which would help to preserve states' rights and resist further encroachments of the federal government. They proposed an interstate compact which would establish a New England Development Authority.¹⁰ The Authority would seek the expansion of industry and the development of natural resources on a regional basis. It would be composed of commissioners from all states in the compact, and it would be authorized to spend approximately two million dollars in the next ten years, each state contributing on a population basis.

¹⁰State Government, June, 1949.

Among the subjects of surveys specifically mentioned in the compact are utilization and control of regional water resources for purposes of low-cost power, flood control, and stream pollution control, establishment of a steel industry, the development of other industries, and the conservation and expansion of marine fisheries, agriculture, forests and mineral resources. The compact does provide for accepting federal grants in aid and other federal assistance in carrying out the purposes of the act. However, the Governors made it clear that they would not accept such grants if they had any tendency toward reducing the strength of the states.

In order that the compact may become effective it must be ratified by all six states and by Congress, but up to now the state of Vermont has continually voted against it since it seems to be afraid of the federal government gaining too much power at the expense of the states. This inclination of the Northern New England states to think in this manner continually hurts attempts at interstate cooperation, but of course, they are quite justified in feeling this way in view of the manner in which the federal government has encroached upon the powers of the states in recent years. However, this seemingly "Yankee independence" spirit is hurting the development of the New England region as a whole more than is good for its future development.

New England Railroad Committee

Another important organization made up of administrative officials in New England has been the New England Governors' Joint Railroad Committee, now a defunct organization.¹¹ The Committee was appointed in December, 1939, by the concerted action of the governors of the six New England states at that time. The action of the Governors resulted from the consideration of certain developments in the New England railroad situation which had been brought to their attention by the New England Council.

The Governors were informed that large blocks of stock of the Boston and Maine Railroad were being purchased by powerful interests outside of New England. These interests were the Pennsylvania Railroad group. The Governors then adopted a resolution, that a special committee of thirty, advisory to the New England Governors, be formed, each governor to appoint five members of the committee, which should consider the transportation facilities of New England in their relation to the best interests of New England, particularly those of industry and agriculture.

This special committee cooperated with all the six states to the last degree in giving all interested persons and organizations in New England full opportunity to express their views

¹¹Report of New England Railroad Committee, 1931.

on the transportation situation. Every facility was afforded to the various representatives of industrial, commercial, and agricultural organizations, as well as to private citizens, to express their views. It sought the aid of the managements of the New England railroads, and their respective presidents appeared before the committee at public hearings after each had made an analysis of the various consolidation plans, the disadvantages and advantages of it as compared with the situation existing then. At the time, the Interstate Commerce Commission was pushing consolidation policies in line with the aims of the Transportation Act of 1920.

One of the objectives of the special railroad committee was to determine how satisfactory rates and service were to the general public. They did this with the desire to get better standards of service and to demonstrate that the New England states could handle the various problems. At that time in the early thirties, the Committee recommended the consolidation of the Boston and Maine and the New Haven railroads, and gave a very favorable report of the rates and service given the public in the six states. The Committee recommended a transportation policy for New England which appeared to contain the basic essentials to a sound transportation policy.

However, the Joint Railroad Committee has been defunct since the early thirties. It has never been revived much to the dismay of many government officials who believe it could have been helpful in the settling of the railroads problems of

New England in the past few years, as for example, the Old Colony Line. Here is an agency that could do much to further interstate cooperation in New England if it were still existing.

New England Regional Planning Commission

Another form of executive interstate cooperation in New England was the New England Regional Planning Commission, created in 1933, and dissolved in 1943.¹² It chose as its chairman, Victor M. Cutter of Boston and held its first meeting in October, 1935, each state sending its chairman of the State Planning Board. The commission seemed to realize fully the dangers of centralization then and proposed a regional setup whereby the states would keep their control; a good opportunity to discuss interstate problems in a neutral forum would be provided; and the Regional Planning Commission's research facilities would be available to all the states. It would assist them in discovering the latest information, to learn the latest advances being made in industry, agriculture, housing, etc.

Its principal advantage lay in its flexibility. When a widespread and difficult problem appeared common to the six states, it would be thoroughly examined by the representatives of all states concerned collectively and by each state individually. By this method, sensible recommendations were cooperatively worked out.

¹²New England Regional Planning Commission, Preliminary plan, 1936, Boston, Mass.

In its first meeting in Boston, October, 1935, it set up a preliminary New England Regional Plan,¹³ comprising flood control plans, forestry conservation, recreational development, an airways plan, a highly developed highway system, etc.

