THE BOOK OF THE STATES

VOLUME 2

BOOK 2

1937

Minutes of
Interstate Conferences
held during
1935-1937

Published by
The Council of State Governments
DREXEL AVENUE AND 58TH STREET
CHICAGO, ILLINOIS
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FOREWORD

THE purpose of the second book of Volume II of Book of the States is to present a living record of the development of thought on problems of interstate significance as it is expressed by the statesmen who are most actively engaged in the solution of these problems. Meeting in conferences, discussing common problems, exchanging ideas and experiences, state and federal officials and technicians modify and amplify their approaches to intergovernmental cooperation and its future possibilities. Thus gradually a policy develops. Notwithstanding frequent disagreement on methods, a general tendency can be seen toward agreement on one objective—interstate cooperation and its ramifications.

While it has not been possible to record everything that has been said at the interstate conferences, a sincere attempt has been made to include the important contributions of each participant, and every effort has been put forth to retain the exact meaning intended by the individual. In some instances it was impossible to report conferences verbatim because no transcript was taken. In such cases summaries are included.

The conferences reported in this volume by no means cover the entire activity of the Council of State Governments during the past two years. In fact, they merely serve to indicate the trend of development of interstate cooperation. Many regional conferences that have been implemented by the District No. 2 Secretariat among the eastern states; many executive committee meetings of the several interstate commissions; meetings of the board of managers of the Council of State Governments; and other conferences—have necessarily been omitted from this record of proceedings.

Thought has been given to continuity of ideas in arranging the order of conferences in this book. All of the conferences of the Interstate Commission on Crime have been grouped together, and the conferences of the Interstate Commission on the Ohio Basin are together. Within each group, the conferences are presented chronologically. Thus it is possible to follow the development of thought and action on particular problems more easily.

A table of contents is included to assist readers in locating particular conferences. In addition, an index is included to facilitate locating the discussion of specific topics and the opinions of individuals.

It should be emphasized again that every effort has been made to report the ideas of each participant in the conferences as they were expressed, in spite of necessary condensation of the reports to one volume of print. The usefulness of this volume can only be determined by those who read it. It is the hope of the staff of the Council of State Governments that a definite contribution is being made by preserving this record of the development of thought on interstate cooperation. These volumes will be improved with experience.

Henry W. Toef
## CONTENTS

<table>
<thead>
<tr>
<th>CHAPTER</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Interstate Commission on Crime, Conference in Trenton, New Jersey,</td>
<td></td>
</tr>
<tr>
<td>October 11 and 12, 1935</td>
<td>1</td>
</tr>
<tr>
<td>2. Interstate Commission on Crime, Conference in Boston, Massachusetts,</td>
<td></td>
</tr>
<tr>
<td>August 21 and 22, 1936</td>
<td>9</td>
</tr>
<tr>
<td>3. Interstate Commission on Crime, Conference in Washington, D. C.,</td>
<td></td>
</tr>
<tr>
<td>January 21, 1937</td>
<td>33</td>
</tr>
<tr>
<td>4. Interstate Commission on Social Security, Conference in Atlantic</td>
<td></td>
</tr>
<tr>
<td>City, New Jersey, June 26 and 27, 1936</td>
<td>63</td>
</tr>
<tr>
<td>5. Interstate Commission on the Delaware River Basin at Shawnee-on-the-</td>
<td></td>
</tr>
<tr>
<td>Delaware, Pennsylvania, October 2 and 3, 1936</td>
<td>77</td>
</tr>
<tr>
<td>6. Tax Revision Council, Conference in Washington, D. C., October 8</td>
<td></td>
</tr>
<tr>
<td>and 9, 1936</td>
<td>91</td>
</tr>
<tr>
<td>7. Governors' Conference in St. Louis, Missouri, November 16, 17, and</td>
<td></td>
</tr>
<tr>
<td>18, 1936</td>
<td>99</td>
</tr>
<tr>
<td>8. Interstate Commission on Council Development, Conference in</td>
<td></td>
</tr>
<tr>
<td>Washington, D. C., January 21, 1937</td>
<td>105</td>
</tr>
<tr>
<td>9. Interstate Commission on Conflicting Taxation in Washington, D. C,</td>
<td></td>
</tr>
<tr>
<td>January 21, 1937</td>
<td>113</td>
</tr>
<tr>
<td>10. Third General Assembly, Council of State Governments in Washington,</td>
<td></td>
</tr>
<tr>
<td>D. C., January 21, 22, and 23, 1937</td>
<td>117</td>
</tr>
<tr>
<td>11. Interstate Commission on the Ohio Basin, Conference in Columbus,</td>
<td></td>
</tr>
<tr>
<td>Ohio, February 5 and 6, 1937</td>
<td>183</td>
</tr>
<tr>
<td>12. Interstate Commission on the Ohio Basin, Conference in Indianapolis,</td>
<td></td>
</tr>
<tr>
<td>Indiana, February 19 and 20, 1937</td>
<td>197</td>
</tr>
<tr>
<td>Model Crime Laws.</td>
<td>53</td>
</tr>
<tr>
<td>Model Social Security Laws.</td>
<td>74</td>
</tr>
<tr>
<td>Index</td>
<td>209</td>
</tr>
</tbody>
</table>
A Summary
of the
Organization Conference
of the
Interstate Commission
on
Crime

October 11 and 12, 1935
State House
Trenton, New Jersey
ROSTER OF DELEGATES

ARIZONA
C. R. McDowell

COLORADO
Hon. Norris C. Bakke
Henry W. Toll

CONNECTICUT
Hon. Charles J. McLaughlin,
Walter F. Stiles
Colonel Anthony Sunderland

DELAWARE
Hon. P. Warren Green
Colonel C. C. Reynolds

FLORIDA
H. M. Birtley, Secretary
Hon. S. Pierre Robineau
E. A. Shur han

GEORGIA
Colonel Ben Watkins

ILLINOIS
J. Patrick Deegan
Hon. Otto Kener
John Landesco
Burdette G. Lewis
George T. Scully
John Stanton
T. P. Sullivan

INDIANA
John H. Klinger
Hon. Philip Lutz, Jr.
Hon. Don F. Stiver

IOWA
J. C. Pryor

KANSAS
Hon. Clarence V. Beck
Major Wint Smith

KENTUCKY
Hon. Bailey P. Wootton

MAINE
Hon. Clyde R. Chapman
James W. Hanson

MARYLAND
Andrew T. Connor
Emanuel Gorfine
James M. Hepbron
Edward McK. Johnson
Hon. Herbert R. O’Conor

MASSACHUSETTS
Colonel Paul G. Kirk
Joseph F. O’Connell
Senator Henry Parkman, Jr.

MICHIGAN
Hon. Miles N. Culehan
Oscar G. Olander
Professor John B. Waite

MINNESOTA
Edwin L. Lindell

MISSOURI
Colonel B. M. Casteel

MONTANA
Hon. C. J. Dousman

NEW HAMPSHIRE
Ralph W. Caswell
Burt R. Cooper
Andrew H. McDaniel

NEW JERSEY
Senator John C. Barbour
William J. Carter
W. J. Coughlin
William J. Ellis
Dean Spaulding Frazer
Hon. Anna Gilmore
Judge Richard Hartshorne
Hon. Harold G. Hoffman
Winthrop D. Lane
Senator S. Rusling Leap
Hon. J. H. Thayer Martin
Professor William G. McLaughlin
J. E. Murnane, Lieutenant
William O. Nicol, Captain
NEW JERSEY—continued
Dean Alexander F. Ormsby
Hon. Joseph C. Paul
Robert Peacock
Senator A. Crozier Reeves
Major Charles H. Schoeffel
Colonel H. Norman Schwarzkopf
Colonel Joseph D. Sears
Peter J. Siccardi
Judge Joseph Sigler
R. A. Snook
Mrs. Thomas W. Streeter
Hon. David T. Wilentz
L. W. Williams
John W. Woelfle
Judge Joseph G. Wolber
H. F. Wooge

NEW YORK
Hon. John J. Bennett
E. R. Cass
Charles L. Chute
William B. Cox
George P. Dutton
Henry Epstein
Professor Robert Ferrari
Hubert R. Gallagher
Julia K. Jaffray
Professor Paul D. Kaufman
Victoria Larimore
Hon. Herbert H. Lehman
John McGohey
Captain Albert B. Moore
Maurice A. Newfield
Charles Poletti
W. Earl Smith
Senator Earle S. Warner
Major John A. Warner
Professor Herbert Wechsler
E. Stagg Whitin
Hon. Frederick L. Zimmerman

OHIO
R. W. Alvis, Lieutenant
Harry C. Greene
Donald Hoskins
Alfred Humphrey
Lawrence C. Spieth
G. L. Yarnick

PENNSYLVANIA
Major Lynn G. Adams
Jacob M. Flinchbaugh
Professor Edwin R. Keedy
Professor William E. Mikell
W. C. Price
Hon. S. Clair Ross
Dr. J. Evans Scheehle
Professor Thorsten Sellin

RHODE ISLAND
Hon. John P. Hartigan
J. H. Harwood

SOUTH DAKOTA
Milo Barber
Béginian D. Mintener

UTAH
Hon. Joseph Chez

VERMONT
Ara A. Griggs
Hon. Lawrence C. Jones
H. Elmer Marsh

VIRGINIA
Hon. Abram P. Staples

WEST VIRGINIA
Colonel P. D. Shingleton
FRIDAY MORNING SESSION
October 11, 1935

The Interstate Conference on Crime, was called to order Friday morning, at 10:00 A.M., in the Assembly Chamber of the State House, Trenton, New Jersey. Judge Richard Hartshorne, Chairman of the New Jersey Commission on Interstate Cooperation, presided.

Governor Hoffman extended a cordial welcome to “the first general Interstate Conference on Crime Compacts ever held in this country. New Jersey is very proud of the fact that it was the first state to organize a commission on interstate cooperation as a part of the development of the Council of State Governments. The state has long had experience with interstate compacts and with many interstate administrative problems. It is reasonable to expect much constructive work from this meeting.”

Mr. Henry W. Toll, executive director of the Council of State Governments stressed the need for interstate cooperation in these critical times. He made the point that this is a time “when any claim of states’ rights must be justified by a demonstration of states’ competence.” He noted the need of permanent functioning machinery for such interstate cooperation as is being considered by the Interstate Conference on Crime.

Judge Hartshorne announced the appointment of a temporary committee on permanent organization: Hon. A. A. F. Seawell, North Carolina, chairman; Senator Andrew Jackson Graves, Tennessee; Hon. Mac Q. Williamson, Oklahoma, vice-chairmen; Hon. Henry W. Toll, secretary; William B. Cox, New York; Joseph P. Murphy, New Jersey; Burdette G. Lewis, Illinois; Edwin L. Lindell, Minnesota; Senator Charles D. Green, Nebraska; Colonel P. D. Shingleton, West Virginia; Colonel Paul G. Kirck, Massachusetts; Hon. John A. Byrnes, New York.

Assistant Attorney-General Justin Miller, chairman of the Advisory Committee on Crime of the Attorney-General of the United States noted that “This is a meeting of profound significance. Present-day methods of transportation and communication have brought about a nationwide crime problem. An interstate crime commission to provide frequent contact between the crime control machinery in the states and between state and federal governments seems to be highly desirable.”

Mr. Burdette Lewis of the American Public Welfare Association reported for the committee on permanent organization. The committee moved that the temporary officers of the conference be made permanent officers and presented a report. (See page 8 for text.)

The report of the committee was accepted by the conference.

The general meeting was then adjourned, and the delegates met in the following sections during the afternoon: extradition of criminals; removal of out-of-state witnesses; extension of trial jurisdiction; parolee supervision; joint interstate bureaus; and form of compact.

FRIDAY EVENING DINNER MEETING
October 11, 1935

On Friday evening the delegates were the guests of New Jersey at a dinner held at the Hotel Hildebrecht in Trenton. The Honorable David T. Wilentz, Attorney-General of New Jersey, was toastmaster. The speeches of the evening were broadcast over a coast to coast network of the National Broadcasting Company. General Wilentz first introduced Hon. Harold G. Hoffman, Governor of New Jersey.

Governor Hoffman said that the security of the American people is dependent upon traditions of friendly cooperation in the United States. On the other hand, these traditions impose certain limitations. “We are beginning to realize in the United States that there must be a more direct cooperation
between the several states in certain specific fields." The joint action for interstate cooperation may mark the beginning of a new epoch in government practice in this country.

HON. HERBERT H. LEHMAN, Governor of New York, spoke of the crime conference just finished at Albany. Closer cooperation of law enforcement agencies between the states and between the states and the federal government is sure to result. The increased interest in the use of the compact clause leads to great hopes for the achievement of the common purposes of these states—especially through the Council of State Governments.

MR. SANFORD BATES, Director, Federal Bureau of Prisons, declared that one of the many problems with which officials must concern themselves is the more effective handling of probationers and parolees. Interstate compacts are essential to successful handling of prisoners and parolees. Essentials of successful probation and parole systems include: one, careful selection of candidates; two, thorough knowledge of each case; and, three, rigid and adequate supervision.

The meeting was then adjourned.

SATURDAY MORNING SESSION

October 12, 1935

ATTORNEY-General O'Conor of Maryland presided. A report of the resolutions committee was presented by the chairman.

The resolutions as finally adopted appear on pages 5-8.

RADIO SYMPOSIUM

From 11:00 A.M. to 12:00 noon, Eastern Standard Time, the National Broadcasting Company conducted a symposium of attorney-generals direct from the Assembly Chambers at the State House, Trenton. Each one, in speaking, pointed out the importance of interstate cooperation in controlling crime, stressed the willingness of his department to cooperate with similar departments in other states, and explained what to him was the most important result of the conference from the standpoint of his particular jurisdiction. At the conclusion of these 21 speeches, Judge Joseph G. Wolber, of New Jersey, spoke on the air. The final speaker on the radio symposium was Mr. Toll, the executive director of the Council of State Governments.

At the conclusion of the broadcast the conference was declared adjourned.

RESOLUTIONS AND REPORTS

I

RESOLVED, that this conference urges the enactment, in the states where it is not already law, of the uniform act providing for the summoning of witnesses in one state to testify in a criminal prosecution in another state. Be it further

RESOLVED, that this conference recommends that the executive committee of the Interstate Crime Commission consider the desirability and feasibility of extending the provisions of this act to include grand jury witnesses.

II

RESOLVED, that this conference recommends to the Interstate Crime Commission that such Commission promptly undertake studies

(a) on the simplification of the Interstate rendition procedure; and

(b) on the application of such procedure to others than actual fugitives from justice.

And be it further

RESOLVED, that this conference recommends the adoption by all the states of the
WHEREAS, the section on extension of trial jurisdiction finds that there are three types of offenses where more than one state is concerned, punishment of which is not now adequately provided for in all states, and

WHEREAS, a situation may arise in which
1. a person within a state does an act which affects another state;
2. a person outside the state does an act which takes effect within the state;
3. an act is committed so near the boundary of a state as to make it uncertain whether either the doer or the effect is within the state;

therefore, be it

RESOLVED, that this conference recommends that the Commissioners on Uniform State Laws consider the drafting of appropriate statutes relating to the above first two situations, and that the executive committee of the conference consider the advisability of formulating a compact which would regulate the third situation by interstate compact.

IV

RESOLVED, that this conference endorses the device known as the interstate compact as an appropriate and effective means of cooperation between the several states in the supervision of probationers and parolees, and recommends to the executive committee of the conference consideration of the detailed report concerning this subject, prepared by the section on parole supervision, which accompanies this resolution.

V

WHEREAS, this conference recognizes the mutual advantage to all states of universal fingerprinting, be it

RESOLVED, that it is the sense of this conference that it recommends the policy of universal fingerprinting throughout the United States.

VI

WHEREAS, this conference recognizes the mutual value to all states of universal fingerprinting, be it

RESOLVED, that it is the sense of this conference that it recommends the policy of universal fingerprinting throughout the United States.

VII

WHEREAS, this conference recognizes the mutual advantage to each state of the maintenance of a unit of criminal intelligence, be it

RESOLVED, that this conference recommends the maintenance of a unit of criminal intelligence in the state law enforcement agencies. Such a unit should be equipped for detailed, permanent, and up-to-date records of characteristics, operations, correspondence, photos, antecedents, and other pertinent information concerning criminals and their associates, and the interchange of such information to other states on request.

IX

RESOLVED, that it is the consensus of the section on form of compact that it is highly desirable that uniform compacts be drawn upon each of the various subjects which the other sections of this conference shall deem proper for compacts.

X

WHEREAS, it is the consensus of this conference that there is a necessity for some central medium for continuing study of forms of compacts on subjects of interstate interest which are subject to the compact procedure, and
WHEREAS, the Interstate Conference on Crime, through its permanent organization, is peculiarly adapted to serve as a clearing house or medium for such study, therefore be it

RESOLVED, that we call upon the executive committee and officers of this conference to set up a special committee for this purpose and to avail itself of the assistance of all organizations working in this field and qualified to give such assistance.

WHEREAS, we realize that without the active interest of our citizens and that without organized public support the recommendations of this conference will not be enacted into law, therefore be it

RESOLVED, that we urge those in attendance at this conference and particularly the state members of the Interstate Crime Commission created by this conference to do everything possible to organize public opinion in their respective states in support of the recommendations of this conference and the future recommendations of the Interstate Crime Commission.

XII

WHEREAS, a feeling of satisfaction exists among the states in regard to the cooperation which exists in matters of intercommunication between the states, be it

RESOLVED, that it is the sense of this conference that it heartily endorses the existing comity and spirit of cooperation now existing between the states in matters of inter-communication.

XIII

WHEREAS, differences of opinion among police authorities of the several states as to necessary limitations upon the scope of reciprocal recognition of police and peace officers engaged in what is termed "hot pursuit," as embodied in the South Dakota statute make affirmative recommendation at this time inadvisable, be it

RESOLVED, that the responsible heads of state police agencies make this the subject of further study and that the executive committee of this organization do likewise and report with recommendations at the next session of this conference.

XIV

RESOLVED, that the legislature of each of the forty-eight states is hereby requested to give consideration at its next session to each of the legislative recommendations of this conference.

The Council of State Governments is requested to communicate to the governor, the president of the senate, the speaker of the house of representatives, and the chairman of all proper legislative committees, at the time of the convening of the legislature of each of the said states, the legislative recommendations adopted at this conference; said request to be accompanied by copies of the various legislative proposals approved by this conference, with such revision of form as the executive committee of the conference may previously determine.

REPORT OF SECTION ON PAROLEE SUPERVISION

Commended to the consideration of the states but not adopted by the conference.

After a thorough discussion of the problem it was voted:

That the Interstate Conference on Crime endorse the device known as the interstate compact as an appropriate and effective means of cooperation between the several states in the supervision of probationers and parolees.

The section expresses its opinion that the drafters of such compacts should take into consideration the necessity of including the following provisions:
(1) The compact should enable custodial, judicial, and administrative authorities of a state to permit a person convicted of an offense within such state and placed on probation or released on parole, to reside in any other state party to the compact while on probation or parole; under such terms and conditions as to residence, employment, and reporting, as may be mutually agreed upon.

(2) The compact should contain a definition as to what constitutes residence in the receiving state.

(3) The receiving state should be given an opportunity to investigate the home and prospective employment of persons received under such compact.

(4) The sending state should be required to supply all necessary identifying information and factual data in its possession with reference to said probationers or parolees which may be necessary for the proper supervision by the receiving state.