Then again in September, 1938, it submitted a plan for a Highway System for New England, showing possibilities of coordination among the highways, recreational centers, and airway systems of the region. To allow people to travel better through the six states, a highway, entirely of freeway design, from the Merit Parkway in Connecticut to the Penobscot Bay Region of Maine was suggested. This regional highway network would have served two principal purposes:

1. It would provide means of access over express highways to all the most important industrial, commercial, and recreational centers in New England.
2. It would provide a system of major tourways over which the tourist or the vacationist could drive in a leisurely and pleasant manner to all of New England's recreation centers.
3. It would have promoted cooperation and friendship between the six states.

In 1936 the Commission did extensive research into the flood control problem and consequently, it presented a plan to be carried out jointly by the states involved, favoring the use of the interstate compact method. In 1942 the Commission planned an extensive river pollution control program to be adopted by all the states, showing the great need for such a

¹³Ibid.

system. In 1939, it made a study of the roadside problems in New England, i.e., advertising, shops, billboards, road hazards, and recommended public zoning, etc.

However, the Commission was dissolved in July, 1943, mainly because of more pressing war problems. Many of the Commission's plans have since been advocated by other organizations in New England and some have been put into effect, such as flood control, stream pollution, etc. It is too bad more agencies which aim at interstate cooperation cannot be promoted here.

The chairman of the Commission, Mr. V. M. Cutter, expressed the views of the Commission and many others in an interesting article back in 1936 which seems pertinent in this survey.

"In 1775, Boston was in a furor. The whole New England countryside was taking arms to face the British who were coming. The Minute Men were marching to Cambridge and Lexington. The opening of the Revolutionary War witnessed a demonstration of regional cooperation which obliterated all state or colonial lines in a militant spirit of 'six for one and one for six.'

In 1775, and for many years after, the hardships of travel and the slowness of communication made each of the New England states largely independent of its neighbors except in such national problems as defense, currency, and international trade. Modern people have the advantage of many mechanical and technological improvements, and as a result there are now more people crossing state lines than 150 years ago crossed town lines. Such an increase of daily interstate activity has made close cooperation between the New England states absolutely necessary. Already cooperation has done a great deal to encourage interstate trade and business.

Because of travel and communication, our New England economical structure has become a complicated tangle of intermingled commercial habits and forces. In spite of this, the citizens of every state in New England want its identity

preserved and the control of state affairs kept at home."¹⁴

Here was an organization which definitely recognized the need of cooperation among the six states if states' rights were to be preserved and the move toward centralization at least checked. However, with the pressing problems of war, it was necessarily abandoned in July of 1943.

¹⁴Victor M. Cutter, Chairman, New England Regional Planning Commission, Report, 1936.

CHAPTER VI

UNOFFICIAL VOLUNTARY COOPERATION: THE NEW ENGLAND COUNCIL

Significant among the cooperative movements between the New England states and their Governors is the New England Council, the following purpose of which was furnished by Ernest W. Gibson, Governor of Vermont.¹

"The New England Governors work together to the mutual advantage of each of the six New England states through the New England Governors' Conference. Through this conference, not only do the Governors get the opportunity personally to know each other, but also to discuss common problems and develop proper solutions for these problems.

This regional cooperation and its relationship to our country and to this world is also the keynote of the New England Council, whose aim is to encourage and promote all matters of economic developments in our six states. I believe the New England Council, the first organization of its kind, affords a pattern for the rest of the nation, and I hope it will continue in its forward progressive programs.

For over twenty years there have been friendly relations between the Governors and the Council. I know that this friendly relationship will continue to exist and that the New England Governors' Conference and the New England Council will work for the best general interests of New England, of our country, and of our world."

The New England Council is a unique organization, born of regional necessity and patterned to suit New England conditions. It was created in 1925 at the suggestion of the New England Governors. Before this, New England never had a common voice and spokesman, no one to present, assemble, and distribute the

¹Ernest W. Gibson, Governor of Vermont, Report to New England by New England Council, 1948.

facts about New England's progress and assets.

"Its basic, most fundamental purpose is to provide the region's agencies of business and government with the stimulus and the means for working together in a cooperative manner on common problems."²

No single-interest group, regardless of how able or how selected, has either the knowledge, wisdom or authority to give the answer to all New England's problems. It is the Council's job to stimulate many groups to undertake activities leading to progress and development in their areas of common interests. It seems certain that the larger the number and the greater the effort of such groups, working in cooperation with the Council or under its auspices, the more certain will be the strengthening and expansion of the regional economy, and also, the states will not find it so necessary to look to the federal government for help.

The Council's organization consists of seventy-two directors, twelve from each state, each group of twelve constituting a state council, the six state councils together forming the New England Council. The Council is financed by voluntary membership subscriptions from individuals, firms, and organizations. Back in the early thirties, the Council's annual expenditures ranged from \$80,000 to \$110,000 a year, but now they range up to several hundred thousand. As of December 1, 1948, the Council had 2,335 members.

²J. C. Richdale, President of New England Council, Report, December, 1948, Boston.