(5) The receiving state should assume the duties of visitation and supervision of probationers or parolees of the sending state and, in the exercise of these duties, should employ the highest possible standards of supervision necessary for the reestablishment of said parolee or probationer.

(6) The duly accredited officers of the sending state should be permitted at all times to enter the receiving state and there apprehend and retake any person on probation or parole without undue or unnecessary formality provided, however, that the offender is not wanted for misdemeanor or crime in the receiving state.

(7) The decision of the sending state to retake such persons should be conclusive and not reviewable in the receiving state.

(8) The state department of parole, or in the absence of a department, the governor of each state shall delegate an officer to act with officers of other states in order to promulgate necessary rules and regulations.

(9) The compact should seek uniform minimum standards covering the pre-parole or probation investigations, supervision, the rules and regulations covering parole and probation violations and the administrative practices used in dealing with such violators and records.

The section refers with approval to the form for such a compact proposed by the states of Illinois and Indiana in tentative agreement with several other states of the Union.

REPORT OF COMMITTEE ON PERMANENT ORGANIZATION

There is hereby established an Interstate Crime Commission composed of one member from each of the forty-eight states. The delegate from each state shall be designated by the commission on interstate cooperation of such state; provided, however, that in the case of any state which has no commission on interstate cooperation, the delegate shall be appointed by the governor. The Interstate Crime Commission shall biennially elect from among its members an executive committee of seven, which shall elect a chairman from its membership, and which shall meet at least once every two years. The executive committee shall determine the time and place for each meeting. The meetings shall be organized by the Council of State Governments, which shall serve as the secretariat for the Interstate Crime Commission. The Interstate Crime Commission shall endeavor to render effective all agreements entered into between states for the prevention of crime and for the better enforcement of the criminal laws, whether such agreements are in the form of compacts, legislative acts, or administrative regulations. The Interstate Crime Commission shall report its recommendations to each successive meeting of the Interstate Conference on Crime.

A provision to ratify the foregoing section shall be incorporated in any legislative act concerning interstate cooperation in the field of criminal law hereafter introduced in the legislature of any state which has not already ratified the section.

In selecting the original membership of the Interstate Crime Commission, section one shall be modified as follows: Each state’s delegation at this conference shall, at the adjournment of this session, designate its members of the Commission to serve until January 1, 1937. Thereafter members shall be selected as provided in section one, each for a term of two calendar years.
A Summary
of the
Proceedings
of the
Second Annual Meeting
Interstate Commission
on
Crime

August 21 and 22, 1936
Parke House
Boston, Massachusetts
CONFEREES ON CRIME

COLORADO
Hon. Norris C. Bakke

CONNECTICUT
Colonel Anthony Sunderland

DELAWARE
Claude W. Adkinson
Hon. P. Warren Green

DISTRICT OF COLUMBIA
Hon. Guy K. Bard
Hon. Sanford Bates, Director
Hon. Justin Miller
Hon. E. Stagg Whittin

ILLINOIS
Hon. A. B. Dennis

INDIANA
Hon. Paul V. McNutt
James J. Robinson

IOWA
Rollin M. Perkins

KANSAS
Hon. Clarence V. Beck
F. H. Guild
Hon. Ray Smith

LOUISIANA
Jerome Hall
Hon. Gaston L. Porterie

MAINE
Hon. Clyde R. Chapman

MASSACHUSETTS
Harry W. Boyer
Albert B. Carter
Howard K. Graham
Laurence E. Kiely
Paul C. Kirk
Matthew P. Maney
John J. Martin
Timothy C. Murphy
Senator Henry Parkman, Jr.
Walter H. Probert
William M. Robinson
Frank Rocchi
H. Allen Rutherford
Seymour H. Stone
Sam B. Warner

MINNESOTA
Judge Oscar Hallam
Horace E. Read

NEW HAMPSHIRE
Ralph W. Caswell
John G. Marston
Hon. Dudley Orr

NEW JERSEY
Hon. William J. Ellis
Judge Richard Hartshorne
Burdeette G. Lewis
Colonel H. Norman Schwarzkopf
John W. Woelfle

NEW MEXICO
Hon. Frank H. Patton

NEW YORK
Hon. John J. Bennett, Jr.
Hon. John A. Byrnes
Hon. Emerson D. Fite
Hubert R. Gallagher
Paul D. Kaufman
Hon. Wheeler Milmoe
Judge William A. Ransom
Hon. Austin J. Roche
Senator Earle S. Warner

OHIO
Senator Bernard Donovan
Donald J. Hoskins
Senator Keith Lawrence

PENNSYLVANIA
Arthur Phillips
David W. Robinson

RHODE ISLAND
Hon. John P. Hartigan

tennessee
Senator Andrew J. Graves

Vermont
Hon. Lawrence C. Jones

West Virginia
Hon. Fred L. Doringer

Wisconsin
Hon. Joseph E. Messerschmidt
FRIDAY MORNING SESSION
August 21, 1936


Judge Hartshorne: We convene as the second annual meeting of the Interstate Commission on Crime, and we make way immediately for the governor of the Commonwealth of Massachusetts.

Hon. James M. Curley: It is an exceedingly great pleasure for me to extend the hospitality of the Commonwealth to the visiting delegates to this conference on the prevention of crime.

Since the Massachusetts legislature, in 1936, refused to adopt the four-point anti-crime program of the Interstate Commission on Crime, it is apparent that the force of organized crime was and is more powerful than the force of organized public opinion. Apparently public opinion has not yet crystallized into a moving force and has not yet come to realize the importance of adopting the same methods, offensive and defensive in character, which have been adopted by the violators of law.

If we could develop the same system of coordination and cooperation among law-enforcing agencies which obtains among criminal agencies, the matter of suppressing crime would not be a difficult task. I am not unmindful of the fact that crime and unemployment are closely related, and that, invariably, when an industrial depression occurs, it is only reasonable to anticipate an increase in the crime wave; but the crime wave that occurs generally during industrial depression is not of as serious a character as that which is represented and conducted by organized criminal agencies. I sincerely trust that out of this convention which is to be held here in the Commonwealth of Massachusetts during the present month, there will result an aroused and crystallized public opinion which will make possible the enactment of such legislation which may be necessary for the protection of life and property. But in addition, and I think even more important, it will convey to the minds of law enforcing officers the imperative necessity of enforcing laws that are now to be found on the statute books.

Judge Hartshorne: This Commission, the first official body representative of all the states of the Union, as well as of the federal government, dealing with the crime problem, was created at the Interstate Crime Conference held in Trenton, October 11 and 12, 1935. That conference, at which about forty states were represented, formulated a series of principles for better interstate cooperation and crime control. At an informal meeting of its executive committee, held in the governor’s mansion at Albany, the committee determined to endeavor to formulate these principles into concrete legislative drafts for action the following January, two months later. Fortunately, the National Convention of Commissioners on Uniform State Law had already drafted legislation on extradition and the removal of out-of-state witnesses. These, therefore, were a basis. The conference of Commissioners was requested to give us further aid, but the intervening time was too short and we, therefore, turned for such aid to the law schools. Twenty-six of the outstanding law schools of the country, from Harvard on the east to California on the west, from Michigan in the north to Tulane in the south, gave that aid voluntarily. Professors from these schools met with us, with their drafts, in New York City, under the auspices of the New York Commission on Cooperation, and, at a two-day session, revised these drafts and modeled these four acts. Then these acts were sent out to every governor, every attorney-general, and every one of our commissioners in every state of the Union. Actually there were some 2,000 mimeographed copies of our bills distributed among state officials in a period of two months. In spite of the fact that only nine states met in regular session during 1936, our major program was adopted in whole or in part in ten states. The trick there is, of course, that some of the states held special legislative sessions. New York and New Jersey adopted every one of the four—close
pursuit, extradition, removal of witnesses, and out-of-state parolees. Rhode Island adopted three. Others were adopted by Illinois, Indiana, Louisiana, Maryland, Michigan, Maine and Virginia.

The next period which we face, 1937, will cover the big state legislature year, when forty-three of our forty-eight state legislatures will be in regular session. Let us, therefore, prepare as a Commission for a proportionately greater drive to make our program effective. Support by the public for such a drive is essential. That is the report, gentlemen, of what has occurred since the creation of the Commission in October.

Now let us turn to the very practical matter of finances. In the absence of Senator Toll, the secretary and treasurer, I will ask Mr. Hubert Gallagher, the assistant treasurer and the regional representative of the Council of State Governments in the New York and New England area, to report.

Mr. Gallagher: The treasurer's report is always the report of the expenditure of funds and the plea for additional funds. Although only nine legislatures met in regular session this year, nevertheless, it has been very expensive to service commissioners, attorney-generals, and legislative committees which have handled the Commission's legislative program. It will be even more expensive to carry on this work next year when forty-three legislatures meet. The treasurer's report shows that $3,608.03 has been received, and $1,985.14 expended. The names of the states and the amounts of their contributions follow:

- Connecticut ......... $ 250
- Idaho ................ 50
- Illinois ............. 500
- Kansas .............. 250
- Massachusetts ...... 1,000
- Mississippi ......... 250
- New Hampshire ..... 200
- New Jersey ......... 1,000
- New York .......... 1,000
- Rhode Island ..... 200
- Vermont ........... 150

A breakdown of the expenditures shows that:

- $377.16 has been expended for stationery and printing
- 206.99 has been expended for telephone and telegraph
- 217.29 has been expended for postage
- 743.50 has been expended for stenographic expenses
- 86.08 has been expended for travel
- 56.50 has been expended for expenses of out-of-state delegates
- 8.50 has been expended for publicity
- 11.75 has been expended for maintenance and equipment
- 25.00 has been expended for petty cash
- 151.07 has been expended for miscellaneous items

Every cent of our small balance will be spent before very long, and if the Commission continues to service legislative committees, members of the Commission, and others, as well as has been done in the past, additional funds will be needed. Furthermore, it will cost money to develop a future program if the Commission is to continue its effective work in crime prevention. I think it is self-evident, from a glance at our schedule, that out of this conference will come a program requiring considerable research and the drafting of legislation to carry out its aims. The proper drafting and circulating of this legislation will cost money. There is no limit to the work we can do, but there is danger that the machinery of interstate cooperation will become rusty unless it has continued financial lubrication.

Judge Hartshorne: I think that that is a very satisfactory and challenging report.

May I call your attention to the fact that the real work of this Commission takes place in the sections. Upon the conclusion of our sectional work, we shall return to the conference and act upon the sections' reports. You will note that there are five sections, namely: the section on out-of-state parolee supervision; the section on extradition and removal of witnesses; the section on enlarging court jurisdiction; the section on interstate detection and apprehension bureaus; and the section on planning.

Shortly thereafter the general meeting adjourned, and the individual members went to the various sectional meetings.
A DINNER session of the second annual meeting of the Interstate Commission on Crime was held at the Parker House, Boston, Massachusetts, Friday, August 21, 1936.

Judge Hartshorne opened the meeting by introducing Colonel Schwarzkopf.

Colonel H. Norman Schwarzkopf: We realized, in the state police department in New Jersey, a long time ago that it would be necessary to develop a means of a sight identification, so we made some experiments. We felt the matter deserved the attention of the best engineers we could gather together to put our ideas into technical application. We asked these men to reverse all the technique to which they were accustomed.

To take an ordinary sound motion picture a minimum of five men is required. We asked them to prepare equipment which could be operated by two policemen with no special background and no special training. We asked them to take a complicated procedure and reduce it to push-button efficiency. We asked them to eliminate all blending and to reduce our background to a neutral color so as to focus attention on the one individual. We asked them, instead of softening the lines, as they normally did, to sharpen the lines so that the lines of the face and the lines of the body would be accentuated as an assistance to the police.

These men gave their best efforts in the development of the equipment, and a little later on Mr. Frank, of the Radio Corporation of America, is going to give an explanation of the technical phases of this apparatus. We feel we have developed a technique which can be used by any police department, and which can be used in all penal institutions to make a permanent record of habitual criminals so that, if they return to their field of crime when released, the police will have this system to enable them in making sight identification.

Mr. Frank: To make a sound motion picture, it has been found necessary, first, to convert sound waves to electrical waves through the use of a microphone. After they become electrical waves they can be amplified and then they are converted to light waves, which can be photographed on a strip of film. The reproducing process is just the opposite.

We have two different types of systems in use in this country. In studios and for ordinary commercial purposes we use what is known as a double-film system. That is, we record on one film and photograph on another. For news reel purposes we use one film on which we photograph and record.

We hope to continue our experiments, and we hope we shall develop a single film which will be commensurate with the double film.

From the picture point of view we have a camera which will operate concurrently with the recorder so that the sound will be entirely synchronized with the action. This camera has three different types of lenses which are needed because a full view of the subject, a half view, and a close-up have to be taken. The system on which the sound track is recorded is very sensitive because it converts the electrical waves into light waves. We can operate the entire system from a single push button. The drapes have been scientifically designed from a color point of view so that there is a neutral background. We have a lamp and a microphone in there so that the voice of the subject can be picked up, and we have another microphone where the inquisitor stands to question the subject. The cameraman simply pushes one button when he is ready.

The projection equipment which is required to operate the picture consists of a portable projector with an amplifier and a screen. The pictures we are going to show you are taken with professional actors, not criminals.

Judge Hartshorne: We will complete the demonstration of this exhibition later in order to let one of our guests keep another engagement. It is a pleasure to be able to introduce to you the distinguished president of the American Bar Association, Hon. William L. Ransom.

Mr. Ransom: Today I have followed the work of this Interstate Crime Confer-
ence with a great deal of interest, and I am glad that you are meeting here in Boston this year immediately preceding the annual meeting of the American Bar Association. I think we are warranted in feeling that year by year the weeks immediately before and after the annual meeting of the American Bar Association provide the occasion and opportunity for the bringing together of representative conference groups which include public officials, those in academic pursuits, and others who are engaged in dealing in a practical way with some of the problems of our times.

This year in Boston there are a number of organizations which have linked their meetings chronologically with the American Bar Association and which are meeting here before or after our meeting. After all, I think we realize that we must, in some manner, develop in this country independent agencies which get together under auspices in which the public has confidence and which can furnish some leadership and guidance to public opinion. I feel very strongly that, with the development of the party system of government, the great centralization and increase of governmental activities, and the rivalries which go with political contests for place and power, there is a need for some counterbalancing effort, some counterbalancing activity which comes from independent and untrammelled sources and which can, in some way, preserve the balance of an impartial, independent, and courageous public opinion.

Judge Hartshorne introduced Hon. Paul V. McNutt, governor of Indiana, whose address was broadcast over the Blue Network, National Broadcasting Company.

HONORABLE PAUL V. McNUTT: Curbing the increase in the number of crimes committed and destroying the menace of organized crime, especially in the form of roving groups of criminals, are problems of primary importance. Manifestly, these problems are not limited to defection, arrest, and punishment, important as all of these are. To meet the present problem organized society must strengthen all of its agencies, its preventive social agencies as well as its agencies for the administration of criminal justice. In addition to social legislation there must be legislative action which will plug the loopholes in the criminal code and strengthen the administrative machinery of criminal justice.

The criminal law has been concerned traditionally with fitting punishment to the crime. Modern penology has to do with finding ways of fitting punishment to the criminal. It discards the idea of punishment as much as possible and places the emphasis on treatment. The criminal is a socially maladjusted individual, and the purpose of society, as stated in some of our state constitutions, is to reform him. But the words "punishment" and "reform" smack of a theological age which has passed. Consequently, it has been necessary to adopt terms which are consistent with a scientific conception of crime and the criminal, such as "re-education" or "readjustment." A calm, scientific attitude on the part of courts and of penal institutions, supplemented by intelligent sympathy, tends to create confidence on the part of the criminal which is necessary to successful treatment.

The practical problems in the reorganization of the machinery of justice and penal institutions are tremendous. They have not been attacked wholeheartedly and intelligently. One such problem is parole.

Parole is one of the modern methods by which penology attempts to fit the punishment to the criminal in contrast with the older efforts to fit the punishment to the crime. It places emphasis upon the restoration of the criminal to society instead of retribution. There are some general problems of parole which it will not be amiss to discuss.

The elementary, descriptive facts of parole are familiar to all of you. Parole occurs at a definite point in the penal process. Under our indeterminate sentence laws it is likely to come up for consideration soon after a man has served his minimum sentence. It follows a prison experience which has become a part of the personality of the offender. Parole is usually recommended by the prison officials, and it is granted by either a prison board or by a central parole authority in the state. Then comes the parole period during which the individual is relatively free. His relatives, his friends, and some of his neighbors know that he is a paroled prisoner; he makes occasional re-
ports to an officer, and the officer may or may not see him in his home or at his work. If the parolee is not discovered in a violation of the conditions of his parole, he will be discharged in the course of time, usually after one year of parole. He is then a free man. Only a small percentage of ex-prisoners violate their paroles; at least, not many of the violations are discovered by the authorities. The wise criminal is a good parolee. But after discharge he may change his tactics and return to crime. We know this to be a fact because of the high percentage of recidivism. Our efficiency rating in the treatment of the criminal is nothing of which to boast. This regrettable situation is not all due to either the fact or the methods of parole, but parole is important because it is the terminal period in the treatment process. Its effectiveness is limited by a number of conditions, some of which existed long before the man was released from prison.

It is these limitations on the success of parole as a method of treatment of the criminal which I wish to point out. Of course, the nature of the man himself, which was fixed by heredity or early habits before he entered prison, is a limiting condition so far as any treatment is concerned, but theoretically the behavior patterns of any man can be changed. It is the purpose of the criminal courts and of penal administration to modify the undesirable behavior patterns and to stimulate the development of socially acceptable patterns. The common methods of dealing with the criminal impose serious limitations upon the effectiveness of parole. In four activities, these methods seem to me to be crucial. They are: (1) sentencing; (2) prison administration; (3) the granting of parole; and (4) the supervision of the parolee.

One of the things which hampers treatment of the convicted offender most is the haphazard method of sentencing. First offenders are often given sentences much more severe than repeating offenders for the same offense. It is inevitable that those men who received the comparatively long sentences will be embittered by that fact. Because they are embittered, they probably are poor risks for parole. To blame parole alone for their return to crime is little short of inane.

But bitterness is not the only handicap under which the parole organization operates. About 60 per cent of the prisoners in our Indiana institutions are recidivists, and it is highly probable that many of these repeaters are psychopathic and neurotic, and some of them are definitely insane. When one of these repeaters comes before a court, he is tried on the basis of the facts relating to the commission of the offense with which he is charged. His normal or abnormal personality traits are not considered, unless he presents clear-cut symptoms of insanity. Yet these traits are more important from the viewpoint of society than the mere fact of the guilt of the man. They determine what to expect of him, and yet society turns these persons over to the parole authorities with the expectation that, if parole is a sound method of penal administration, they will be restored to good citizenship.

Any individual or parole board which lets a prisoner out of prison on parole, or terminates such parole, when the prisoner is not fit for freedom, endangers his fellow citizens just as much as one who lets a tarantula loose in a crowded room. We must see to it that proper investigational facilities are furnished so that no such result can arise by mistake.

It is my judgment that it would be absurd to expect the trial court to weigh all of the facts which bear upon the probable treatment which a criminal may need. The trial court, if it could afford to employ enough experts, could determine the initial period of treatment. Most courts, however, are equipped to do nothing further than to determine guilt or innocence. But even if the judge assembled complete information for social diagnosis of the offender, he could not fix an accurate, definite sentence because the effect of imprisonment varies with different men. Either the law should be changed to abolish all definite sentences, determinate or indeterminate, or the sentencing power should be removed from the judge and placed in the hands of a central state-sentencing, clemency and parole court which would fix the initial sentence and adjust the sentence as time passed in accordance with the progress of the prisoner. The other alternative would be to remove from the law minimum and maximum sentences and to create a strong central parole authority
which would study the man, and, with the assistance of the prison administration, determine the time of parole. Without some such change in the sentencing power, the effectiveness of parole is limited from the very day the offender is sentenced.

After a man reaches prison, a new experience begins which has its bearing upon future parole success. The prison administration can increase the chances of parole success by preparing the man psychologically and socially for his return to society; or through ignorance and brutality it can reduce the chances of success on parole by creating bitterness and failing to give intelligent vocational direction to the prisoner's work and training. Some states have advanced farther than others in the development of scientific penal administration, and their results have been sufficient to show the possibilities of good penology. But good penology costs money, and we are loath to spend large sums of money on these persons who have defied constituted authority. This is shortsighted, because we lose billions of dollars every year on account of crime. It should be emphasized, however, that the mere expenditure of large sums of money on prison administration is not enough; it must be well spent by properly trained personnel, and such professionally trained persons can be secured and kept only if they have security of tenure.

Another fact upon which the success of parole depends is the manner in which it is granted. A man who is entitled to consideration for parole usually comes before a committee or the board of a prison; sometimes he comes before a central, state parole authority. His minimum sentence has served, and he thinks his conduct is such that he has some claim to consideration by the parole board. What does the parole board know about the prisoner? In many states, and this includes Indiana, it knows precious little which is of importance. It knows that he was sentenced for a certain offense; it has a statement from the sentencing judge or the prosecuting attorney or both; it knows that he has worked at certain jobs in the prison; and it knows that he has or has not been a "good prisoner." Such an institutional parole board will sit for a day, an afternoon, or an evening, and it may hear the petitions of anywhere from a dozen to twenty-five prisoners. If it hears a dozen and gives half an hour to the consideration of each, it probably does a reasonably good job in the light of the knowledge which it has of the man. If it considers seventy-five and gives five minutes to each case, there is little point to its coming to the prison for a meeting; it could have given its opinions by mail after flipping a coin.

If the prison administration has a sufficient staff of experts, such as psychiatrists, psychologists; social workers, and vocational teachers, it can give to the parole board a systematic analysis of each man and can interpret the findings to the board, which then can make an intelligent decision regarding present or future parole. Some prison boards have little conception of penology and are scornful of the scientific study of criminals. When such boards sit as parole boards, they help to perpetuate an obscurantist attitude, and they add immeasurably to the cost of crime, because they do not perform their duties of making their contributions to the prevention of future crime.

It would not be fair to say that parole supervision is the weakest link in the chain of crime treatment. There are many other weak links which limit the possibilities of parole supervision. But it must be admitted that parole supervision and its organization merely offer an excuse for an overweening pride. In a great many states the director of parole and a few of the higher officers have considerable professional training and experience for their work, but even in these states the most has to be made of poorly qualified staff officers, who supervise so many cases that they cannot see their clients as often as they should. Again insufficient funds and insecurity of tenure prevent the development of competent; adequately staffed parole departments.

In planning parole administration we have to think of state lines. Many states have informal agreements by which the parolees of one state are allowed, under some circumstances, to reside in another state. These agreements should be set up by law in the form of compacts. As a result of the enabling acts passed by the General Assembly in 1935, Indiana became the first state in the nation to offer compacts with other states for cooperative effort and mutual assistance in the prevention and control of
crime. The desirable results to be expected from this compact are the reciprocal supervi-
sion of parolees and the waiving of extra-
dition or formalities with regard to the re-
turn of parolees or probationers from other
states.

One more general problem should be
stated. Through inadvertence or lack of
understanding, we often treat a parolee as
if his only problem is a criminal record,
whereas either he or his family usually has
many problems which influence the progress
of the parolee. We know that poverty,
health, family relationships, and community
relationships enter into the casual nexus
which results in crime. It would be fool-

hardy to expect a parolee who is returned
to a disorganized family and community
environment to succeed as well as one who
returns to more wholesome surroundings;
but too often we parole a man or a boy
without trying to do anything to improve the
environment in which he has to live.

To summarize, parole is the last step in
the penal process. It has to carry the
burden of all the mistakes made by the
sentencing judge, the prison administration,
and the authority which grants parole, and
it has its own peculiar problems of inade-
quate funds, large case loads, and poorly
trained parole officers, which limit its effi-
ciency. When the newspapers and others
attack parole, their criticisms reveal, not so
much the inherent weakness of parole as a
penological method as their own failure to
understand the whole penal system from
courts to parole. We must see the whole
penal system and understand the functions
of its interrelated parts.

JUDGE HARTSHORNE: Let us turn now to
the completion of this very interesting
demonstration of the sound movie method
of criminal identification.

COLONEL SCHWARZKOPF: The next step
will be the demonstration of the actual use
of this equipment.

The demonstration of use of the equip-
ment was presented after which the meeting
was adjourned.

SATURDAY MORNING SESSION
August 22, 1936

The Saturday morning session of the
second annual meeting of the Inter-
state Commission on Crime was held
at the State House, Boston, Massachusetts,
Hon. P. Warren Green presiding.

JUDGE HARTSHORNE: We are particularly
fortunate in having with us this morning the
president of the American Legislators' As-
sociation, Senator Henry Parkman, whom,
I shall introduce to you.

SENATOR PARKMAN: It seems to me most
significant for the development of American
institutions of government and their con-
stant and continuing adaptation to changing
conditions that this body should be meet-
ing here in Boston at the same time as the
Commissioners on Uniform State Laws are
concluding their annual conference. These
meetings give assurance that the decisions
of the Supreme Court sharply delimiting
the powers of the federal government on the
one hand and of the states on the other have
not left a "no-man's land" which cannot be
filled by joint federal and state action or by
the states alone.

There are various possibilities as yet only
partially explored. In the first place you
are familiar with the method of joint ac-
tion through use of the compact clause. An-
other method of federal and state coopera-
tion has been suggested to deal with the
problem of making more uniform the social
and working conditions of the people of the
nation. This would provide for the enact-
ment of federal legislation restricting or
denying the privileges of interstate com-
merce to goods produced in one state below
minimum standards provided by another
state in the protection of its working people.

The recent case of Whitfield vs. Ohio,
decided by the United States Supreme
Court, sustained the power of the state of
Ohio to prohibit the sale, within its borders,
of goods made by convict labor in Alabama,
and at the same time upheld the constitu-
tionality of the Hawes-Cooper Act providing that prison made goods transported from one state to another would be subject to the operations of the laws of the state of delivery. It is only a step from the principle of this case to a situation where goods are produced under standards deemed detrimental to the welfare of the people of any state. The leading case of Hammer vs. Dagenhart is clearly distinguishable because in that case the constitutionality of a federal act setting up child labor standards was in issue, whereas in the other case a state would be exercising its own police power as part of its reserved rights under the Constitution.

There is another field, which I shall merely mention, which shows the effort now being made by many minds to adapt our federal setup to the needs of the times. I refer to the field of business corporation law, where the suggestion has been made that the needed uniformity in the laws governing corporations engaged in interstate commerce may well be obtained by an interstate compact, supplemented by a federal licensing act.

Leaving the question of joint action, however, there is much that can be done by the states acting independently through the adoption of uniform and reciprocal state laws.

Having attended, during the week, the session of the Commissioners on Uniform State Laws, at which, from time to time, the acts regarding extradition and out-of-state witnesses have been discussed, I can safely say that the necessary good will and spirit of cooperation exist in full measure.

The extradition act was adopted yesterday by the conference with no substantial change, and the out-of-state witnesses act, with only a few amendments, which I hope your Commission will find to be wise. Each body can, I hope, help the other in securing adoption of the acts by the various legislatures. Working together we shall come before the legislatures with much more weight and influence that if we act separately. Furthermore, your body, composed as it is very largely of attorney generals and commissioners of public safety, actively engaged in the administration and enforcement of the criminal law, is in a position to do what the Commissioners cannot do, namely: to follow through the operation of these acts once they are placed upon the statute books.

It is going on two years since the first Attorney-Generals' Conference on Crime was held in Washington. At that early meeting it was recognized that the American Legislators' Association might be made useful, and the conference, in fact, recommended that the association cooperate with whatever committees might be set up in the several state legislatures to further the adoption of laws designed to prevent and control crime. This project in which we are now engaged and the effort that faces us in the coming legislative sessions are directly in line with the purposes for which the association was organized twelve years ago.

The association's membership is composed of all the 7,500 members of the forty-eight state legislatures, in seventeen of which, through the Council of State Governments, commissions on interstate cooperation have been set up and are ready to function. The association maintains contact with all the legislators throughout the country by means of its magazine State Government, or by direct contact through special bulletins on current legislative problems. Through this medium every legislator in the United States can have placed in his hands before the opening of the next legislative sessions these bills that your Commission is working on at the present time, and thus prepare the ground for adoption.

Mr. Green: Senator Parkman, I appreciate your coming here and speaking to us today. Now, to follow up your discussion, I feel that we should call upon the one who has had an active part in the drafting of our proposed legislation from the inception of the consideration of the topic. I would like to call upon General Bennett, who will report on the removal of out-of-state witnesses, and who will couple with his remarks suggestions for the adoption of the proposed program.

Mr. Bennett: We find for many years we have had this type of act on the statute books of some states. Then the Commissioners on Uniform State Laws came along
and suggested a new uniform act. That also was passed in some states. Then a year ago the Interstate Commission on Crime suggested an addition to the act—covering the witnesses who might be desired for grand jury investigations. When this was taken up with the Commissioners on Uniform State Laws, they suggested certain changes to us, agreeing with our principles and agreeing generally with what we had suggested. They came back yesterday with certain changes, and we have agreed to all of them.

In regard to securing the adoption of these acts by the various state legislatures, it seems to me that we must ask one man in each state to be responsible for them. That means the man who represents his particular state on this Commission. He will have to follow it up with the introducer, follow it up in committee, follow it up with the various party leaders in the respective houses of the legislature, and finally follow it through to the governor's desk and get it signed.

Another influence which will help tremendously in getting legislation through is the force of public opinion. That must be aroused if we expect to get favorable legislative action.

**Mr. Green:** One of the main points for consideration of this Commission is the act of close pursuit. I would now like to call on General Jones of Vermont to present for your consideration the act of close pursuit.

**General Jones:** The purpose of this act is to prevent the state boundaries from permitting a criminal to escape. The act accomplishes this in simple language by clarifying the common law doctrine of fresh pursuit by permitting a member of a duly organized state, county, or municipal peace unit to cross a state boundary and make an arrest while in fresh pursuit of a person suspected of having committed a felony, and further provides for the return of such criminal after he has been thus apprehended.

The advantage of the proposed act over the compact device is apparent. If adopted, it provides that officers of any state may make arrests in fresh pursuit, while under the compact form the right to make arrests in fresh pursuit might very well be confined to the contracting states.

Before discussing the merits of the proposed act it seems advisable to call attention to the different ways in which an arrest may be made. An arrest is the apprehension or restraining of one's person in order that it be forthcoming to answer an alleged or suspected crime. In general, an arrest at common law may be made in four ways: (1) by warrant; (2) by an officer without warrant; (3) by private person also without warrant; and (4) by hue and cry. It is not my purpose, however, to discuss all methods of making arrests, but to consider briefly the species of arrest wherein both officers and private persons are concerned, and that is by hue and cry raised upon a felony committed. In Lewis' Blackstone, Vol. II, Book IV, Chap. XXI, p. 1679-1686 it is said:

"A hue, (from hue, to shout and cry,) hutesium et clamor, it is the old common-law process of pursuing, with horn and with voice, all felons, and such as have dangerously wounded another. It is also mentioned by statute Westm. 1, 3 Edw. I. c.9, and 4 Edw. I. de officio coronatoris. But the principal statute relative to this matter is that of Winchester, 13 Edw. I c. 1 and 4, which directs that thenceforth every county, shall be so well kept, that immediately upon robberies and felonies committed, fresh suit shall be made from town to town and from county to county, and that hue and cry shall be raised upon the felons, and they that keep the town shall follow with hue and cry with all the town and the towns near, and so hue and cry shall be made from town to town until they be taken and delivered to the sheriff. And, that such hue and cry may more effectually be made, the hundred is bound by the same statute, cap. 3, to answer for all robberies therein committed, unless they take the felon; which is the foundation of any action against the hundred in case of any loss by robbery. By statute 21 Eliz.-c. 13, no hue and cry is sufficient unless made with both horsemen and footmen. And, by statute Geo. II. c. 16, the constable or like officer refusing or neglecting to make hue and cry forfeits 5L; and the whole vill or district is still in strictness liable to be amerced, according to the law of Alfred, if any felony be committed therein and the felon escapes; an
institution which hath long prevailed in many of the Eastern countries, and hath in part been introduced even into the Mogul empire, about the beginning of the last century, which is said to have effectively delivered that vast territory from the plague, of robbers, by making in some places the villages, in others the officers of justice, responsible for all the robberies committed within their respective districts. Hue and cry may be raised either by precept of a justice of peace, or by a peace-officer or by any private man that knows of a felony. The party raising it must acquaint the constable of the vill with all the circumstances which he knows of the felony and the person of the felon, and thereupon the constable is to search his own town, and raise all the neighboring vills, and make pursuit with horse and foot; and in prosecution of such hue and cry the constable and his attendants have the same powers, protection, and indemnification as if acting under a warrant of a justice of the peace. But if a man wantonly or maliciously raises a hue and cry without cause, he shall be severely punished as a disturber of the public peace.

I cannot find any legal definition of close or hot pursuit, nor are those phrases mentioned in legal dictionaries. Fresh pursuit, however, was known to the common law, and a private person may lawfully arrest a person, without a warrant, upon fresh pursuit when he has knowledge of the commission of a felony.

In Pope's Legal Definitions, page 592, "Fresh Pursuit" is defined as:


In Hadley v. Perks, L. R., 1 Q. B. 444, at p. 456, Blackburn, J., said:

"Under the common law if a felony were actually committed a person might be arrested without a warrant by anyone, if he were reasonably suspected of having committed the felony; and a constable could go further: if he had reasonable ground for supposing that a felony had been committed, and reasonable ground for supposing that a certain person had committed the supposed felony, he might arrest him, though no felony had actually been committed; but neither a constable, nor anyone else, could arrest a person merely on suspicion of his having illegally obtained goods. This is a misdemeanour, and a power of arrest is given with respect to it quite beyond the common law."

In Riggey's Case, Pasch. 36 Eliz. K. B. reported Part III, Coke's Reports, page 52; it was said:

"In this case it was unanimously agreed by the whole court, that although the prisoner who escaped be out of sight, yet if fresh suit be made, and he be retaken in recenti inscriptione, (in fresh pursuit), he should be in execution; for otherwise, at the turn of a corner, or by entry into a house, or by such means the prisoner might be out of sight; and although the prisoner fled into other counties where the Sheriff hath no power, and where it may be objected, the Sheriff cannot have the custody of him; yet forasmuch as the escape was of his own wrong, (whereof he shall not take advantage) the Sheriff might on fresh suit take him in any other county, and he should be said in execution."

It might be argued, therefore, that the proposed act is unnecessary for the reason that under the common law, if a felony were actually committed, a person might be arrested in another state by an officer or by a private person without a warrant, or by an officer if he had reasonable ground for supposing that a felony had been committed by a suspected person, though no felony had actually been committed. However, we cannot escape the fact that most peace officers have no knowledge of the principles of the common law and this proposed statute, while declaratory of the common law, would inform them of their right to cross a state boundary and make an arrest while in fresh pursuit. Fresh pursuit, however, should be defined.

The act should be cited as the "Fresh Pursuit Act," and the phrase "fresh pursuit" should be substituted for "close pursuit." I recommend that this Commission consider the following definition of "fresh pursuit" and include it in the proposed act: "An immediate pursuit of a person who has committed a felony, or who is reasonably suspected of having committed a felony, and who is fleeing from the scene of the crime." It shall also include an immediate pursuit
of a person suspected of having committed a supposed felony. Immediate pursuit as used herein shall not imply instant pursuit, but pursuit without unreasonable delay.

Judge Hartshorne: In addition to changing the term "close pursuit" to "fresh pursuit" because of the common law definition, I think I can see a further reason for following General Jones' suggestion. Most of the cases which will come up under such an act will be brought before ordinary police magistrates who, in the majority of cases, are not particularly learned in the law. If we use the term "close pursuit," they will feel the officer must be close to the man, ready to put his hands on his shoulder. That is, obviously, not intended. I take it since "hue and cry" covers horn as well as voice, it might cover radio horn and phone. I would think that even though the pursuing officer was a few miles behind the man, or a few hours behind, he would be in close pursuit.

Mr. Jones: Twenty-four hours.

Judge Hartshorne: I move that the executive committee of the Commission be authorized, in consultation with Attorney-General Jones, to revise the act by changing the term "close pursuit" to "fresh pursuit," wherever it occurs in the act or its title, and by adding a definition of such term in the body of the act, if either of such changes appears desirable.

The motion was seconded and unanimously adopted.

Mr. Green: Mr. Jones, I noted that, according to your definition, the act would give officers the right solely concerning felonies. From practical experience I know that an officer does not know the difference between a felony and a misdemeanor. Furthermore, a violation may be a felony in this state but across a state line it may be only a misdemeanor.

Judge Hartshorne: May I move that the executive committee be further authorized to consider the inclusion of any crime, rather than a mere felony, in this act, if, in its discretion, it appears desirable.

Mr. Bakke: I rise at this time to give you such information as I have pertaining to this question. At our Denver conference, we came to the conclusion that it would be better, from a practical administrative standpoint, to leave the word felony. Our observation disclosed that it is a procedure which should be confined to only those more serious offenses against society which would require the death penalty or confinement in the state penitentiary. We were also very definitely of the opinion that the pursuit doctrine should apply on the basis of the penalty in the state where the crime was committed and not where the pursuit happened to be taking place. After considerable deliberation, we limited our compact to the felony.

The motion was seconded and adopted.

Mr. Green: We ask Mr. Jones to report on the parolee act.

Mr. Jones: The section met yesterday and the members are agreed on the following propositions, recommendations and resolutions. The section took the position that the compact form was preferable to the so-called "reciprocal enactment." It is the consensus of our section that such supervision can be adequately handled only by men who are trained in that work and who receive reasonable compensation.

The section recommends that more extended and detailed effort be devoted to the drafting of the uniform bill.

It was thought advisable at one time to recommend that the act contain a provision that a parolee violating a rule or regulation promulgated by the authority of the receiving state could be penalized in the receiving state. But, after discussion, it was thought that it would be better to report such violations to the sending state; that the sending state should go and get the parolee; and that the parole should be revoked by the sending state, so that the individual concerned could serve the remaining part of his sentence.

Another question propounded at this conference was one raised by Judge Hartshorne. He states: "Subsection 6 does not seem entirely clear." Was it the intent that, as to a state adopting the act, the execution of the compact by the governor should constitute the ratification, assuming, of course, that the other state had become a party thereto, or was it the intent that a formal ratification should be had by the legislature.
of the former state subsequent to the execution of the compact by the governor? If the former, then is not the term ‘ratification’ misleading? If the latter, then is not the adoption of the act as proposed quite unnecessary?"

It was the opinion of the section that the intent of this Commission, by the enactment of the proposed law, delegated to the governor the power to enter into the compact, and that, as soon as the compact was signed and executed, it became law without the necessity of ratification by the legislature. So, in that connection, the section recommends that sections 6 and 7 be amended by substituting in lieu of the word, “ratification,” the word, “execution,” and where the word, “ratifying,” is used, the word, “executing.”