To give a brief summary of the Council's main activities before discussing its work in more detail, the Council maintains contact with the governors of the six New England States, and frequently takes up matters with them. At least once a year the Council brings the governors together in an annual two-day New England Conference, in which methods of perfecting and coordinating the economic growth of the entire area and the individual states are discussed in group and general sessions. The Council maintains executive offices with a staff who carry on the work in such fields as agriculture, industry, recreational development, community development, publicity, research, etc. The Council's efforts are largely stimulative and its results are obtained chiefly through the work of others when the Council succeeds in getting them into action.

The Council has promoted uniformity in agricultural administration, in motor vehicle regulation, and in many other fields.

"The Council faces its problems realistically and objectively; it defines the problems, assembles facts, analyzes and digests them, formulates policies for a solution and then organizes and stimulates action in support of these policies."³

Through its publicity activities, it has tried to acquaint New England with the Council's work in order to promote cooperation. Publicity has helped public understanding of the Council's objectives and the rest of the country has developed

³New England Council Newsletter, January, 1940.

a more favorable point of view toward New England. Through the medium of its monthly Newsletter, it has sought to chronicle and promote New England's economic progress; the letter serves as an organ of expression for the Council and as a vehicle of news and opinions concerning New England. The Council has secured the cooperation of editors and publishers throughout the six states in helping to advertise both New England and the Council's work. Banks, power companies, railroads, etc., have carried on sales promotion and advertising campaigns on behalf of New England due greatly to the Council's efforts, for they realize that their prosperity depends upon that of a united and cooperative New England.

In order to stimulate community development in New England especially in view of the fact that industry is New England's chief wealth, the Council formed the Committee on Community Development. This committee has tried to get every state to develop a State Development Commission to promote each one's agricultural, industrial, and recreational development.⁴ Most of the six states have a Commission of this type now, though often under a slightly different name. They have done a great deal to stimulate the states to make an analysis of each one's assets and liabilities, in order to attract new industries.

The net result of this increased activity starting in 1926 on the part of the New England interests to promote the industrial development of New England communities, much of

⁴New England Council Report, December 1, 1930.

which was advocated by the New England Council, has been a great deal. Many new industries were gained in the early thirties. From a study of twenty-six communities in 1927, a net gain was shown for New England of 260 industries and 7,587 employees. In 1928, of 262 communities with a total population of 5,559,374, a net gain for New England showed 251 industries and 9,343 employees. The Council's Committee on Community Development performed a great service for New England's industrial development by furnishing industries looking for new locations the economic advantages and data to enable the concerns to evaluate the adaptability of New England towns to their requirements.

The Council has a Farm Power Committee which is made up of representatives of agricultural and power industries in New England.⁵ This was created to investigate the subject of extension of electric lines into rural territory and to advise the Council as to what constitutes a fair rate of charges. All the Committee's reports are sent by the Council to every farm organization in New England and to all power companies.

One of its most important Committees is the Industrial Committee⁶ whose objective is to give emphasis to sound industrial policies, the application of which entire industries will find of practical use in developing and maintaining the

⁵New England Council.

⁶New England Council, Report, 1941, December, Boston.

prosperity of their individual units. The Committee has selected a field in which there has been a comparative lack of scientific approach and cooperative trade promotion. The Committee can do much to bring about better adjustment of wage and labor policies, and thus satisfy the public, and lessen the demand for federal supervision.

The New England Council considers the past year's work (1948) as one of the most successful in its history, despite budgetary handicaps owing to price inflation and the handicaps of business men who had to carry on their own business plus doing the work of the Council. A good summary of their efforts to develop New England on a regional basis and to further interstate cooperation is found in the New England Council's Report to New England, 1948.⁷

One of the most worthy contributions spoken of very highly was the expert study on the problem of postwar steel supply for the region. The report did not favor an integrated steel plant for the region, but it did recommend that the region try to take advantage of any new developments in the United States, Canada, etc., favorable to the building up of local production.

The report also describes the fine study the Council made of New England's power resources and needs. The principle conclusions outlined the need of an increase in the region's

⁷New England Council, Report to New England, 1948.

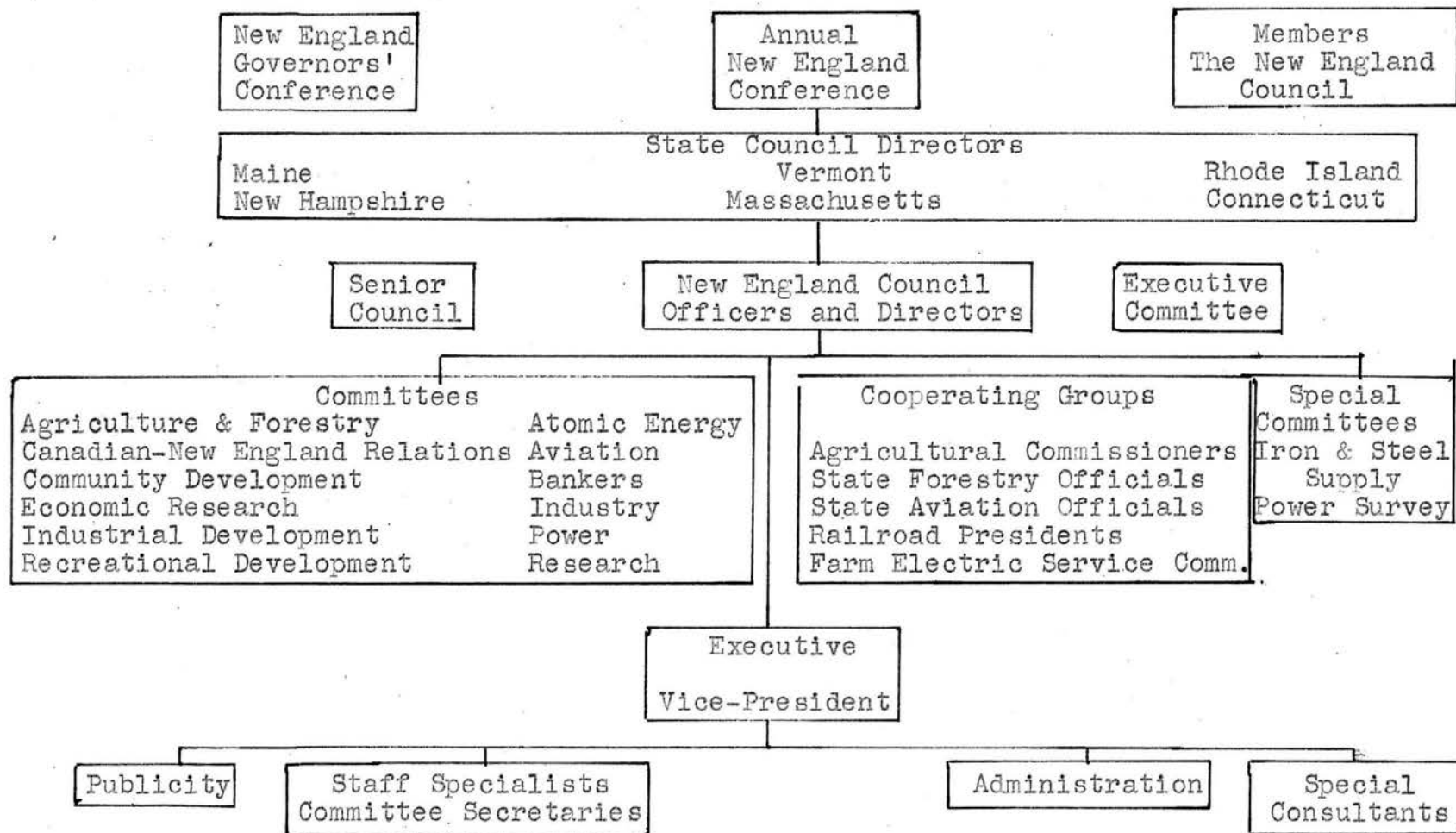
generating capacity; water power, except in the state of Maine is no longer of major importance as a potential source of power for any purpose; and that most of the new generating plants which must be built must use fuel as a source of power.

The Committee on Agriculture and Forestry continued as its most important objective, the obtaining of a larger share of New England's agricultural market for New England products. To achieve the aim, the Council's committee had numerous meetings with New England poultrymen, dairymen, fruit growers, etc., to discuss ways and means of meeting competition from other areas. Other Council committees on aviation, atomic energy, community development, industry, public relations, etc. made important contributions to New England's coordinated growth which are described in more detail in the Council's report.

Despite the Council's good work, it does have a rather glaring weakness. It seems to voice the opinion of big business in general, and does not adequately represent the small businessman or the consumer. It has not attacked many of the larger problems that confront all New England businessmen. Besides this, the dues for individual members are so high as to make membership prohibitive except to the wealthy or to the representatives of large business corporations.

The chart on the following page will give the reader a picture of the Council's organization at the present time.

THE NEW ENGLAND COUNCIL'S ORGANIZATION



From New England Council's Report, 1948.

CHAPTER VII

CONCLUSION

In the foregoing remarks emphasis has been placed upon a very real and apparent need for both uniformity and cooperation in the solution of certain problems common to all New England States. The phenomenal development of methods of transportation have intensely complicated the problems of government. Congested highways require uniform traffic control laws, criminal law and its enforcement must approximate a minimum of uniformity. Within such a small area, administrative control over persons and property must be regulated.