Another question came up—whether or not the receiving state should be allowed to give its consent to receive a person if he was in fact a resident of the receiving state or if his family resided in the receiving state. We recommend that the uniform act should provide clearly that the expressed consent of the receiving state should, in all cases, be a condition preceding the transfer to such state of the out-of-state parolee. In accordance with that recommendation, the majority believed subdivision (a) should be so amended. The act should also provide that, where one state requests another state to give such consent and where such consent is refused, the receiving state shall state in writing the reason for such refusal. This is a new field of legislative enactment. It is a field with which many states have had no experience. We feel, however, that it is a step in the right direction if the uniform act is adopted, and the compacts are made among the several states.

This section recommends adoption of the uniform act with some study as to changes recommended by the section.

GENERAL JONES: I move that this Commission recommend the enactment of the uniform act as drafted by this Commission with the amendments suggested by the section, in section 1, subdivision 6 and subdivision 7.

The motion was seconded and carried.

CHAIRMAN GREEN: We will call upon Attorney-General Miller for his explanation of the uniform law on extradition.

DEAN MILLER: The proposed act brings uniformity in such matters as the form of requisition and the documents to accompany it; the arrest, pending requisition as well as after requisition; bail; habeas corpus proceedings; confinement in transit; and the right to withhold extradition while a criminal prosecution is pending in the asylum state, against the person claimed, or while he is serving a sentence there. It gives to the governor the power to extradite a person who has come into the state involuntarily. It provides for requisition of a person, already under prosecution or undergoing punishment in another state, so that he may be prosecuted in the demanding state while the evidence is still fresh; but with the understanding that at the termination of the prosecution he will be returned to the state which extradited him.

I move the adoption of the draft of the proposed uniform law on extradition.

The motion was seconded and carried after which a motion was made, seconded and carried to adopt the uniform law on out-of-state witnesses.

DEAN MILLER: May I ask the indulgence of the members of the Interstate Commission on Crime for five minutes, to consider some resolutions?

Dean Miller read the resolutions recommended by the committee on resolutions. All were adopted. See page 31 for text.

DEAN MILLER: I move that the Commission go on record as expressing its deep appreciation to Colonel H. Norman Schwarzkopf in appearing at the conference and reporting on and giving a complete demonstration of his new method of sight identification of criminals through sound motion pictures. Be it further resolved that the matter be referred to the executive committee for further study and report.

The motion was seconded and carried.

The meeting adjourned at 1:15 P.M.
THE luncheon meeting of the second annual meeting of the Interstate Commission on Crime was held at the Parker House, Boston, Judge Hartshorne presiding.

JUDGE HARTSHORNE: An extremely important aspect of our work in dealing with the criminal is the question of parolees, their treatment, and their supervision. The peerless leader of parolee supervision is the gentleman who will now address you, Director of the Federal Bureau of Prisons, Hon. Sanford Bates.

HON. SANFORD BATES: Cooperation, if not coordination, in crime matters seems to be in the air today. I think one of the encouraging things about the whole situation today is that the American Bar Association and the lawyers, generally, are commencing to be more practical, more progressive, more disposed to join great progressive movements. So we have found several of these interstate conferences on parole held throughout the country. There is a disposition, at least for states, to get together and talk about cooperation even though they still realize some of the legal and practical limitations in the way.

I suppose people have heard more about parole in the last two years than ever before, and it has built up a rather unsavory reputation, but we cannot overlook the fact that parole is here to stay. Every man must either die in prison or come out, and every man who comes out should be compelled to come out under the restraining atmosphere of parole supervision.

What we need to insist upon first of all in our states is the recognition of parole as an inevitable fact; the necessity for administration in a scientific manner; and a nonpartisan parole board equipped with a knowledge of the facts in each case and provided with a sufficient staff to make supervision a real element in the case. Parole without supervision is nothing but a pardon. Parole without investigation of the facts is mere guesswork. I do not want to burden you with statistics, but I want to assure you that a remarkably small percentage, probably less than 10 per cent of men on parole, fails to meet the requirements.

We are looking forward with interest to the disclosures of the survey which is being undertaken by the Attorney-General. It will give us some definite facts to enable us to establish in each state a necessary and progressive parole administration.

Judge Hartshorne introduced the next speaker, Mr. John J. Hannan, president of the State Board of Control of Wisconsin, who represented the Association of States Signatory to the Prison Labor Compact.

MR. HANNAN: The crime problem may be approached from many angles, three of which are: (1) prevention; (2) efficient apprehension, speedy trial, and conviction; and (3) treatment of the convicted.

The field of apprehension is the work of the police. They pass their subjects to the prosecuting officers and the courts, which prescribe a fixed term during which the convicted offender shall be under treatment. Then the convicted man is passed on to the social hospitals—the probation services, the reformatories, and the prisons.

The concern of the organization I represent is primarily the treatment of imprisoned law offenders, and begins when the prisoner is delivered to the prison.

It may be news to some of you that, even in the field of prison work, the use of the compact method to improve administration is not new. You must know something of the demand for work for prisoners made by prison executives. Idleness in prisons not only makes more difficult the work of disciplining the thousands of human wrecks behind prison walls, but it makes it impossible for persons effectively to aid the war on crime.

For many generations our thinking, on the programs of our prisons, has been clouded by consideration of prison labor as a purely financial and business factor. Manufacturers and free workers resented prison production, and strove to eliminate the competition of prison labor. Legislators
and prison executives were concerned principally in the financial return of the prison to the state.

Some prison executives, early in 1933, alarmed at the steady growth of unemployment within their institutions, took steps to bring about a better understanding of the relationship of productive labor to prisoner rehabilitation. They realized that the battle to preserve for prisons their most potent instrument of rehabilitation was ineffective. It must be so. It was waged on forty-eight distinct, widely separated fronts. Like the police and the prosecutors, they visioned their sector of the crime battle not merely as a state, but as a nation-wide problem. They determined to coordinate their forces, and to present a united front through a national organization based on a broad social conception, the real value of the prison.

The first necessity confronting these prison executives was to eliminate, in so far as possible, any grounds for opposition to the marketing of prison goods, by insisting on recognizing a proper labor-and-overhead burden in the marketing of prison products. That was before the National Recovery Act was proposed. Under NRA, through this central organization prison executives were in a position to, and did, propose to place prison industries under the codes. Federal authorities held they were, without power to enforce a code against a state government. Prison executives met this situation by a proposal that there should be a compact among the states, under which they would set up standards for the conduct of prison industries fair to the prisons and to free industry.

A tentative compact was drawn. It was subscribed to by thirty-two states, was approved by NRA and by the President. Even after NRA was declared unconstitutional, the great majority of these states have continued to adhere to these new standards.

We propose that there shall be set up an interstate commission similar to the Interstate Crime Commission, but drawing its membership from prison commissioners, wardens, and those responsible for the safekeeping and treatment of incarcerated criminals. It would be concerned particularly in promoting productive employment programs in prisons. Productive employment means the production of goods useful to the state and to individuals.

I have been asked to indicate how this Interstate Crime Commission can cooperate with the Interstate Prison Commission.

An intelligent answer to that question, in my judgment, can be made only by agreement between you, who are engaged in apprehending and convicting the criminal, and us, who treat convicted criminals. Each can contribute to the attainment of the government objective in the maintenance of prisons.

The fundamental objective of a prison is the protection it affords to law abiding members of society against the murderers, the rapists, 'the gunmen,' the thieves, the gangsters, the confidence men, and all convicted and sentenced and incarcerated for disregard of the rights of fellow men to life or to property. I believe your group and our group agree as to that fundamental.

To achieve the objective of these institutions, prisons must be so conducted that the men and women released therefrom shall have such treatment during incarceration as will promote a desire, and will equip them, to go back into society, not only with a determination, but with the ability to be law abiding.

Of the 66,874 prisoners received from courts in 1933, a little in excess of two-thirds had no prior history of serving time in any prison. So for that year, a little less than one-third of all the court commitments of this country were recidivists.

The commitment of twenty-odd thousand of recidivists in one year may not be considered as alarming, but it should raise in your minds, as it has in the minds of prison executives, a question as to the efficacy of our present prison program. Before we can rehabilitate prisoners in this country, we must rehabilitate our prisons. I hope we can agree upon that.

Our national organization is concerned with providing work for prisoners. I have stressed this for the reason that we consider it to be the greatest need of these institutions. In saying this, we do not minimize in any way the need for greater medical service and other services within these institutions. We recognize the worth of, and favor, educational programs, but they must
be attuned to the needs of an adult prison population.

A few of the better equipped prisons have corrective medical services; educational activities, with opportunities for university extension training; some vocational training; directed reading courses; and many other cultural opportunities. These are all good, all desirable, and all aids to rehabilitation. But in and of themselves, these are not sufficient: The practical experiences of prison managers demonstrate that productive work-opportunity is the greatest single instrument to reconstruct the thinking, to build the character, to remedy the deficiencies of prisoners and to make prisons deliver the largest possible return by diminishing the load of recidivism.

For more than three years, the program I have outlined has been moving slowly and steadily forward. In large measure, this national association of prison executives brought about the creation of one, and contributed to the forming of another, federal agency engaged in important work in the war upon crime. One is the Prison Industry Reorganization Authority, at the head of which is Judge Ullman, of Baltimore; and a member of which is that experienced criminologist, Professor Louis R. Robinson, of Pennsylvania.

The other agency set up by the Attorney General within the Department of Justice, at the head of which is Mr. Justin Miller, is making the most comprehensive survey of the subject of release of prisoners ever undertaken in this country.

I am here to solicit your cooperation with the Association of States Signatory to the Prison Labor Compact to secure the general use of the compact method as a means to attain higher standards in administration and better services by prisons. Such cooperation can be rendered by a lively interest on the part of your organization and of its individual members. Affirmative-action of the Interstate Commission on Crime to endorse, by resolution, our efforts to secure nation-wide betterment of prisons would be helpful. It would at least assure us we are not alone.

**SATURDAY AFTERNOON SESSION**

*August 22, 1936*

**MR. CHAPMAN:** Is John Hartigan ready to report for the section on interstate detection and apprehension bureaus?

**MR. HARTIGAN:** After discussion yesterday the members came to the conclusion that a joint interstate bureau was not advisable at this time. In many of the western states where there are no state identification bureaus, and in the east, there is already close cooperation among such bureaus. We adopted a resolution that the best way was for each state to have an identification bureau to use if it could not get interstate teletype and radio communications.

**MR. CHAPMAN:** Mr. Dennis will report on the question of enlarging court jurisdiction to cover boundary line cases.

**MR. DENNIS:** We find that there are three types of offences where more than one state is concerned, punishment for which is not now adequately provided for in some of the states. These cases are as follows: (1) where a person within a state commits an act which takes effect outside the state, (2) where a person outside the state commits an act which takes effect within the state, (3) and where an act is committed so near the boundary line of a state as to make it uncertain whether it was committed within or without the state.

In some of the states, legislation has been enacted to cover the first two of these situations, and we submit, for the consideration of the states which have not enacted legislation covering the first two situations, the following provisions found in the California statute, as typical of those in force in a great number of states:

"Sec. 27. *Who are liable to punishment.*

The following persons are liable to punish-
ment under the laws of this state:

1. All persons who commit, in whole or in part, any crime within this state;

2. All who commit any offense without this state which, if committed within this state, would be larceny, robbery, or embezzlement under the laws of this state, and bring the property stolen or embezzled, or any part of it, or are found with it, or any part of it, within this state;

3. All who, being without this state, cause or aid, advise or encourage, another person to commit a crime within this state, and are afterwards found therein. (Amendment approved 1905; Stats. 1905, p. 638.)

"Sec. 778. When the offense is commenced without, but consummated within this state. When the commission of a public offense, commenced without the state, is consummated within its boundaries, the defendant is liable to punishment therein. In this state, though he was out of the state at the time of the commission of the offense charged. If he consummated it in this state, through the intervention of an innocent or guilty agent or any other means proceeding directly from himself, in such case the jurisdiction is in the county in which the offense is consummated.

"Sec. 778a. Performance of an act in this state culminating in a crime in another state. Whenever a person, with intent to commit a crime, does any act within this state in execution or part execution of such intent, which culminates in the commission of a crime, either within or without this state, such person is punishable for such crime in this state in the same manner as if the same had been committed entirely within this state.

"Sec. 778b. Nonresident aiding in a crime in this state. Every person, who, being out of this state, causes, aids, advises, or encourages any person to commit a crime within this state, and is afterwards found within this state, is punishable in the same manner as if he had been within this state when he caused, aided, advised, or encouraged the commission of such crime."

We also submit for the consideration of the several states the following proposed statute submitted by Professor John Barker Waite.

"I. Be it enacted, etc.:

"If any person within this state does an act which, causes injury outside this state, which act would subject him to criminal liability if such injury had occurred within this state; or if any person within this state does an act in connection with or so related to other acts done outside this state that his act would be deemed criminal had all the acts been done within this state; such person may be prosecuted, in the county in which he did his act, upon the same charges and to the same extent as if such injury or such related acts had also occurred in this state.

"Provided that such person may not be proceeded against hereunder if he has already been in jeopardy of punishment for such act in the state in which such injury or such related acts occurred.

"II. If any person while outside this state does an act which causes injury within this state, which act would subject him to criminal liability if it had been done within this state; or if any person while outside this state does an act in connection with or so related to other acts done within this state that his act would be deemed criminal had all the acts been done within this state such person may be prosecuted, in the county in which such injury or any such related act occurred, upon the same charges and to the same extent as if his act had been done in this state.

"Provided that such person may not be proceeded against hereunder if he has already been in jeopardy of punishment for such act in the state in which he committed it."

As to the third situation above mentioned, covering doubtful boundary-line cases, a number of the states have enacted reciprocal legislation.

In states where there are no water boundary lines and where, for some other reason, such a problem would present itself, your section suggests that, reciprocal legislation extending the boundary line of each state a certain distance, such as five hundred yards, would answer the situation. The purpose of these statutes would be to give concurrent jurisdiction, so that there could be no doubt as to the power of either state to prosecute.

As an alternative proposition to cover the third situation, we offer the following proposed statute by Professor John Barker Waite.
“III. In any criminal prosecution in which the defense is advanced that the crime was not committed within the jurisdiction of the court, the burden shall rest upon the defendant to establish the defense by a preponderance of the evidence. No motion to dismiss, or its equivalent, shall be sustained on the ground that the prosecution has not proved that the criminal act was committed within the jurisdiction of the court.”

As an alternative form of wording, though the substance remains essentially the same, the following may be suggested:

“III. Whenever in a criminal prosecution it shall be proved, that a criminal act was committed by the accused, such act shall be deemed to have been committed in the county alleged in the accusation unless the contrary appears from the evidence.”

We submit that report to the Commission without any special recommendation. We agree that the situation does not call for a uniform law on the subject, but that it is desirable for the various states to enact this sort of legislation.

JUDGE HARTSHORNE: I move that the report be accepted.

The motion was seconded and carried.

MR. MILLER: Colonel Hannan and Mr. Bates brought to us at our luncheon meeting a subject of great interest, and Colonel Hannan invited action on the part of our commission. I move that the commission express its appreciation to Mr. Hannan for presenting this very important subject, that we express our sympathetic interest in the subject work of the association which Colonel Hannan represents; that the matter be referred to our executive committee for consideration; and that Colonel Hannan be so notified.

The motion was seconded and carried. The meeting was adjourned shortly thereafter.

RADIO BROADCASTS
Saturday, August 22, 1936

A ROUND-TABLE discussion conducted by members of the Second Interstate Commission on Crime was broadcast over the Blue Network of the National Broadcasting Company Saturday morning, August 22, 1936, from 11:00 A.M. to 11:30 A.M. Participating in the discussion were the following: Hon. Justin Miller, special assistant to the Attorney-General of the United States; Hon. John J. Bennett, Jr., attorney-general of New Mexico; Hon. Gaston L. Porterie, attorney-general of Louisiana; Hon. Clarence V. Beck, attorney-general of Kansas; and Colonel Paul G. Kirk, commissioner, public safety, Commonwealth of Massachusetts.

COLONEL KIRK: When the Constitution of the United States was created by our forebears in the late eighteenth century, little did they foresee that eventually cities would develop with such large congested populations that they would become breeders of delinquency and crime. But we are now confronted with a condition, not a theory. Is that not so, General Beck?

GENERAL BECK: I agree entirely. In addition, I might point out that our complex civilization has developed other dangerous factors which slowly have destroyed homes and, even worse, moral fiber, so completely that many parents have become so woefully incompetent in the management of the family and the proper rearing of their offspring, that those children grow up to become menaces instead of good influences within their community. I think the best proof of this is in the statistics which Dean Miller quoted to me a while ago. Won’t you repeat them, Dean, for our mutual benefit?

DEAN MILLER: Federal figures compiled recently indicate that the ages of the most predominant criminality in America today are from sixteen to twenty-five years. Last year this class of mere boys constituted 35.2 per cent of the criminal class, and more than 50 per cent of America’s criminals were under the age of thirty.

GENERAL BECK: Kansas statistics on the relative number of crimes in the country impressed me with the fact that we have
more than 12,000 murders in this country every year, or one every 45 minutes. Every year thousands of robberies are committed, not to mention the hundreds of thousands of lesser violations of the law. What can you tell us about the cost in dollars and cents for allowing this scourge to continue?

Dean Miller: The annual crime bill in our country has been estimated to be about fifteen billion dollars. That means that, were every man, woman, and child in the United States to pay his share today, each would pay approximately one hundred twenty-five dollars.

General Bennett: Criminals violating federal laws are sought by the federal government; those violating state laws are brought to justice by state, county, and local police. It would seem apparent to the casual observer that the American citizen has complete protection. But there is an avenue of escape for the criminal which the observer has overlooked. That avenue is the interstate boundary line.

State jurisdiction, generally speaking, stops at its border line. Its police officers become private citizens in another state. It cannot control its paroled prisoners who go to another state. It cannot control witnesses residing in another state because it lacks jurisdiction in that other state. It is possible for a gangster to carry on his depredations in one state while he lives in another state. Meanwhile the police in one state are powerless to meet this situation. Do you not agree, General Patton?

General Patton: I most certainly do.

The problem has grown by leaps and bounds in the past generation because of modern invention which has been utilized to the highest degree by the criminal. Following the methods of modern business, he has organized. Today a little Caesar in San Francisco can order a henchman in New York by a secret telegraph or telephone message to rob a bank, to intimidate and collect money from storekeepers, to kill an enemy in cold blood, or to do anything, anything which he himself does not have the courage to do. His orders are carried out without his stirring from his underworld headquarters on the West Coast.

Here Dean Miller and Colonel Kirk explained the organization aims and accomplishments of the Interstate Commission on Crime.

Dean Miller: We are presenting the 7,800 state legislators with copies of our four proposed uniform laws. We need and want the cooperation of every citizen to help place upon our statute books this vitally needed legislation.

General Beck: Perhaps some of those listening would like to know exactly what they can do to help.

Dean Miller: There are three important steps which they can take immediately. First, they can listen carefully to our description of the present abuses and the remedial statutes which we have drafted, and, immediately after this broadcast, they can write to the Interstate Commission on Crime, Newark, New Jersey, or in care of the station to which they are listening, requesting bulletinized information. Second, they can see that the local representatives in their state legislatures become acquainted with the merits of the bills and obtain their support for the bills. Third, they can spread the word to their neighbors and friends, acquaint them with the importance of the problem, speak in their community forums, churches, schools, and clubs on the subject, and thus carry on a vigorous public campaign of education.