There is widespread dissatisfaction with the continued extensions of Federal power at the expense of the states. Furthermore, a change is definitely taking place in the minds of many individuals against this question of centralization. That a policy of uniform and cooperative state action would form a practical working alternative in the first instance and a theoretical escape for those who object to centralization in the second, seems fairly obvious.

Nor is there apparently any occasion for debate on the need for uniform action on many subjects. In earlier chapters the effort was made to show that only by uniformity and cooperation could some of the present day problems of government be solved. The debatable question is not the need for uniformity and cooperation, but the method or methods by means of

which it is to be secured. Generally speaking, there are only two possible methods, by Federal control, or by agreement among the States. We have seen that vigorous protest has been raised against the first. Obviously government ought not to use methods which antagonize its public, when other methods to which the public does not object can be used to achieve the same result. Furthermore, there may be a real danger of over-taxing the administrative agencies of the Federal government, thereby producing inefficiency, and causing the attempt to carry out ill-conceived administrative policies. If these considerations seem at all significant, then by the process of elimination, only uniform and cooperative state action remains.

The work of the New England Council, the New England Regional Planning Commission, the Joint Railroad Committee and the Governors' Conferences, has been summarized. Although these agencies have done, and are doing, fine work in the field, all too often it is with very little action. The Commissions on interstate Cooperation represent a major advance in a field in which there has always been a lack of an official agency. These commissions consisting of representatives of the several states pool the experiences of leading legislators and administrators in New England, with the added advantage of being official thereby simplifying and assuring more immediate action. A by-product has been the broadening of the outlook of state legislators and administrators.

Many business lobbies have met with defeat, due to

investigations of the commissions. A strong stand by a cooperative commission against trade barriers in legislative halls has frequently led to repeal and defeat of trade barrier legislation.

It is true that these cooperative commissions are usually slow and inefficient. Nevertheless, they are daily demonstrating that they can handle complicated problems of interstate and Federal state relations. The governors and legislatures are constantly handing them more problems. Their existence as an institution is developing statesmen skilled in interstate diplomacy. Their unbiased interest in the region's welfare has never been questioned.

Thus, it seems most important that the New England states continue to develop, aid, and strengthen these commissions by giving them more funds, technical assistance, etc. Of all the organizations working for interstate cooperation and uniform laws in New England they are the most effective and are subject to fewer pressures.

In this final chapter the writer would like to propose his own program for achieving uniform laws and cooperation between the New England States.

First, it would seem both possible and desirable for the six New England States to form a regional assembly of state administrative officers. These would include executive officers from various leading industries in New England, from the state government officers, and also some of the heads of colleges. These representatives could be chosen either by

the people or by state legislatures, but certainly not by private groups representing private interests. From these men with their wide experience, it should be possible to form a representative council which can study the existing situation in the region, evaluate methods, and derive ways and means of furthering interstate cooperation in New England. This council could keep the judiciary of all the states informed as to the type of uniform laws they are trying to inaugurate and the policies they are following. In this manner, perhaps the different judiciaries of the states will have some semblance to each other in their actions, and not follow separate sets of precedents and ideas as has so often been the case.

This regional assembly could follow the steps of the United Nations in setting up its organization, but the writer believes the Pan American Union would be even better.¹ That Union is set up expressly with the idea of cooperation between twenty-one republics, each contributing to its support on the basis of population, and each one equal in its voting power. This principle could easily be adopted by a New England regional council. There would be no blocks by large states over small ones.

The assembly could also follow the Pan American Union's organization and elect a Governing Board. This Board would be made up of an equal number of representatives from each state. It would elect a Director General and his assistant. These executive officers would be assisted by a staff of statisticians, commercial specialists, editors, clerks, stenographers, etc.

The assembly could also keep in touch with government officials, commercial organizations, manufacturers, merchants, exporters, etc., just as the Pan American Union does. Along general lines it could keep in touch with men in public life,

¹Pan American Union - Bulletin, Washington, D.C., 1932.

editors, newspaper men, college presidents, professors; supplying information and gathering it. The purpose would be to promote peace, friendly intercourse between states, closer understanding, and to develop closer cultural, commercial, and financial relations between the states.

It must not be forgotten that the regional assembly which the writer recommends cannot function merely by letters. There must be frequent conferences. In fact, a regional headquarters with a permanent regional secretariat would seem best. This could be organized as the United Nations' secretariat has been, with committees to handle various specialized tasks. This regional secretariat could play a valuable role by encouraging the development of adequate legislative reference bureaus and adequate legislative counsels in each of the states. It could promote cooperation between states in their acts and policies relating to crime, health, highways, tax, labor, etc. It could promote improvement of legislative organization and procedure, something which is in a deplorable state.