It is in order for Colonel Kirk, the commissioner of public safety in Massachusetts, to explain the inadequacies of the present laws in the pursuit and capture of gangsters.

Colonel Kirk: As soon as an officer, close behind a criminal, crosses his jurisdictional line of demarcation and enters a neighboring state, he is no longer a police officer, but a mere private citizen with a right to arrest for crimes committed within his presence. The result is that: In pursuit of a criminal, a police officer, who did not see the crime committed, but who has a right to arrest such a desperado in his state, finds his hands completely tied when he makes his capture in a neighboring state. The act drafted by Incocrime eradicates this difficulty. Police are, by this reciprocal legislation, clothed with police power in the foreign state in return for similar powers granted to the police of such foreign state. Dean Miller, as the expert on extradition, suppose you say a word as to the proposed
uniform acts for the extradition of criminals.

DEAN MILLER: In a nutshell the situation confronting us is this: If Jimmy, "the Safe Cracker," commits a crime in one state and takes refuge in a neighboring state, he is entitled to be heard in extradition proceedings in such foreign jurisdiction. Since there are forty-eight states, and the laws of each on the subject of extradition vary, the procedure is costly to the demanding state and full of time delays. The result is that the present procedure handicaps the state and benefits the criminal out of all proportion to the requirements of a fair and proper administration of justice. We propose uniformity in procedure, which would eliminate these costly delays, protecting at the same time the constitutional rights of accused persons. General Bennett, will you not explain another important purpose, which we had in mind in drafting this bill?

GENERAL BENNETT: Numerous crimes are committed today by accomplices on orders from gangsters in other states. Those procuring the commission of crimes are principals who should be punished in the state where their hirelings actually commit the crime. Due to a loophole in the law, since the principal has not crossed a state line, he is not a fugitive from justice and, therefore, cannot be extradited. This presents a deplorable situation. We propose to change the law so that such persons can be extradited and punished.

GENERAL PORTERIE: The third important provision of the recommended act is the waiver of extradition provision. It provides exactly what the name implies—that the accused may agree in writing to return to the state where he is wanted. The figures from those states with the provision already in effect show, beyond the shadow of a doubt, the universal need for it.

COLONEL KIRK: Suppose we turn to the Attendance of Out-of-State Witnesses Act.

GENERAL PATTON: No procedure has ever been worked out uniformly in our states to guarantee the attendance at a criminal trial of an important witness who happens to be in a foreign state, either because he lives there or because he has fled to such a state in order to prevent the prosecution from obtaining his vital evidence. Take the example where Little Caesar of San Francisco orders a crime committed in New York. In many cases, there are important witnesses in San Francisco who could prove for the State of New York the identity not only of the criminal, but of the chief of the underworld who ordered the crime committed. Now this very simple act which Incocrime has drafted, and on which it was aided by the earlier draft of the Commissioners on Uniform State Laws, provides for the compulsory attendance of such witnesses, guaranteeing to them the upholding of their constitutional rights and providing for a reasonable fee to be paid to them for their traveling expenses and their time.

GENERAL PORTERIE: Our fourth bill concerns out-of-state paroled prisoners. Very often a paroled prisoner can be rehabilitated in a different state, where he may find new environment, a new job, and a new chance in life. But it stands to reason that he should be supervised in this new state, directed in his activities and protected from falling back into the same criminal rut. We might ask General Beck of Kansas to explain a little of what the proposed legislation on this subject would accomplish.

GENERAL BECK: For the past several years, some of the states have been developing an interstate agreement in the form of a compact. To date almost a dozen states have signed this compact and are now working in close cooperation with one another to utilize this new method of controlling released prisoners. Once we get all the states in the Union to unify their efforts and exchange those prisoners who require supervision, we shall have completed the final step in the immediate legislative program which we began ten months ago. General Bennett, will you not reiterate the necessity for the passage of these acts?

GENERAL BENNETT: Each one of the four bills, namely: fresh pursuit, extradition, compulsory attendance of witnesses, and parolee supervision, is important; each is interrelated with every other one. Each state should pass all four. Then we would have established a uniform method of interstate cooperation to meet some of our crime problems.

GENERAL BECK: In addition, we are delving into the dangerous breach in our federal law which prohibits the use of the mails for the transportation and delivery of dangerous weapons but which at the same
time allows, by silence, the shipment of these weapons by other forwarding agencies across state lines. Other subjects of equal importance are also under consideration. In closing, we want the American people to understand that the Interstate Commission on Crime is their collective governmental agency working with all the resources at its command in a concentrated effort to suppress crime. Our success depends upon the support and cooperation of the citizens of these United States.

**Radio Address of Judge Hartshorne**

Judge Richard Hartshorne broadcast an address over the Blue Network of the National Broadcasting Company, Saturday, August 22, 1936, at 6:15 P.M., during the second annual conference of the Interstate Commission on Crime.

**Judge Hartshorne:** Your agents constituting the Interstate Commission on Crime, which has just concluded its second annual session, found certain facts relating to crime. They found among other things that organized crime has taken a leaf from the book of organized business, has become an organized business, and that our shrewdest, most desperate criminals today commute to business, from their hide-outs to the scene of their crimes across state lines. Clearly, to cope with the criminal the state where the hide-out is located and the state where the crime is committed must cooperate in arresting him, in returning him for trial, in reaching across state lines to obtain the necessary witnesses at his trial, and, finally, in supervising him after he has served his term in jail and is out on parole. At present these practical requirements to safeguard the public are, speaking from a nation-wide standpoint, either utterly lacking or, at best, halting, casual, and inefficient.

This dire lack was the first point of attack of the Interstate Commission on Crime. To meet this public need the Commission has already drafted four uniform acts: (1) The Fresh Pursuit Act, to permit the arrest, on fresh pursuit, of criminals fleeing from one state to another; (2) The Extradition Act, to aid in the speedier and more effective return of the criminal across state lines for trial; (3) The Removal of Out-of-State Witnesses Act; and (4) The Parolee Supervision Act, which permits supervision, by one state, of those on parole from another. These acts, if and when adopted by your legislature, will help close the loopholes through which the commuting gangster and his henchmen escape the hands of the law.

In addition to finishing the drafts of the statutes, to which I have already referred, your Commission paid careful attention to other problems of vital importance.

First, it was resolved to urge strongly that the use of methods of communication and of information concerning criminals and methods of criminal organization and operation should be extended along lines of modern scientific development.

During the last decade the Federal Bureau of Investigation and similar bureaus in several of the states have proved the importance of such methods of identification and investigation as are found in the use of fingerprints, chemical analysis of poisons, dust, fibers, earth, and other such materials. The Interstate Commission on Crime adopted a resolution urging the establishment of similar bureaus in all states which have not yet established them.

The executive committee has received study assignments including the joint question of the abolition of the third degree and the freedom of accused persons from compulsory self-incrimination; the alarming situation which has developed in connection with the easy procurement of firearms by outlaws and gangsters; and the advisability of working out a plan for the better identification of motor vehicles.

The Commission adopted a resolution urging the Congress of the United States to enact legislation to authorize an extension of activities within the Department of Justice and to provide funds therefor along the following lines: (1) to provide a clearing house of information concerning all useful methods of crime control; (2) to extend the present useful and effective work of training officials, to include training for other activities in the administration of criminal justice; (3) to encourage and promote more effective cooperation of federal, state, and local agencies engaged in the administration of criminal justice, in so far as the state and local agencies desire such cooperation; and (4) to conduct such surveys as may
become necessary to facilitate the administration of criminal justice.

Another project which has had the close attention of the Commission is a general educational program for crime prevention in our homes, our schools, our churches, and elsewhere.

This important common sense project and various others will from now on occupy the attention of the Interstate Commission on Crime, despite the termination of the conference itself, for the Commission is a permanent body, the sole purpose of which is to safeguard, from criminals, the lives and property of all American citizens.

RESOLUTIONS

RESOLVED, that the Interstate Commission on Crime hereby record its appreciation to His Excellency, the Hon. James M. Curley, governor of Massachusetts, for his address of welcome and for the cordial reception afforded the commissioners at this second annual meeting by him and other officials of Massachusetts. In particular, the Commission is indebted to Commissioner Paul G. Kirk, commissioner of public safety, and his assistant, Mr. T. C. Murphy, for their complete cooperation in arranging, and facilitating the sessions of the commission in the state house, and to Hon. Henry F. Long, commissioner of corporations and taxation, and his able assistants, Mr. Taylor and Mr. George, who have made it possible for the proceedings of this conference to be recorded in permanent form.

BE IT FURTHER RESOLVED, that the Interstate Commission on Crime express its gratitude to Hon. Paul V. McNutt, governor of the state of Indiana and the president of the Council of State Governments, for addressing the annual dinner of the commission.

BE IT FURTHER RESOLVED, that the Interstate Commission on Crime, the work of which during the past year has been encouraged, implemented, and supported by its close and complete integration with the Council of State Governments through the executive director of that organization, Hon. Henry W. Toll, make known its gratitude for such benefits by sending him a transatlantic cablegram, containing the following or similar sentiments: Mr. Henry W. Toll, Rockefeller Foundation, Paris, France. "Members Incocrime assembled Boston regret your absence and desire express appreciation for assistance and benefits accorded during past year through integration with Council of State Governments."

AND BE IT RESOLVED, that the Commission hereby record its tribute to Judge Richard Hartshorne, under whose patient guidance the Commission has developed its program and furthered its aims, and for his untiring efforts and splendid work; that the Commission record its appreciation of the interest and support given this work by Hon. Justin Miller, special assistant to the attorney-general of the United States; that thanks also be given to Senator Henry Parkman, Jr., president of the American Legislators' Association, for his cordial declaration of cooperation; and that Hon. William L. Ransom, president of the American Bar Association, be accorded this expression of gratitude for his remarks delivered at the annual dinner.

BE IT FURTHER RESOLVED, that the Interstate Commission on Crime express its gratitude to Hon. Paul V. McNutt, governor of the state of Indiana and the president of the Council of State Governments, for addressing the annual dinner of the Commission.

AND FINALLY, BE IT RESOLVED, that the Interstate Commission on Crime acknowledge the assistance of the members of the staff of the Council of State Governments for the duties performed in connection with this conference.

To all who have contributed to the success of this conference, your Committee on Resolutions requests a rising vote of thanks.
RESOLVED, that the Interstate Commission on Crime urges the introduction and extension of teletype and radio communication systems into those states which are at present not so equipped.

III
RESOLVED, that the Interstate Commission on Crime urges the establishment of state bureaus of identification and investigation in states which do not, at present, have such bureaus.

IV
RESOLVED, that the Interstate Commission on Crime undertake the study of the joint question of the abolition of the third degree and the freedom from compulsory self-incrimination as soon as possible after the commission has completed its work upon the problems definitely determined to be undertaken at these sessions.

V
RESOLVED, that the executive committee of the Interstate Commission on Crime investigate the possibility of improving educational methods in the field of crime prevention and report back at the next meeting of the Commission.

VI
RESOLVED, that the Interstate Commission on Crime undertake the study of the firearm situation to the end that appropriate legislation to cure the evil may be drafted by or for this commission.

VII
RESOLVED, that the Interstate Commission on Crime study the advisability of a plan for the better identification of motor vehicles, in order to prevent their ready theft and use by criminals.

VIII
RESOLVED, that the Interstate Commission on Crime recommend to the Congress of the United States the enactment of appropriate legislation to authorize, and to provide funds for, an extension of activities within the Department of Justice: 1) to provide a clearing house of information concerning all useful methods of crime control; 2) to extend the present useful and effective work of training officials, to include training for other activities in the administration of criminal justice; 3) to encourage and promote more effective cooperation of federal, state, and local agencies engaged in the administration of criminal justice, insofar as the state and local agencies desire such cooperation; and 4) to conduct such surveys as may become necessary to facilitate the administration of criminal justice.
CONDENSED MINUTES
of the
MEETING
of the
INTERSTATE COMMISSION
on
CRIME

JANUARY 21, 1937
MAYFLOWER HOTEL
WASHINGTON, D. C.
THURSDAY MORNING SESSION
January 21, 1937

A MEETING of the Interstate Commission on Crime was held at the Third General Assembly of the Council of State Governments, at the Mayflower Hotel, Washington, D.C. The session was called to order at ten o'clock by the chairman, Judge Richard Hartshorne. There were in attendance:

Attorney-General Clarence V. Beck, Kansas
Attorney-General Lawrence C. Jones, Vermont
Senator John H. Ferryman, State of Washington
Hon. T. G. Gammie, Executive Secretary, Oklahoma State Planning Board
Hon. E. D. Fite, Member, New York Legislature
Hon. Sidney A. Hesse, Ohio House of Representatives
Hon. Paul G. Kirk, Commissioner of Public Safety, Massachusetts
Hon. Anthony Sunderland, Commissioner of State Police, Connecticut
Hon. Ernest Averill, Former Deputy Attorney-General of Connecticut
Hon. Murray H. Shusterman, Bureau of Municipal Research, Philadelphia
Hon. J. C. Pryor, Iowa, National Conference of Commissioners on Uniform State Laws
Hon. Justin Miller, U. S. Board of Tax Appeals
Hon. Harvey Rothberg, Assistant Attorney-General of New Jersey
Hon. William C. Snow, Assistant Attorney-General of Wyoming
Hon. Walter F. Scherer, Assistant Attorney-General of Colorado
Attorney-General John P. Hartigan, Rhode Island
Hon. Gordon Dean, U. S. Department of Justice
Mrs. Ruth W. O'Dell, Tennessee House of Representatives
Senator W. S. Britt, North Carolina
Senator J. H. McDaniels, North Carolina
Senator Andrew J. Graves, Tennessee
Senator Clinton Goudy, Maine
Senator Raymond E. Kennedy, Maryland
Attorney-General Frank H. Patton, New Mexico

Attorney-General Gaston L. Porterie, Louisiana
Hon. Donald C. Stone, Director, Public Administration Service, Chicago
Chairman, Judge Richard Hartshorne, "Court of Common Pleas, New Jersey Secretary, John W. Woelfle, New Jersey
Raymond Nagle, Council of State Governments, Chicago

CHAIRMAN HARTSHORNE: The Commission has two major lines of endeavor today: first, the tying up of the last loose knots, if any, in our four-point legislative program which has been arduously worked out during the last year; and, second, the proceeding with the study of the points of major interest in the crime field which have been selected by our previous conferences as worthy of real study. There is, of course, always room for other points of discussion.

It may be of interest to you to know that our four-point legislative program covering the fields of apprehension, prosecution, trial, and punishment, and covering specifically the bills of fresh pursuit of criminals; extradition; removal of out-of-state witnesses for criminal trials; and out-of-state parolee supervision has had the attention of the few legislatures meeting last year, with the surprising result that, while only nine of those legislatures met in regular session, some or all of these bills were passed in ten states. This means, of course, that we even persuaded certain of the special sessions to pass our acts.

If we are able to do anything like that this coming year with forty-three or the forty-eight state legislatures in session, it is obvious that we will have all the states in the country cooperating with each other in the control of crime. That it might be made more effective, the Commission was very happy to have its contacts furthered with the Commissioners on Uniform State Laws, whom Mr. Pryor from Iowa, one of our commissioners, represents, and to find that they, who had drafted the original basic acts on extradition and removal of out-of-state witnesses, heartily approved of our suggested changes in those acts. Today the
Commissioners on Uniform State Laws and the Interstate Commission on Crime are in absolute verbatim agreement on those two acts and are pushing them jointly in the legislatures.

In addition to that, the Commission felt that it was highly advisable to see if the public was not interested in these things. Therefore, the Commission took up these bills with that very active element of the public known as "The American Legion," and I am happy to say that at the last national convention of the Legion in Cleveland, it went on record as definitely endorsing every one of these acts. Following that, we have been in touch with the commanders of the Legion in every state.

I think that perhaps it might be helpful if the gentlemen who are primarily in charge of the drafting of our bills were to discuss those bills in turn.

MR. PRYOR: I rather think that the same observation which you made in reference to the act for attendance of out-of-state witnesses, in so far as cooperation with the National Conference of Commissioners on Uniform State Laws is concerned, might be made with reference to the criminal extradition act.

CHAIRMAN HARTSHORNE: Of course, we are in verbatim agreement with the Commissioners as to the extradition act.

ATTORNEY-GENERAL JONES: After many conferences at New York, Newark, Trenton, and one regional conference of the National Association of Attorney-Generals at Hartford, a model law was drafted defining "fresh pursuit" as that term was known to the common law.

It is generally recognized in those states which have adopted the common law that a private person may lawfully arrest a person without a warrant upon fresh pursuit or otherwise when he has knowledge of the commission of a felony. However, in the drafting of this act it was believed that officers in fresh pursuit of criminals across state lines should have greater authority in making arrests while in a foreign state than private persons. The act accomplishes this by restating the common law doctrine of fresh pursuit and permits an officer to cross a state boundary and make an arrest while in fresh pursuit of a person who has committed a felony or who is believed to have committed a felony. The act provides for the return of such person, if apprehended, by extradition proceedings.

The advantage of the model act over the compact device is apparent. If adopted, an officer of any state may make arrests in fresh pursuit within the state enacting the act, while under the compact device the right to make arrests in fresh pursuit might be confined only to the contracting states.

CHAIRMAN HARTSHORNE: The act then does two things. It first makes definite, practical and evident the rights which officers have when in fresh pursuit, and second, it amplifies the rights.

I will call upon Dean Justin Miller, formerly special assistant attorney-general of the United States, now of the United States Board of Tax Appeals, to explain the extradition act which he was so instrumental in working out.

MR. JUSTIN MILLER: The subject of extradition between the states looks back to a provision of the federal Constitution and to a federal act putting it into operation, but the federal constitutional provision and the federal legislative enactment provide merely the skeleton of operation. Throughout the United States, over a period of many years, quite a variety of state procedures have been worked out for carrying on the process of extradition.

The first purpose of this act is to establish uniform procedure as to the various details which are evidenced here by the different sections of the act. It is not necessary to read them in detail, but the titles of a few sections are suggestive; form of demand; investigation of case by the governor; the issue of governor's warrant of arrest; the manner and place of execution; authority of arresting officer; and rights of accused person. All of the familiar subjects are taken care of in this act.

The second major factor in this proposed uniform act is a provision which is contained in Section 6, Extradition of Persons not Present in Demanding State at Time of Commission of Crime.

Of course, that goes back to the well known requirement that the person must be a fugitive from justice and presumably must have fled from the state where the crime was committed in order to become a fugitive. The purpose of this section is that it shall
take care of present-day crime conditions where gangs of organized criminals operate over a wider area than a particular state; where knowledge and conspiracy may range over a long period of time as well as over a large geographical area; and where the person who furnishes the brains of a particular conspiracy may never be in the state where the crime is actually consummated.

A great many of the states have adopted legislation providing that if a man commits any part of an act which, completed, would constitute a crime in that state, he shall be guilty of a crime. In order to make such an act effective, other states must recognize the propriety of returning such a person to the demanding state. The alternative, of course, is federal action, and in a small field the federal government has entered into cases of that type. The well known kidnapping situation is exactly that type of case, and the federal anti-racketeering statute is another example of the same kind. But the policy of the federal government, during this administration at least, has been not to extend such jurisdiction widely but to depend upon the states to take care of such situations.