The states must also remember not to delegate to any agents of the Federal government any of the functions involved in maintaining their coordinating structure. If the New England states could adopt such an official regional structure, the system would have three principal functions:

1. To encourage interstate cooperation of all state officials, including interstate commissions.

2. To work with all appropriate federal officials and agencies in attempting to harmonize state and federal policies.

3. To encourage interstate cooperation.

Second, the effort must be made to stimulate interest and enthusiasm in the idea of cooperation and uniform laws among those who have the power to act, namely, public officials, both legislators and administrators. The Taxpayers Association, Chamber of Commerce officials, insurance commissions, and many others can help to start people thinking of the need of cooperation.

Third, an educational program in the interests of uniformity and cooperative state action in New England must be inaugurated. The states all have funds which are used for the states' printing activities, and for their propaganda campaigns. There does not appear to be any reason why some of these funds cannot be used for propaganda in a campaign for interstate cooperation. The states could inform the young student in high school and college, the white collar worker, the ordinary laborer, and enable them to realize the seriousness of the move toward centralization. If these young people could realize the dangerous position our states are apt to be put in by any further encroachments of the Federal government in Washington, then interstate cooperation in New England should be able to accomplish a great deal.

Fourth, the central organizations working for legislative uniformity and the proposed regional organization working

for administrative cooperation should have their headquarters located so closely adjacent that the fullest possible degree of coordination could be realized at all times. The structure of our government, with its compulsory division of powers established by the various state constitutions will probably not be substantially modified for many years to come, but this is no reason for maintaining the division as between the agencies working for uniformity and cooperation where its existence could operate only with the effect of impeding the progress of the work. Every individual who has given serious consideration to the problem of uniformity knows that legislative uniformity without administrative uniformity is well nigh impossible, and that administrative uniformity is equally dependent upon legislative uniformity. With the central organizations in both fields working in close harmony, the possibilities of accomplishment are far better for those who have struggled to achieve uniformity and cooperation with the inadequate machinery heretofore available.

Fifth, and to the author the most important method that the states should rely on to achieve interstate cooperation, is the use of the interstate compact. In New England, a region so closely knit by geography, by economy and tradition, the interests of the states are closely allied and cooperative action is in many situations at the present time imperative. The state governments have repeatedly recognized this need, e.g., by the foundation of the Governors' Joint Railroad

Committee, the New England Council, the New England Regional Planning Commission. But all too often the cooperation has been principally conversation, although now the official interstate commissions on cooperation are achieving a great deal. Though the interests of the states are often inter-related and involved, they are frequently divergent, if not actually conflicting. It has been difficult to find a medium for compromise and mutual concession.

The interstate compact offers a method which is more and more being recognized as a possible way of constructive cooperation. Even a decade ago, after making an exhaustive study of the interstate compact as an instrument of interstate adjustment, Professor Felix Frankfurter of Harvard Law School and James M. Landis, later to become a prominent member of the Securities and Exchange Commission deplored the ready alternative of national action so often proposed for treatment of problems requiring a mechanism of legislation greater than that at the disposal of a single state. They observed:

"For a number of interstate situations, federal control is wholly outside the present orbit of federal power, wholly unlikely to be conferred upon the federal government by constitutional amendment and, in the practical tasks of government, wholly unsuited to federal action even if constitutional powers were obtained. With all over unifying processes, nothing is clearer than that in the United States there are being built up regional interests, regional cultures, and regional inter-dependencies. These produce regional problems calling for regional solutions. Control by the nation would be ill-conceived and intrusive.

As to these regional problems Congress could not legislate effectively. Regional interests, regional wisdom, and regional pride must be looked to for solution. Collective legislative action through the instrumentality of the interstate compact by the New England States furnishes the answer."²

The interstate compact offers an effective medium for further cooperation for several reasons. It is superior to the mere enacting of uniform state laws in several respects. An interstate compact is binding, it provides for joint action, not separate and independent; an interstate compact need not be merely a legislative declaration, it may extend to any form of activity, executive, administrative, judicial, as well as legislative; an interstate compact may be permanent, it is a contract and cannot be brushed lightly aside, accordingly it may be relatively more permanent than uniform laws alone.

Interstate compacts offer a method of showing and extending the police power across state boundaries which is far more acceptable to the states than yielding a part of the police power to the federal government through amendments to state and national constitutions.

Any cooperative action among the states requires mutual concessions. The compact method safeguards those concessions, guaranteeing harmonious action.

²Felix Frankfurter and James Landis, "The Compact Clause of the Constitution -- A Study in Interstate Adjustments," Yale Law Journal, May, 1925, p. 729.

The compact might also be substituted for litigation between State and National governments, since both are sovereign powers. However, the interstate compact is not a substitute for national action. It has weaknesses also. It is cumbersome and slow to take effect. Applied to joint administrative efforts, as the Port of New York Authority, it is likely to result in rather strait-jacketed administration, hampered by inadequate grants of power and interference by state legislatures. Also, the compromises necessary to the compact method may endanger long-term, broad-range objectives.

Thus, it is granted that the interstate compact method is not a cure-all, that it is not suited to all of the problems, in which cooperation is necessary among State and National Governments. It is nevertheless, in the opinion of the writer, the best method possible at present.

The compact can be utilized in many fields in New England. Compact agreements might help in securing equalizing legislation as regards labor regulating measures. The need for interstate cooperation in penal matters relating to penal and police measures has been stressed continually. Uniformity of commercial law could be achieved readily through the use of the compact method. Such types of control of interstate natural resources as flood control, irrigation projects, reforestation and soil erosion control, all these are suitable for the compact method.

In whatever fields compacts are used, the complexities

and inter-relations arising between subjects and between regions require a systematic approach. There must be a plan to prevent the hurried negotiation of emergency compacts made without reference to a coordinated program, which would result in very unfortunate perceived legislative action. The Regional assembly suggested by the writer offers one instrument for the coordination of compact programs as do the interstate commissions on cooperation.

So the writer reiterates his belief that if we are to speed up the movement in behalf of uniformity and cooperation, we must inaugurate an extensive educational campaign directed toward public officials and the general public alike. He ventures further to suggest that this movement might well take a leaf from the experience of those who have been promoting during recent years the adoption of the city manager form of government for American municipalities. Here is a problem in the formation and control of public opinion every bit as difficult as the one suggested in behalf of uniformity, yet in the period of twenty years from 1918 (1st city manager appointed in Staunton, Virginia, to 1927, a total of 364 cities had adopted this form of municipal government.³

The city manager plan has succeeded first, because it works. And second, because the fact that it works has been

³Council of State Gov'ts, The Book of The States, 1948-49. Volume 7, Chicago, Illinois.

given suitable publicity through numerous newspapers and magazines interested in good government, and by many organizations in hundreds of different communities. There are probably relatively few universities and colleges in the country where teachers of American government are not annually telling students of the merits of the city manager plan. This is all to the good: the point here is that if we can "sell" city manager government to several hundred widely scattered urban communities throughout the nation, we can by somewhat similar methods "sell" the idea of uniformity and cooperation to the six states of New England.

Our accomplishments to date have been limited because we have not sensed fully the significance of the problem, and because we have not organized ourselves effectively to solve it. The policy of drift has failed. It is time to take stock of our needs, gather our resources, and proceed towards more satisfactory solutions. If we do not do so, we have only ourselves to blame, if as many people fear, the states are ultimately reduced to mere administrative units in a vast centralized machine. Local government is the basis of all national systems, and especially is this true in countries like our own, which inherit the Anglo-Saxon tradition. If we really believe, as we profess to do, that both the tradition and the reality are worth preserving, we must act while there is yet time.

It would do no good, even if it were true, and it is not, to lay the blame for the existing condition to the

grasping tendencies of the Federal government. The states have lost very few powers of which they made effective use. The powers they have lost have been powers that they either could not or would not use. Under these circumstances, the Federal government has stepped in, under the subsidy plan, or through the use of some stray power which no one seemed to claim. The situation can be changed if the states generally will become as alert in the discharge of their duties and responsibilities as they ought to be, and as the Federal government frequently is. The future of uniformity and cooperation will be exactly what the people of the six New England states make it.

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BOSTON UNIVERSITY

GRADUATE SCHOOL

An Abstract of a Thesis

INTERSTATE COOPERATION IN NEW ENGLAND

By

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(A.B. Bates College, 1948)

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requirements for the degree of
Master of Arts

1949

Inevitably, government is reaching more and more into fields of industry, human relations, and social welfare. The trend toward centralization is all too obvious to many of our citizens. It seems that the states were adequately equipped to deal with the nation's economic and social problems of the nineteenth century, but they have not proved themselves adequate to deal with many of those same problems of the twentieth century.

Many people seem to forget that to a large degree this growth of the Federal government has been due to the inability of the states to handle their problems to and to cooperate among themselves. So it is evident that we must pursue the remedy of interstate cooperation in order to revive our "drooping" federalism and to preserve the sovereign rights of the States. The writer's basic assumption is that "federalism" is still alive and that the sovereignty of the States is no mere fiction. Furthermore, he assumes that interstate cooperation and uniform state action can revive and save "federalism."

The present work represents an attempt to survey the scope and to analyze the significance and possibilities of interstate relations as pertaining to New England with particular emphasis on Massachusetts. It is an attempt to show briefly the nature and accomplishments of such cooperative relations and reciprocal agreements as have come to exist at the present time.

The thesis and problem then, is to discover how interstate cooperation and uniform policies can be achieved in New England, to find out what has and is being done in this field, and then, to evaluate the good and bad points.