Another one of the most interesting features of this uniform act is Section 25a, which provides for the waiver of extradition proceedings, making it possible for a person to sign a written waiver, omitting the full performance of the extradition proceedings. Of course this is very important as it cuts down the time which is involved in going through the routine extradition procedure. If the person is willing to go without protest he may do so, but in case there is any doubt as to the propriety of his removal, and it does not seem necessary to go through with the whole procedure of extradition, an informal procedure of extradition provided in Section 25a is available.

Attorney-General Beck: May I say that in the four-state compact which we executed, we did attempt to eliminate extradition procedure. I have a draft of a bill, which is about ready to go to our legislature, which will authorize the governor of our state to waive extradition proceedings for any criminals found within our state. This bill will cover only crimes committed through force and violence.

Chairman Hartshorne: I would judge that practically once every two or three weeks, on the average, some criminal from another state is brought into my chambers by the law enforcement officers of the other state and a law enforcement officer of New Jersey and I am told that he is willing to waive. A simple form is brought, which states that he has been picked up on warrant from this other state and that he is willing to waive. He signs it, and the officers from the other state and the New Jersey officer sign it. They say to the man, "You are So-and-So?"

"Yes."

"You understand that you have the right to insist upon formal extradition proceedings?"

"Yes."

"Nevertheless, you desire to return voluntarily as suggested by the officials of this other state?"

"Yes."

I sign the order, and he goes back. That is all there is to it. It is so simple and so sure and absolutely legal, as far as I can possibly see, because there is the consent of of all parties concerned—states and individuals.

I have investigated, and I find that there are literally hundreds of such extraditions in the small State of New Jersey every year, and that practically two out of every three of those hundreds of extraditions go back now on the simple waiver without all this tedious, technical, expensive, and troublesome extradition proceeding. So I suggest that even if you already have the uniform act in its original form on your books, nevertheless, it would be highly advisable for you to take these two sections, 25a and 25b, put them in a separate waiver act, and adopt that act. You would save a tremendous amount of work.

Attorney-General Hartigan: I should like to ask if you have heard much comment from states about the part of the act which gives the right to extradite a man who was not actually in the state at the time of the commission of the crime, but who participated, say, by means of telephone or telegraph. That was the problem I ran up against.

Chairman Hartshorne: That is exactly what I was going to ask Dean Miller. To answer your question directly, I would say no, because in those states where it went
through, it went through with bells on, and in those where it did not go through, I did not receive any requests for explanation.

Mr. Miller: I have heard some academic discussion on the question, but I have not heard any adverse comment on it. I suspect some of the states have been honoring extradition requests in cases of this kind without even raising the question, because several of the states do have laws of the type to which I referred.

Chairman Hartshorne: May I ask Attorney-General Hartigan whether the questions which were raised in his state were questions on the technical aspect or on the practical aspect?

Attorney-General Hartigan: Practical.

Chairman Hartshorne: They did not think that a man who sat, for instance, in Ohio and sent his henchmen to commit crimes in Pennsylvania or New Jersey should pay the penalty of the murders or robberies which were there committed?

Attorney-General Hartigan: I think that is not the point which I have in mind. The man has never left my state, for example. He is charged in Ohio with an offense on a certain day there.

Mr. Miller: Put your question in the reverse now. Rhode Island would be glad to have a man back from Ohio who had committed a crime in Rhode Island, but Rhode Island would not be interested in having Ohio take a Rhode Islander out there if he had never been to Ohio.

Attorney-General Hartigan: That is the point.

Chairman Hartshorne: I imagine what the Rhode Islanders had in mind was perhaps what certain New Yorkers had in mind. New York was afraid that certain of its own citizens might be taken to other states on purely political propositions. I suggested to the governor that he follow the verbiage in this act which the model international code has adopted. I was fortunate enough a couple of years ago to attend the International Conference on Crime at Copenhagen, where many nations sat down to work out, if possible, a uniform extradition code, and this matter of sending your citizens out to another state to be dealt with there was very closely considered in view of the bitter national jealousies which existed.

The solution at which they arrived was that persons should be extraditable for only those crimes which are recognized as crimes in both the demanding state and the asylum state. Thus a Rhode Island citizen would not be extraditable to Georgia for anything other than the statutes (or common law) of Rhode Island recognized as being a crime.

Mr. Fite: What is to be the effect of the new federal law making it a crime to flee from an indictment in a state? That makes it a federal crime. Has that law been put into operation yet? Has any court interpreted that law? What is going to be its effect on the whole system of interstate extradition?

Mr. Dean: The law is at present in effect. It was enacted in 1934 and has two provisions. The first one makes it an offense for a person to flee from one state to another in order to avoid prosecution for certain specified felonies at common law.

The second part of the statute makes it an offense for a person to flee in order to avoid giving testimony in any felony case.

As to your second question, there have been two decisions handed down under the act—one in the Circuit Court of Appeals and one in a district court. It has not been passed on by the United States Supreme Court, but I think that when it does come up the court will probably hold it constitutional. There is no question that there is an interstate traffic there of persons, as well as a public policy of keeping felons out of interstate channels.

Chairman Hartshorne: May I return to the point raised by Attorney-General Hartigan. As I see it, the point raised by these gentlemen is not one directed against Section 6 of the extradition act. They were not opposed to bringing in a man from another state when he had not been within the demanding state. They were opposed to taking out a citizen of Rhode Island under some pretext of which they were afraid. Is that not so?

Attorney-General Hartigan: That is what it really means in the last analysis.

Chairman Hartshorne: Then is not that point met by the incorporation in the act that the crime for which a person could be extradited shall be one in both states?

Attorney-General Hartigan: I might charge a man who had never been in Con-
nnecticut with a conspiracy in that state. Under those circumstances it would be difficult to make the average legislative committee think that a citizen of that state ought to go to another state.

CHAIRMAN HARTSHORNE: Ask the members of the committee if they have ever entered into a contract with a man in another state.

ATTORNEY-GENERAL HARTIGAN: Lawyers are the hardest ones to sell these facts to.

MR. MILLER: They are not looking for good logical reasons; they are looking for good reasons to support the positions they have taken.

CHAIRMAN HARTSHORNE: Of course, the public-policy point is the only reason for incorporating such a provision in the statute.

MR. MILLER: I think there are two: one, the public-policy point; the other, the necessity for state action if this is kept a matter of state control. The other alternative is federal action, and there is a constant demand to expand the federal law in this direction. We are really holding back against a demand of that kind at the present time. Tell your Rhode Island man that, and he may show a little more interest in developing state legislation to cover that situation.

ATTORNEY-GENERAL HARTIGAN: It became such a problem with me that, when these bills were before the Judiciary Committee of the Senate, rather than raise too much of a controversy over it, at the last session, I got through three of them and waived the extradition for the time being.

CHAIRMAN HARTSHORNE: In any event you might call attention to 25a. and 25b. That is going to save you real money. I will ask Attorney-General Beck of Kansas, if he will kindly report on removal of out-of-state witnesses in the absence of Attorney-General Bennett of New York.

ATTORNEY-GENERAL BECK: My discussion of this will be brief. It is a bill to provide for the attendance of out-of-state witnesses in a criminal prosecution or grand jury investigation. It provides that in a state where a criminal prosecution or a grand jury investigation is pending, and a witness is wanted who is not in that state, a judge from a court of record in the county where the prosecution is pending shall make a finding that this person who is without the state is a material and necessary witness and will so certify above the seal of his court. He sends that certificate to the court in the county of the state where the witness is found: The judge of that court then issues a summons to this person compelling him to appear before that court at a certain time. At that time a hearing is held, and the judge of that court in the county where the witness is found must find that this person is a material and a necessary witness and that it will not work undue hardship on him to travel to the other state to testify. If he makes that finding, he issues his summons or subpoena to this person to tell him to travel to the other state and testify.

Before this person has to go to the other state and testify, he must be promised immunity from service under a civil or criminal process, and he must be given five dollars per day for each day that he will be gone and ten cents per mile for each mile that he has to travel.

Briefly, that is the substance of the bill. As you can see, it is an important measure. It is one that we could have used in our state many times. Just as the chairman said a while ago in commenting on our compact, it does not touch all of the other states; it does not touch the two states with which we deal mostly—Missouri and Oklahoma. We have no compact or agreement with them and they have no law such as this. There have been several occasions when we could have used witnesses from those two states.

MR. SNOW: Is this confined to voluntary extradition or can a witness be compelled to go?

ATTORNEY-GENERAL BECK: It carries a penalty for failure to obey the summons or subpoena which is issued to him.

MR. SNOW: He is not transported out of the state?

ATTORNEY-GENERAL BECK: There is a provision in here that the judge of the court where the witness is found, in lieu of issuing a summons to the person to appear before him may order his arrest, so that the witness will be taken into custody and held if there is danger that he will get away.

CHAIRMAN HARTSHORNE: Bear in mind, gentlemen, that the rights of the witness are protected in all cases, because he is not ordered to return if there is undue hardship. In other words, it is the judge of his own
jurisdiction who sits to protect him. It is only when the needs of the public must be met without undue hardship that he will be ordered to be returned.

We will ask Attorney-General Hartigan of Rhode Island, to report on the act to authorize a compact for the supervision of out-of-state parolees.

ATTORNEY-GENERAL HARTIGAN: I think we all realize the importance now attached to probation and parole. In order for this act, it seems to me, to become really effective we must start in each state by having an up-to-date system of supervision of those on probation and those given parole by the various parole boards. I think the federal government is doing much at the present time to make this an important agency in the control of crime.

Many states now have what you might call a gentlemen's agreement to supervise parolees. For example, in my own state we have a gentlemen's agreement with New Jersey, New York, California, and one or two other states, where we supervise prisoners who have been on probation and parole in their states and come into our states; in turn they supervise those who have been released in our state and go to their states.

This act authorizes the governors to enter into compacts with other states. It gives the right to officers of one state to go into a receiving state and bring back those who have violated the law while on probation or on parole without the necessity of going through the formalities of extradition.

I think eight states have passed the act already, according to this report, and a few of them have already entered into formal compacts.

ATTORNEY-GENERAL JONES: I understand that before a state will release a parolee or probationer from its own state, it must first get the consent of the other state that it will accept the parolee or probationer and guarantee supervision.

CHAIRMAN HARTSHORNE: Correct.

MR. FITTE: You mean that is in this act?

ATTORNEY-GENERAL HARTIGAN: Yes. We now exchange, as I say, printed monthly reports with the states which I have mentioned.

CHAIRMAN HARTSHORNE: This puts into practical effect that which is in temporary præ-
INTERSTATE COMMISSION ON CRIME

To the members of the Interstate Commission on Crime:

Washington, D. C.

Gentlemen:

From October 12, 1935, to June 30, 1936, the Interstate Commission on Crime maintained a separate account at the Fifth Avenue Branch of the Guaranty Trust Company, New York City. The receipts and disbursements from this account have been duly audited by a public accounting office in Chicago and found to be in good order. A copy of the audit is attached to this report.

On June 30, 1936, the Commission was integrated with the Council of State Governments, and the balance of the funds remaining in the Guaranty Trust Company was transferred to the account of the Council in the same bank. A statement of the handling of the funds from June 30, 1936, to December 31, 1936, is also attached.

There appears, below, a summary of the receipts and disbursements of the Interstate Commission on Crime from the date of its organization, October 12, 1935, to December 31, 1936, which represents a complete consolidation of the two above-mentioned statements which are attached to this report.

Receipts:

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<tr>
<td>Rhode Island</td>
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Balance available for expenditure: $905.50

Statement from June 30, 1936, to December 31, 1936

To the members of the Interstate Commission on Crime:

On June 30, 1936, the balance of the funds remaining at the Fifth Avenue Branch of the Guaranty Trust Company, in the account of the Interstate Commission on Crime, was transferred to the account of the Council of State Governments, in the same bank. There appears below a statement of the handling of these funds as of December 31, 1936.

Receipts:

<table>
<thead>
<tr>
<th>State</th>
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<tr>
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Disbursements:

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<td>Letter service</td>
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<td>Miscellaneous</td>
<td>36.21</td>
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<td>Office supplies</td>
<td>8.85</td>
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<td>Hotels and clubs</td>
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Stenographic service ... 39.00
Stationery and printing. 319.60
Telephone and
telegraph ........... 121.94
Postage ............... 102.84
Travel expense ........ 406.06

$1,364.11
Balance available for expenditure. 905.50
Current petty cash advance to
Judge Hartshorne ......... 100.00
Balance in bank in Council of
State Governments account...$ 805.50

Henry W. Toll

CHAIRMAN HARTSHORNE: I might add to
what the treasurer has said that New York,
took over the expenses of an entire confer-
ence, and New Jersey took over the expenses
of an entire organization conference. In
rough figures, the cost to each state was one
thousand dollars, so that actually those
states have not contributed solely in the
amounts mentioned.

ATTORNEY-GENERAL HARTIGAN: Our
funds are getting low, and we need money
to operate. I would like to make a suggestion
that we carry back to our respective states
the idea that this year when the legislatures
are in session we secure at least a similar
appropriation and that it be sent to Senator
Toll as treasurer.

MR. TOLL: In the long run it is our hope
that those states which are disposed to con-
tribute to the support and the work of the
Council of State Governments will make ap-
propriations to the council as a whole with
the understanding that that money will be
used for work of various projects such as
the work of the Interstate Commission on
Crime, the Interstate Commission on Con-
flicting Taxation, the Interstate Commission
on Social Security; the work performed by
the Council for the American Legislators' Assocation, the National Association of
Secretaries of State, the National Association of
Attorney-Generals; and the publications—State Government, and the Book of
the States. It is a little like the community
chest idea.

MR. FERRYMAN: Would the treasurer
recommend that the State of Washington;
for instance, contribute to the Council as
a whole or to the specific activity in which
it is interested, the Commission on Crime,
if it does make a contribution?

Mr. Toll: I would say that it is des-
sirable that the state contribute to the
Council as a whole, with the understanding
that the Council desires to perform such
services as it can in connection with the
Commission on Crime and in connection
with all these other works. But if the legis-
lature is not willing to contribute to the
Council as a whole, then, of course, it is
much better that it should contribute to the
Commission on Crime.

ATTORNEY-GENERAL HARTIGAN: I would
like to ask the Senator if it is the idea of the
Council of State Governments to budget
these different sections so that this section,
for example, will get sufficient working funds
to carry on what has been started.

MR. TOLL: Yes, I think that there is no
question that the funds derived from
governmental appropriations would be
budgeted among the various undertakings
of the Council. The funds that are derived
from private sources, and especially founda-
tion grants, generally come earmarked; in
other words, we will have a grant, for in-
fstance, for work in connection with the
Association of Attorney-Generals that we
cannot budget or spend for the work of the
Commission on Taxation.

ATTORNEY-GENERAL HARTIGAN: Is there
sufficient to give this Commission as much
as it had last year?

MR. TOLL: Not at the present time be-
cause there are states contributing to the
Crime Commission which are not contribut-
ing to the Council.

MR. KIRK: I should like to make one or
two observations concerning the proposal of
Senator Toll. When we make the analogy
of the community fund we are on the giving
end and it is for our convenience, but I
think there is in every instance a pre-
arranged schedule of prorated distribution
of the funds, which meets with the approval
of all the ultimate recipients of the fund.
In the absence of some specific understand-
ing I think that this Commission should
rather hesitate about following such a plan.

Furthermore, last year Massachusetts ap-
propriated $1,000 for the work of the Inter-
state Commission on Crime and that was
done because we have our departmental
budgets: Each commissioner who is at the
head of a department may make such a
recommendation, but I feel sure that if
these department heads were to get together and say, "We will pool our contributions when we go before the legislature," the amount which this Commission would receive and the amount which every other commission that is a part of the Council of State Governments would receive would be far less than what is now received.

Personally, I feel a responsibility for contribution to this particular commission.

MR. KENNEDY: Our setup in Maryland is a little peculiar, probably, to most states. The police department is not under the mayor of the city but is exclusively under the governor, and all laws pertaining to the entire state, except Baltimore City, are made by the legislature. All of the appropriations are made exclusively by the finance committee through a special appropriation. In other words, we cannot divert appropriations.

CHAIRMAN HARTSHORNE: I think that what you gentlemen have said is not contrary at all to what Senator Toll has said. He has suggested the advisability of joint contribution to the joint center. He has said at the same time that if you find, because of local reasons, that that method is not feasible, then use the other method, to wit: the present method of direct contribution to this Interstate Commission on Crime. It all depends upon the circumstances.

As to the needs of the Commission, I think you understand that the Commission has never paid a single cent in salary and does not intend to; the Commission has never paid a single cent for rent and, as far as I know, does not intend to. There is a room, which the Board of Freeholders in my county have turned over to me, where I have my own secretary working a great part of the time on Incocrime work. But in this matter of printing and distributing to all the states of the Union literally thousands of sheets of information; in the matter of their preparation we received voluntary services from law professors from Michigan to Tulane and from Harvard to California; and in the mere matter of postage, printing and telegraph costs a little money is required. The last year and a half, outside of the cost of the conferences, we have spent practically $4,000 more or less, and we are now down to practically $900. With that $900 we must meet this nationwide legislative program which is going to be of great aid to every state in the Union; we must meet the needs of these study committees which will start to function this afternoon.

ATTORNEY-GENERAL JONES: May I ask the Senator just two questions? If a contribution is made to the Council of State Governments by a state, earmarked for Incocrime, as I understand it, that money would be used only for that purpose?

MR. TOLL: Yes, that is correct.

ATTORNEY-GENERAL JONES: If a contribution is made by a state to the Council of State Governments, would Incocrime derive a portion of that contribution toward its expenses?

MR. TOLL: Yes, I am sure that that would be the policy of the board of managers. The question comes up in a new form in connection with the development of Incocrime, for the reason that the backlog of our expenses has come through foundation grants, and the matter is involved in that way with our obligations as to the expenditures which we make of the grants. But I am sure it would be the policy of the board to distribute governmental appropriations, among the various agencies such as the Commission on Taxation, the Commission on Crime, the Commission on Social Security, and the work of the organizations such as the attorney generals, the secretaries of state, and the legislators.

CHAIRMAN HARTSHORNE: I am wondering, Senator, if the men should not be advised in regard to that backlog. While the backlog is usable for other subordinate entities of the Council it is not available to Incocrime, at least, as yet, so that the Interstate Commission on Crime stands solely dependent on contributions from the states.

MR. TOLL: Incocrime stands exactly on the same basis as the other commissions, with the exception that at one time there was a special grant for disbursements in connection with the Interstate Commission on Conflicting Taxation. At the present time the status of the crime commission and the social security commission, for instance, is identical.

CHAIRMAN HARTSHORNE: I was alluding to the Associations of Attorney-Generals
and others like it. They have the use of
the backlog.

Mr. Toll: Yes. The funds available
from the foundation are used for the work
of the central secretariat, which of course
is also performing work for the Crime Com-
mission.

Mr. Kirk: If we exclude what consti-
tutes the backlog, so to speak, is there any
program now of distribution among such
agencies as our own? Will there be an equal
distribution of the funds which are procu-
ced from the states, or will there be a
prorated distribution to be determined
eventually by the managers?

Mr. Toll: That is a question which
will come up at the next meeting of the
board of managers of the Council.

Mr. Kirk: It occurs to me that we might
reverse the situation and make the contri-
butions, as they hitherto have been made,
directly to the Interstate Commission on
Crime, and the executive committee on the
Interstate Commission on Crime could itself
determine what amount should be payable
to the Council of State Governments for
whatever work is done.