The methods used to gather this material were the historical research and the interview methods for the most part, although some statistical studies were included. The greater part of the material was obtained from the Massachusetts State House Law Library, the Kirsten Better Business Library, and the Massachusetts Commission on Interstate Cooperation.

The need for legislative uniformity and cooperation in New England was found to be very great. First, the lack of uniform laws pertaining to insurance, marriage and divorce, the issuance of corporate charters, traffic control, public health, aviation, as well as many other subjects, was found to be all too obvious. Second, there are matters that are of common concern to all the New England states, such as river pollution control, flood control, forest fire prevention, etc. If the states can solve these problems by themselves, it seems as if the Federal government would be less likely to step in, consequently, the move toward centralization might be checked.

It was found that use of the interstate compact as an instrument to facilitate joint action between two or more states in New England has been used very sparingly.

One of the most important agencies of interstate cooperation now at work in New England is the interstate cooperation commission. Each of the six states has a commission, Massachusetts being the first to establish one in 1937. Their functions are to advance cooperation between the states by formulating proposals for and by facilitating the adoption of interstate compacts, the enactment of uniform or reciprocal legislation, and the adoption of uniform or reciprocal administrative rules and regulations. The achievements of the commissions are impressive. New England states now have general uniform motor laws, flood control compacts are in the process of being enacted, a forest fire compact has just recently been passed, and many other subjects have been solved through the efforts of the commissions.

Several administrative organizations were found to be contributing to better cooperation between the states. The New England Governors' Conference is one of the foremost in this group. At these conferences many recommendations have been made which have later led to more uniform administrative policies. The now defunct New England Regional Planning Commission and the Joint Railroad Committee were organizations that could have been very helpful at the present time.

A very important unofficial organization working to provide the region's agencies of business and government with the stimulus and the means for working together in a cooperative manner on common problems is the New England Council. A

brief summary of its main activities reveals that the council maintains contact with the governors and frequently takes up matters with them. At least once a year it brings the governors together in an annual conference to discuss methods of perfecting and coordinating the economic growth of the entire area. The council maintains executive offices with a staff who carry on work in such fields as agriculture, industry, recreational development, publicity, research, etc. The Council's efforts are largely stimulative.

The Council has promoted uniformity in agricultural administration, in motor vehicle regulation, and in many other fields. Through its publicity activities it has tried to acquaint New England with the Council's work in order to promote cooperation. The Council's Committees on aviation, atomic energy, community development, industry, etc., have made important contributions to the coordinated growth of New England.

Despite the Council's good work, it does have a rather glaring weakness since it seems to voice the opinion of big business in general, and does not adequately represent the small businessman or the consumer.

Of all the organizations working for interstate cooperation and uniform laws in New England, the interstate cooperation commissions appear to be doing the most effective work. The New England Council and the Governors' Conferences are also doing fine work, but too often it is with very little action. Thus, it seems most imperative that the New England

states continue to develop, aid, and strengthen these commissions by giving them more funds, technical assistance, etc.

Finally, the writer would like to propose his own program for achieving uniform laws and cooperation between the New England states.

First, it would seem both possible and desirable for the six states to form a regional assembly of state administrative officers. These would include executive officers from various leading industries in New England, from the state government offices, and also some of the heads of the colleges. From these men with their wide experience, it should be possible to form a representative assembly which can study the existing situation in the region, evaluate methods, and devise ways and means of furthering interstate cooperation in New England. It would have a permanent secretariat such as the United Nations has, to handle various specialized tasks.

Second, the effort must be made to stimulate interest and enthusiasm in the idea of cooperation and uniformity among those who have the power to act, namely, public officials, both legislators and administrators.

Third, an educational program in the interests of uniformity and cooperative state action in New England must be uninaugurated. The states all have funds which are used for propaganda activities and these could be used in a campaign to enlighten the young people, the white collar worker, and

the ordinary laborer, of the seriousness of the move toward centralization.

Fourth, and to the writer the most important method that the states should rely on to achieve cooperation, is the use of the interstate compact. The compact offers a way of constructive cooperation. It is binding, it provides for joint action, it need not be merely a legislative declaration; it may extend to any form of activity, executive, administrative, judicial, as well as legislative; and an interstate compact may be permanent, it cannot be brushed lightly aside.

The compact could be utilized in many fields in New England, such as labor, penal problems, flood control, irrigation projects, conservation, etc. In whatever fields, compacts are used, the complexities arising between subjects and between regions require a systematic approach. There must be a plan to prevent the hurried negotiation of emergency compacts made without reference to a coordinated program, since this would result in very unfortunate perceived legislative action. The regional assembly suggested by the writer offers one instrument for the coordination of compact programs as do the interstate commissions on cooperation.

The accomplishments to date have been limited because we have not sensed fully the significance of the problem, and because we have not organized ourselves effectively to solve it. The policy of drift has failed. It is time to take

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