Mr. Toll: I think the Interstate Com-
mission on Crime needs all it can get. You
would not expect to part with any of it for
the Commission on Taxation.

Mr. Sunderland: That is the point for
which I have been listening. The small
contribution that Connecticut made came
out of the funds of my department. I am
not interested in tax arguments. If I make
another payment this year from my depart-
mental funds to the Interstate Commission
on Crime I would like to feel assured that
it would be used for that purpose only.

Mr. Toll: It will be—100 per cent.

Attorney-General Jones: I think
probably this Commission should act on
Senator Toll's report, and I move that his
report as treasurer be accepted, approved,
and placed on file.

The motion was seconded by Mr. Sunder-
land, put to a vote, and carried.

The meeting recessed at 12:50 P.M.

THURSDAY AFTERNOON SESSION

January 21, 1937

THE meeting of the Interstate Commis-
sion on Crime reconvened at 2:20
P.M., Judge Hartshorne presiding.

Chairman Hartshorne: The firearms
question is, of course, a very serious one.
The serious crimes ordinarily occur either
in the use of firearms or with firearms
present for possible use; in other words,
there is practically no dangerous criminal
who is not in possession of illicit firearms.

Various states have done various things.
The Commissioners on Uniform State Laws
have drafted a uniform act for the control
of firearms. I understand that there was
a very great difference of opinion when that
act was finally adopted, so that the Com-
misioners themselves were far from satis-
fied that they had a 100 per cent solution
of the problem.

In addition to that, go to any of your
police, and they will tell you that one of
the greatest difficulties with which they
have to contend is the possibility of obtain-
ing firearms from without the state, which
very definitely calls for interstate coopera-
tion.

Now if we turn from the solely intrastate
control of firearms to the extrastate con-
trol, we find two possibilities: either the
passage of a federal act or the passage of
acts by the states which will protect ship-
ment from one to another, or a combination
of the two.

In connection with a combination of the
two, I am quite sure it has not escaped the
attention of either the lawyers or of the
laymen present that the Supreme Court of
the United States has very recently passed
on the constitutionality of certain acts
covering prison made goods which may well
form a definite line of approach for the con-
trol of firearms in this interstate danger.

I might say that the court has there
called attention to the fact that not only
with regard to labor but with regard to
liquor, with regard to the taking of women across state lines for immoral purposes, and with regard to various other aspects, the federal government and the state governments have supported each other's public policy by reciprocal legislation.

Now, specifically, we have in the states prohibition against the sale of firearms except to those who are duly licensed to receive them. Then we have legislation in the federal government. The legislation which was recently upheld by the United States Supreme Court, as supporting the police powers dealing with prison labor, went on two lines. First, the Hawes-Cooper Act, which provided that a shipment of convict made goods to another state should be subject to the laws of that other state upon its crossing of the state line. Since this was evidently not felt to be 100 per cent in its control, Congress passed the Ashurst-Sumners Act, which has been declared valid within the past two or three weeks. That act provides that no shipment of convict made goods shall be made in violation of a state law. In other words, if New Jersey prohibits the public sale of convict made goods, as it does, then the convict made goods cannot be shipped, from a state which permits their public sale, into New Jersey. However, if a state permits the public sale of convict made goods, then the state in which such goods are made may sell freely those goods in such state. The liquor control measure, the Webb-Kenyon Act, which did the same thing in the case of Clark against the Western Maryland Railway, was held valid. Here we have a definite line of approach as near bullet-proof as anything we can find if we are careful in the way we draw the act.

Here is the possibility of applying it. In the recent case on the Ashurst-Sumners Act, the court said that Congress had the right to prevent interstate commerce from harming or impeding the public policy of the respective states. Therefore, if the respective states declare, as a part of their public policy, that firearms in the hands of criminals are against public policy, Congress can pass reciprocal legislation, providing that no shipment of firearms shall be made to a state in violation of its laws. It would, of course, be a violation of its laws for a company in a distant state to ship arms to a criminal who did not have a license to receive arms and who lived in the state requiring every receiver of firearms to hold a license.

There is an outline of the picture which we have to face in a very important aspect of affairs.

Mr. Kennedy: I am assuming that you are under the impression that in all states persons carrying lethal weapons have a license to do so?

Chairman Hartshorne: No. We wish they did. Let's get the full picture of this. I think it is very possible that our munitions manufacturers have by this time adopted a somewhat different attitude than that of ten or a dozen years ago. At that time when a federal law was proposed to control this dealing in firearms across state lines, their lobby emasculated the bill, putting it bluntly. The result was a federal law which prevented the mailing of firearms across state lines, but left open the shipment by express, the carriage by automobile, or in person. So the situation exists under which I have sentenced a number of people who had guns from Racine, Wisconsin, and various other places. There is a firm out there which advertises in all of our sporting papers, and which makes some sweet little weapons. I had one little affair the size of a penknife which looks like a fountain pen. I could carry it in my vest pocket, pull it out, point it at you casually, and you would be dead. Certainly that is not an article which is needed for the defense of the nation. In other words, the great argument for the carriage of firearms by our public, as I understand it, is that they must be taught how to carry arms in the event of war. In so far as hunting is concerned, which is the other ground advanced for the use of firearms, revolvers are not very good for shooting deer or pheasant.

I think we would probably get farther and with less opposition if we largely confined our attentions to revolvers, trick pen-knives, and such things as machine guns.

Attorney-General Jones: What about weapons which are carried for one's defense, Judge?

Chairman Hartshorne: Do you mean by that, a revolver?

Attorney-General Jones: Yes.

Mr. Pryor: They are licensed.
Attorney-General Jones: The trouble is we would have to have a constitutional amendment in our state, because our courts have already held a statute to license unconstitutional.

Mr. Gammie: What about the protection of the home? One certainly has a right to protect one's home.

Chairman Hartshorne: I did not mean to give the impression that we should definitely and finally prohibit even revolvers, but I think that we could regulate them.

Mr. Gammie: I think that in our state it would not be a question of bringing arms into the state. I believe there are enough guns in our state right now to last the criminals for the next hundred years without ever bringing another one in, and everyone who has those arms, including the home owner, has a right to them.

Mr. Britt: Do you not confine what you say to weapons concealed about the person?

Mr. Pryor: They might be concealed in an automobile.

Chairman Hartshorne: I think the criminal should not be permitted to carry them at all, whether he walked along the street flourishing them or concealed them.

Mr. Pryor: To what extent are the mail-order houses responsible for these firearms?

Chairman Hartshorne: A tremendous extent; but they do not send them by mail.

Mr. Sunderland: The strongest one which I know anything about is the New York State Act. It is necessary to have a license even to own a firearm in the home. We do not have any license laws for the possession of firearms in the homes. We do have for carrying them on the person or in an automobile.

Attorney-General Patton: In New Mexico we would probably be confronted with the same kind of proposition as that in Vermont. We have statutes out there which provide that travelers may carry firearms on the person, or in automobiles, contingent upon the provision that when coming into a settlement they must disarm within fifteen minutes. We have never had any court decision on any of those questions. Thousands and thousands of pistols—enough to supply all the criminals in the entire southwest—are in New Mexico at the present time.

Chairman Hartshorne: I suppose that, even admitting that to be the case, before you started trying to round up weapons in the hands of criminals, you would want to be sure that the reservoirs elsewhere were closed.

Attorney-General Patton: I think our main line of attack at the present time is against the reservoir and the limitation of the future supplies.

Chairman Hartshorne: We have gone into local conditions, and among those conditions are going to be state constitutions which will make extremely difficult the adoption of any law upon which we may agree. But the thing for us to do is to try to agree upon a sound policy which will be of help in the bulk of the country.

Attorney-General Jones: I attempted to have the legislature pass a registration law without the requirement of license fees, solely for the purpose of helping in the apprehension of criminals and in the solving of certain types of crimes, because in Vermont we have many burglaries where the sole intent of the person burglarizing a store is to get possession of revolvers. In many instances we would find revolvers but there would be no way of identifying them. Homicides are committed; the revolver is found, but there is no way of identifying it because usually there is no record. So we required sporting goods stores to keep a record of every transaction where a revolver was sold, the number of the revolver, and the name of the person to whom the revolver was sold. We could not get to first base on it.

Chairman Hartshorne: I think you appreciate that we are dealing with an extremely complex problem; one with which the methods of dealing are wide and variegated. I am inclined to doubt whether or not, even though we have certain of the pertinent facts here, we can sit down in this body and proceed to draft out a verbatim, 100 per cent act or series of acts. It would seem to me that the best course to pursue would be to agree on some definite principles and delegate a group to select the best act and report back to the Commission.

I am wondering if we cannot agree upon some such general principles as these; first, that our desperate criminals in the most
serious crimes have commonly made those crimes possible by the use of firearms; second, that that situation necessitates further control of firearms; third, that that control, to be effective, must occur not only within an individual state but must prevent an influx from other states. Accordingly, the regulation must come not only from a purely intrastate statute but from a federal and state combination to uphold the policy within the state, and possibly that the line of that outside cooperative endeavor should follow the tested lines upheld recently by the United States Supreme Court as to the shipment of convict made goods.

Mr. Kirk: I think it is very well stated.

Attorney-General Jones: Colonel Kirk, what is the percentage of homicides in your state due to the use of firearms? Is it as high as 90 per cent?

Mr. Kirk: It would be only a guess, but I think that is quite close.

Chairman Hartshorne: I see that Mr. Gordon Dean of the Department of Justice is back with us. I would like to get his view as to the pertinency of the decisions by the Supreme Court on the Hawes-Cooper and Ashurst-Sumners Acts as bearing upon the possibility of similar acts to control firearm shipments across state lines.

Mr. Gordon Dean: I argued the Kentucky Whip and Collar case in the Circuit Court of Appeals, and I am pretty much impressed with the possibilities under that decision for the federal government to cooperate and to give effect to an established enforcement policy in the states in any number of fields. Applying, particularly to firearms, I assume that the federal law, which would give effect to the state law, would have to take the form of a prohibition of interstate shipments to private individuals excepting, of course, law enforcement agencies; that is, the prohibition of shipment to states which have some kind of prohibition within their own jurisdiction. Those provisions stand now in such confused state that it is hard for me to center my thought on any particular form of state law to which you would thereby be giving effect. The average state law simply is a law against carrying concealed weapons either on the person or in a car.

Chairman Hartshorne: Assuming, for instance, that this Commission were able to draft and make effective, in a considerable number of states, laws which would keep firearms out of the hands of criminals, then according to the Kentucky Whip and Collar case the federal government could decree that no firearms shall be shipped across state lines to reach the hands of criminals, could it not?

Mr. Dean: Yes.

Chairman Hartshorne: The government could provide against a shipment being made unless the identity and residence of the consignee were made known to the police before he received it.

Mr. Dean: Yes, I think that could be done.

Mr. Kirk: A dealer licensed by state authorities could also be included.

Mr. Dean: That is another possibility.

Mr. Sunderland: Is there any state which now forbids the sale of revolvers entirely?

Mr. Pryor: It seems to me that one of the greatest difficulties is defining the kind of firearms we have in mind. Are you going to include shotguns and all sorts of rifles, or what?

Mr. Dean: To start the discussion, make it cover all machine-guns, sub-machine-guns, shotguns, rifles having a barrel length of less than eighteen inches, and all pistols and revolvers.

Chairman Hartshorne: Mr. Dean, do you not feel that in view of the wide variance of the possibilities of such regulations, it is practically impossible for us to reach any conclusion here as to the exact kind of act or acts we should recommend, and therefore, that the best we can hope to do is to agree upon certain very general principles and then delegate the selection and drafting to a group to report back.

Mr. Dean: Oh, I should think so, because it certainly is a field where there is the widest variation in state law.

Chairman Hartshorne: I attempted to suggest a few general principles along which we might proceed: first, that our most desperate crimes were ordinarily complicated with the use of firearms; second, that that regulation must occur both intrastate and extrastate; and third, that if it occurred extrastate we should use both federal and state statutes.
Mr. Pryor: May I suggest that there is a uniform machine gun act prepared by the National Conference of Commissioners on Uniform State Laws, and that it deals with the subject of machine guns alone. I think that should be taken into consideration.

Mr. Goudy: Do you gentlemen differentiate between loaded and unloaded weapons? The decision of a judge of the Superior Court in Maine gave a verdict of not guilty in the case of an unloaded weapon on the ground that it was not a dangerous weapon. The man was liberated.

Mr. Pryor: I make the motion that a firearms committee consider the question of control and regulation of firearms along the lines of the principles as set forth by Judge Hartshorne.

The motion was seconded by Mr. Porterie.

Attorney-General Jones: Is there any state that has a law which prohibits the sale of short firearms except under a duly authorized state agency? If a law could be drafted which would prohibit the sale of short firearms by any person within the state and provide for some state agency to sell firearms, keeping a record of the number and the transaction, then a federal law could be enacted prohibiting the importation of firearms except by this one state agency. It would seem to me that with your licensing requirement this would be a solution.

Chairman Hartshorne: That is a suggestion which this group should consider in line with the motion by Colonel Kirk.

Is there any further discussion? If not, all in favor say "aye." Opposed? The motion is carried.

Mr. Dean, in the very issue of Law and Contemporary Review, in which your interesting article appeared, there was an article on control of firearms which cited a large number of statutes from the different states. Is my recollection correct?

Mr. Dean: Yes, that is true.

Chairman Hartshorne: We can turn to that for some aid.

Mr. Dean: I think I can obtain the firearms laws of the various countries of Europe through the Department of State. Some of them are rather interesting.

Chairman Hartshorne: Shall we make a request of Mr. Dean to that effect?

Mr. Kirk: Yes.

Chairman Hartshorne: May we, therefore, request Mr. Dean kindly to use his good offices with the Department of State to that end.

I will ask Mr. Woelfle to report on the Committee on Motor Vehicle Identification, since Attorney-General Beck had an engagement elsewhere after he completed his meeting.

Mr. Woelfle: As a background, I might tell you that on December 19, 1936, the identification committee met in the Phillips Hotel at Kansas City to begin its work and it passed there the following resolution:

"WHEREAS, there seems to be no precedent for establishing any definite method of motor vehicle identification, and

"WHEREAS, no plan of study has been furnished this committee which will guide it in its deliberations, and

"WHEREAS, the field of investigation seems to be so extensive and unwieldy, now therefore be it

"RESOLVED, that an effort be made to secure the cooperation of the motor car manufacturers, the insurance companies, and motor theft bureaus for such information as is available from them, and another meeting of this committee be held in Washington, D. C., during the meeting of the Interstate Crime Commission in January of 1937."

Since then the chairman of the subcommittee, General Beck, has been hard at work, and the consensus of opinion at the present time is that there are two definite possibilities: First, it is suggested that some kind of statute be drafted to license and bond junk dealers or dealers in used cars and used parts, and that the method could be this: that the bond be collectible by individual citizens who have cars stolen and which have eventually turned up at junk yards. In the next place, it is suggested that it is possible to develop a nonremovable plate, or, better yet, that it is possible to develop, with the cooperation of the motor vehicle manufacturers, a plate which is built into the outside of the body of the car itself.
so that the state in which the car is going to be used could stamp on this plate identification data. The committee feels that this is one way of overcoming theft of cars and removal of license plates. If the plate were stamped right into the body of the car and room left for the states to put on other data which they felt necessary, then a policeman going up to the back of the car would immediately see whether or not that part of the car had been tampered with, and, if necessary, chemicals could be used to bring out any changes made by the thief.

In developing that thought General Beck has been in touch with the automobile manufacturers, and he says that the consensus of opinion to date is that they would be ready and willing and able to pursue this scheme of stamping a plate on the back of the car itself if they could be guaranteed that such would not increase the cost of the car to the individual purchaser.

General Beck also said that on his way west he intends to have further conferences with various manufacturers in the automobile region.

The committee hopes to report further at the next Conference of the Interstate Commission on Crime.

Chairman Hartshorne: The committee does not feel that it is yet in a position to present a report sufficiently covering the subject for the general Commission to act upon.

Mr. Woelfle: That is right. It requires further study, and the members feel that at this time they are in no position to make a definite recommendation to the Interstate Commission on Crime and subsequently to the General Assembly.

Mr. Patton: Mr. Woelfle, does your first recommendation with reference to the statute for the licensing of junk dealers and dealers in used cars include the ordinary used-car dealer?

Mr. Woelfle: The committee seemed to feel that the statute should include the used-car dealer as well as the junk dealer who sells wrecked cars and parts for wrecked cars. It would make it comprehensive.

Chairman Hartshorne: Of course, the difficulty with that is that most of these cars which are criminally used are not junks. They are not cars bought from junk dealers. They are cars that are in good condition and stolen from the street. What we want to do is to prevent those cars from getting into the wrong hands.

Mr. Kennedy: I find in my own experience with other states that many have only a license law, unlike Maryland which has a title law. West Virginia is one unless it has changed in the last year. That being true, suppose I wrote to West Virginia about an inventory of a car, giving its motor number and serial number; without a title law West Virginia authorities cannot help me at all. A man may steal a car in Maryland and have a Georgia license on it. How would the authorities of West Virginia pick up that car? First it is necessary to get a uniform title law requiring that all motor and serial numbers be registered.

Chairman Hartshorne: Colonel Kirk will you report for the committee on sound motion picture development?

Mr. Kirk: The subject which was referred to the committee on sound motion picture development is one, I think, of rather limited application and probably limited interest. It pertains to the field of identification of criminals. Perhaps I had better preface the report of the committee by stating that over a year ago at New Jersey there was an exhibition of sound moving pictures in which criminals were being interviewed by law officers or prison officials; they answered questions and were told to move about so that those watching the film and hearing their voices could retain a very definite impression of their personality and characteristics. It was originally devised by Colonel Schwarzkopf, then commanding the New Jersey State Police. A similar display of New Jersey equipment was made at the last meeting of the Interstate Commission on Crime in Boston.

Your committee is of the opinion that sight identification by sound motion pictures possesses indisputable advantages. In substance, the method could conceivably permit of a nation-wide, simultaneous line-up of criminals. Peculiar physical and vocal characteristics and mannerisms are disclosed as well as an opportunity to observe the alleged criminal in action. The striking advantages of a speaking likeness over a still close-up photograph are self-evident and require no further comment.
On the other hand, there are other factors which must be considered in determining the present feasibility of the method. First among these is the cost. The initial equipment required to take the sound pictures on the standard size film, namely, 35 mm., would probably not be less than $15,000, although it has been very difficult to ascertain positively just what the cost of this equipment would be.

The cost of photographing a given subject would not be less than $50. Additional prints would involve further expenditure. Your committee is of the opinion that the expense which the adoption of the method would involve is too great to be assumed by the average police department.

A further factor to be considered in determining the present feasibility of the method is the selective process which must be followed in choosing the subjects to be photographed. Certainly every person apprehended or convicted for the commission of a major crime would not ipso facto be a subject for such photography. Presumably the sponsors of the method believe it should be confined to confirmed and habitual felons.

A third factor is that the active cooperation of the criminal is required in order to achieve the maximum success by the use of the method. He must talk, and when he talks he must speak in such a fashion as to reveal his true vocal characteristics and assume typical poses. Your committee is not aware of any legal method which could effectively bring about this cooperation.

A fourth consideration in the light of present feasibility would mean that the method would have to be adopted by many of our penal institutions rather than police agencies in order that sound motion picture likenesses could be made of notorious criminals now in custody, or in confinement, who are about to be released or who might possibly escape from confinement. Here again the question of selectivity of subject arises, as well as the question as to which of the agencies, penal or police, should employ the method, if it is to be adopted. There must be some predictability about the conduct of the person considered as to whether or not he should be a subject for this photography.

In view of the foregoing considerations, your committee submits that the method might well be adopted by the United States Department of Justice and be made practical by the joint cooperation of the Federal Bureau of Investigation and the Federal Bureau of Prisons.

An alternate recommendation is that the method be employed by interstate crime bureaus acting cooperatively on a regional basis.

Your committee wishes to conclude this report by commending Colonel Schwarzkopf for his enterprise and initiative in devising, demonstrating, and encouraging the sound motion picture method of criminal identification.

CHAIRMAN HARTSHORNE: May I ask, Colonel, is not the FBI fully informed as to this already?

MR. KIRK: The FBI had representatives present at the demonstration which was given at Trenton.

CHAIRMAN HARTSHORNE: It was my understanding through Colonel Schwarzkopf that he had subsequent thereto been in touch with the bureau. In other words, the bureau does not require any definite information from us regarding this novel procedure.

MR. KIRK: It is purely a question for that bureau to decide.

CHAIRMAN HARTSHORNE: The committee then does not feel that it is practicable to be recommended to the various states of the Union singly because of its expense?

MR. KIRK: That is right.

CHAIRMAN HARTSHORNE: You understand, gentlemen, that at the Boston conference there were a large number of suggestions made, but the Commission was composed of members of the human race, so it could not do everything at once. Therefore, it selected certain matters, such as firearms, motor vehicle identification, the sound motion picture proposition, and the matter of crime prevention, as probably requiring the speediest attention.

MR. FERRYMAN: I move that the Colonel's report be accepted with thanks.

The motion was seconded and carried.

CHAIRMAN HARTSHORNE: We are very fortunate in having Dean Morse here from the Department of Justice who is, as I understand it, taking Dean Miller's place in the department. I am sure we would all be very glad to hear from Dean Morse about...
his views on crime prevention and how he thinks that this Commission with its liaison in every state can really help.

DEAN WAYNE L. MORSE (Oregon): In regard to the survey of release procedures being conducted by the Department of Justice, I am very happy to report that although Justin Miller will not be able to devote his full time to the study, he has been persuaded to remain as advisory director. His assistance is going to be very beneficial to those of us who have, what I consider to be, the very important responsibility of bringing that survey to a successful close. As you know, it is now under way in every state in the Union, with the exception of Illinois, and we hope to be able to report within a very few days that the survey has been initiated in that state as well.

This afternoon I wish to emphasize just two things in regard to the survey. First, it is a fact-finding and not a fault-finding study. No state administrator need fear giving us wholehearted cooperation on the score of any possibility of our issuing a destructive or negative criticism. I know that some privately endowed surveys in the past have been principally of that nature. I feel that such studies are not of great value to the states; I also feel that they do not help very much in the movement toward enlarged research programs. We believe that the first thing to find out in regard to release procedure is the facts of the various types of procedures used in the different states.

That is, of course, going to be of inestimable value for the improvement of release procedures in the different states, and I think it will prove to be an inducement to enlarge the program of interstate cooperation and also increased cooperation between the states and the federal government. I hope that out of it there may develop a clearing house for information in regard to criminal law problems, possibly located in the Department of Justice or elsewhere, but I think (and I am speaking now as a state delegate) you will agree with me that there is a need for a long-view program of research activity in the field of criminal law, especially dealing with crime prevention work.

The second point I wish to emphasize relates to statistical accuracy of the Attorney-General’s survey. The consistency tables which have been used in checking the results gathered in the field show a degree of accuracy which will place this study, in my opinion, in the first rank of statistical surveys, and I think that that is due largely to the very fine work of Justin Miller and Dr. Sanders, the technical director of the study.

The first report we hope to have ready for publication July 1. It will deal primarily with the legal phases—a digest of the laws, a description of the various procedures of release used in the various states, and some evaluation of the same, judiciously written, without any particular criticism as to responsibility for weakness, because we recognize that weakness is in the system and not in the men charged with the administration of the system as they find it.

CHAIRMAN HARTSHORNE: I think that along the line of the Dean’s statements as to this statistical accuracy, you may be interested to know that they were gathering, I think, 120 different items of information from each individual parolee, and that literally thousands if not hundreds of thousands of records are being tabulated in a relatively brief period of time.

Dean Morse, I assume that you and Mr. Dean will be glad to be of service to us in the future, as we may find that crime prevention, or firearms, or other topics will require some of your aid.

DEAN MORSE: I am sure that is the case.

ATTORNEY-GENERAL PATTON: A short time ago I received a letter from Dean Miller in connection with your suggestion on the CCC Camp proposition. I wonder if this would be an appropriate time for you to tell us something about that.

CHAIRMAN HARTSHORNE: Dean Miller and I had naturally been in discussion over
this crime prevention matter. We had discussed school programs and various other aspects. I suggested to him the possibility of the broader use of the CCC Camps as a real crime preventive. At various times in cases where it was a grave question whether a young man should be sent to a jail or put on probation, I have adopted the medial course of sending him to a CCC Camp. There he was not in a custodial institution but he was under definite supervision and was leading a healthful, outdoor life away from the bulk of the temptations which had proved his downfall.

I discussed with Dean Miller whether or not we should ask the government, as a crime preventive measure, to increase either the range of ages within which boys could be sent to such camps or, to create junior camps for younger boys, which would be run under similar auspices but with a curriculum directed to their greater use. It was simply a suggestion.

Mr. Kennedy: May I add just two thoughts to that? First, I think that all persons who have been in contact with juvenile courts appreciate that many of the boys, who go before such jurisdiction are those who live where the opportunity of getting into trouble is more prevalent than for the boy who is raised in an environment of a higher level. In other words, the boy of a very humble home, where the susceptibility to crime is greater, should not be asked to meet the same standards as the boy of a higher environment.

Second, would it not be a great advantage to segregate the first offender from the second, third, fourth, or fifth offender, for the reason that a first offender will learn more criminal technique in the penitentiary in two weeks than he would in his own environment in fifty years?

Mr. Ferryman: With reference to the Senator's remarks, do you not believe that thinking men and women, men and women who are concerned with the stability of the nation, consider that the solution of the problem is the re-establishment of the American home?

Mr. Kennedy: Since we have an army and very substantial buildings in our regular army posts, why could we not have an arrangement whereby a young man who had no parents, or who had reached the age where he was released from an orphanage, could go into the army, receive military training and, at the same time, obtain a junior high school education? I think the expense would be nil in comparison with the general good which might result over a period of four years, not only to the community but to the youth.

Chairman Hartshorne: It is highly worth considering.

I have received a communication from the Narcotics Bureau of the Treasury Department. It expresses the hope that this Commission will take an interest in seeing that the state laws and that the state administration of narcotics are improved. Marijuana or cannabis, which is not covered by the uniform act drafted by the commissioners on uniform state laws is particularly mentioned. I am informed that it is found not only in the Philippines but also in the New Jersey meadows. Therefore, it is being spread among the less privileged elements of our population.

Mr. Hesse: Several years ago we had presented to the Ohio legislature a model act sent to us by the FBI for the formation of a state bureau of investigation. That was not acted upon. I wonder if the Interstate Commission on Crime has taken any active part in pushing the enactment of bills in various states along that line.

Chairman Hartshorne: We passed a resolution at our Boston Conference urging the creation of state bureaus of investigation and other similar organizations.

Mr. Hesse: Is there available a report of the number of states which have it, under what method they are functioning, and under whose supervision?

Attorney-General Patton: I believe you could get that information by directing a letter to Chicago to the Council of State Governments. It would make the inquiry and collect the information.

Chairman Hartshorne: I think that is true.

The meeting recessed at 4:30 p.m.
MODEL CRIME BILLS

AN ACT TO MAKE UNIFORM THE LAW ON FRESH PURSUIT AND AUTHORIZING THIS STATE TO COOPERATE WITH OTHER STATES THEREIN

Drafted and recommended by the Interstate Commission on Crime

Be it enacted, etc. (Use the proper enacting clause for the state.)

SECTION 1

Any member of a duly organized state, county, or municipal peace unit of another state of the United States who enters this state in fresh pursuit, and continues within this state in such fresh pursuit, of a person in order to arrest him on the ground that he is believed to have committed a felony in such other state, shall have the same authority to arrest and hold such person in custody, as has any member of any duly organized state, county, or municipal peace unit of this state, to arrest and hold in custody a person on the ground that he is believed to have committed a felony in this state.

SECTION 2

If an arrest is made in this state by an officer of another state in accordance with the provisions of Section 1 of this act, he shall without unnecessary delay take the person arrested before a magistrate of the county in which the arrest was made, who shall conduct a hearing for the purpose of determining the lawfulness of the arrest. If the magistrate determines that the arrest was lawful he shall commit the person arrested to await for a reasonable time the issuance of an extradition warrant by the governor of this state. If the magistrate determines that the arrest was unlawful he shall discharge the person arrested.

SECTION 3

Section 1 of this act shall not be construed so as to make unlawful any arrest in this state which would otherwise be lawful.

SECTION 4

For the purpose of this act the word "state" shall include the District of Columbia.

SECTION 5

The term "fresh pursuit," as used in this act, shall include fresh pursuit as defined by the common law, and also the pursuit of a person who has committed a felony or who is reasonably suspected of having committed a felony. It shall also include the pursuit of a person suspected of having committed a supposed felony, though no felony has actually been committed, if there is reasonable ground for believing that a felony has been committed. Fresh pursuit as used herein shall not necessarily imply instant pursuit, but pursuit without unreasonable delay.

SECTION 6

Upon the passage and approval by the governor of this act it shall be the duty of the secretary of state (or other officer) to certify a copy of this act to the executive department of each of the states of the United States.

SECTION 7

If any part of this act is for any reason declared void, it is declared to be the intent of this act that such invalidity shall not affect the validity of the remaining portions of this act.

SECTION 8

This act may be cited as "The Uniform Act on Fresh Pursuit."

SECTION 9

This act shall take effect immediately.

AN ACT PROVIDING THAT THE STATE OF—MAY ENTER INTO A COMPACT WITH ANY OF THE UNITED STATES FOR MUTUAL HELPFULNESS IN RELATION TO PERSONS CONVICTED OF CRIME OR OFFENSES WHO MAY BE ON PROBATION OR PAROLE

Drafted and recommended by the Interstate Commission on Crime

Be it enacted, etc. (Use the proper enacting clause for the state.)

SECTION 1

The governor of this state is hereby
authorized and directed to execute a compact on behalf of the state of ............. with any of the United States legally joining therein in the form substantially as follows:

A COMPACT

Entered into by and among the contracting states, signatories hereto, with the consent of the Congress of the United States of America, granted by an act entitled "An Act Granting the Consent of Congress to Any Two or More States to Enter into Agreements or Compacts for Cooperative Effort and Mutual Assistance in the Prevention of Crime and for Other Purposes."

The contracting states solemnly agree:

1. That it shall be competent for the duly constituted judicial and administrative authorities of a state party to this compact (herein called "sending state"), to permit any person convicted of an offense within such state and placed on probation or released on parole to reside in any other state party to this compact (herein called "receiving state"), while on probation or parole, if:
   (a) Such person is in fact a resident of or has his family residing within the receiving state and can obtain employment there;
   (b) Though not a resident of the receiving state and not having his family residing there, the receiving state consents to such person being sent there.

Before granting such permission, opportunity shall be granted to the receiving state to investigate the home and prospective employment of such person.

A resident of the receiving state, within the meaning of this section, is one who has been an actual inhabitant of such state continuously for more than one year prior to his coming to the sending state and has not resided within that state more than six continuous months immediately preceding the commission of the offense for which he has been convicted.

2. That each receiving state will assume the duties of visitation of and supervision over probationers or parolees of any sending state and in the exercise of those duties will be governed by the same standards that prevail for its own probationers and parolees.

3. That duly-accredited officers of a sending state may at all times enter a receiving state and there apprehend and retake any person on probation or parole. For that purpose no formalities will be required other than establishing the authority of the officer and the identity of the person to be retaken. All legal requirements to obtain extradition of fugitives from justice are hereby expressly waived on the part of states party hereto, as to such persons. The decision of the sending state to retake a person on probation or parole shall be conclusive upon and not reviewable within the receiving state: Provided, however, that if at the time, when a state seeks to retake a probationer or parolee there should be pending against him within the receiving state any criminal charge, or he should be suspected of having committed within such state a criminal offense, he shall not be retaken without the consent of the receiving state until discharged from prosecution or from imprisonment for such offense.

4. That the duly accredited officers of the sending state will be permitted to transport prisoners being retaken through any and all states parties to this compact, without interference.

5. That the governor of each state may designate an officer who, acting jointly with like officers of other contracting states, if and when appointed, shall promulgate such rules and regulations as may be deemed necessary to more effectively carry out the terms of this compact.

6. That this compact shall become operative immediately upon its execution by any state as between it and any other state or states so executing. When executed it shall have the full force and effect of law within such state, the form of execution to be in accordance with the laws of the executing state.

7. That this compact shall continue in force and remain binding upon each executing state until renounced by it. The duties and obligations hereunder of a renouncing state shall continue as to parolees or probationers residing therein at the time of withdrawal until retaken or finally discharged by the sending state. Renunciation of this compact shall be by the same authority which executed it, by sending six months' notice, in writing, of its intention to with-
draw from the compact to the other States party hereto.

SECTION 2

If any section, sentence, subdivision, or clause of this act is for any reason held invalid or to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act.

SECTION 3

Whereas an emergency exists for the immediate taking effect of this act, the same shall become effective immediately upon its passage.

SECTION 4

This act may be cited as “The Uniform Act for Out-of-State Parolee Supervision.”

AN ACT TO MAKE UNIFORM THE PROCEDURE ON INTERSTATE EXTRADITION

Drafted and recommended by the Interstate Commission on Crime and the National Conference of Commissioners on Uniform State Laws.

Be it enacted, etc. (Use the proper enacting clause for the state.)

SECTION 1

DEFINITIONS. Where appearing in this act, the term “governor” includes any person performing the functions of governor by authority of the law of this state. The term “executive authority” includes the governor, and any person performing the functions of governor in a state other than this state. The term “state,” referring to a state other than this state, includes any other state or territory, organized or unorganized, of the United States of America.

SECTION 2

FUGITIVES FROM JUSTICE: DUTY OF GOVERNOR. Subject to the provisions of this act, the provisions of the Constitution of the United States controlling, and any and all acts of Congress enacted in pursuance thereof, it is the duty of the governor of this state to have arrested and delivered up to the executive authority of any other state of the United States any person charged in that state with treason, felony, or other crime, who has fled from justice and is found in this state.

SECTION 3

FORM OF DEMAND. No demand for the extradition of a person charged with crime in another state shall be recognized by the governor unless in writing alleging, except in cases arising under Section 6, that the accused was present in the demanding state at the time of the commission of the alleged crime, and that thereafter he fled from the state, and accompanied by a copy of an indictment found or by information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereupon; or by a copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the executive authority of the demanding state that the person claimed has escaped from confinement or has broken the terms of his bail, probation, or parole. The indictment, information, or affidavit made before the magistrate must substantially charge the person demanded with having committed a crime under the law of that state; and the copy of indictment, information, affidavit, judgment of conviction, or sentence must be authenticated by the executive authority making the demand.

SECTION 4

GOVERNOR MAY INVESTIGATE CASE. When a demand shall be made upon the governor of this state by the executive authority of another state for the surrender of a person so charged with crime, the governor may call upon the attorney-general or any prosecuting officer in this state to investigate or assist in investigating the demand, and to report to him the situation and circumstances of the person so demanded, and whether he ought to be surrendered.

SECTION 5

EXTRADITION OF PERSONS IMPRISONED OR AWAITING TRIAL IN ANOTHER STATE OR WHO HAVE LEFT THE DEMANDING STATE UNDER COMPULSION. When it is desired to have returned to this state a
person charged in this state with a crime, and such person is imprisoned or is held under criminal proceedings then pending against him in another state, the governor of this state may agree with the executive authority of such other state for the extradition of such person before the conclusion of such proceedings or his term of sentence in such other state, upon condition that such person be returned to such other state at the expense of this state as soon as the prosecution in this state is terminated.

The governor of this state may also surrender on demand of the executive authority of any other state any person in this state who is charged, in the manner provided in Section 23 of this act, with having violated the laws of the state whose executive authority is making the demand, even though such person left the demanding state involuntarily.

SECTION 6

Extradition of Persons Not Present in Demanding State at Time of Commission of Crime. The governor of this state may also surrender, on demand of the executive authority of any other state, any person in this state charged in such other state in the manner provided in Section 3 with committing an act in this state, or in a third state, intentionally resulting in a crime in the state whose executive authority is making the demand, and the provisions of this act not otherwise inconsistent, shall apply to such cases, even though the accused was not in that state at the time of the commission of the crime, and has not fled therefrom.

SECTION 7

Issue of Governor's Warrant of Arrest; Its Recitals. If the governor decides that the demand should be complied with, he shall sign a warrant of arrest, which shall be sealed with the state seal, and be directed to any peace officer or other person whom he may think fit to entrust with the execution thereof. The warrant must substantially recite the facts necessary to the validity of its issuance.

SECTION 8

Manner and Place of Execution. Such warrant shall authorize the peace officer or other person to whom directed to arrest the accused at any time and any place where he may be found within the state and to command the aid of all peace officers or other persons in the execution of the warrant, and to deliver the accused, subject to the provisions of this act to the duly authorized agent of the demanding state.

SECTION 9

Authority of Arresting Officer. Every such peace officer or other person empowered to make the arrest, shall have the same authority, in arresting the accused, to command assistance therein, as peace officers have by law in the execution of any criminal process directed to them, with like penalties against those who refuse their assistance.

SECTION 10

Rights of Accused Person; Application for Writ of Habeas Corpus. No person arrested upon such warrant shall be delivered over to the agent whom the executive authority demanding him shall have appointed to receive him unless he shall first be taken forthwith before a judge of a court of record in this state, who shall inform him of the demand made for his surrender and of the crime with which he is charged, and that he has the right to demand and procure legal counsel; and if the prisoner or his counsel shall state that he or they desire to test the legality of his arrest, the judge of such court of record shall fix a reasonable time to be allowed him within which to apply for a writ of habeas corpus. When such writ is applied for, notice thereof, and of the time and place of hearing thereon, shall be given to the prosecuting officer of the county in which the arrest is made and in which the accused is in custody, and to the said agent of the demanding state.

SECTION 11

Penalty for Noncompliance with Preceding Section. Any officer who shall deliver to the agent for extradition of the demanding state a person in his custody under the governor's warrant, in willful disobedience to the last section, shall be guilty of a misdemeanor and, on conviction, shall be fined [not more than $1,000.00 or
be imprisoned not more than six months, or both].

SECTION 12

CONFINEMENT IN JAIL WHEN NECESSARY. The officer or persons executing the governor's warrant of arrest, or the agent of the demanding state to whom the prisoner may have been delivered, may, when necessary, confine the prisoner in the jail of any county or city through which he may pass; and the keeper of such jail must receive and safely keep the prisoner until the officer or person having charge of him is ready to proceed on his route; such officer or person being chargeable with the expense of keeping.

The officer or agent of a demanding state, to whom a prisoner may have been delivered following extradition proceedings in another state, or to whom a prisoner may have been delivered after awaiting extradition in such other state, and who is passing through this state with such a prisoner for the purpose of immediately returning such prisoner to the demanding state may, when necessary, confine the prisoner in the jail of any county or city through which he may pass; and the keeper of such jail must receive and safely keep the prisoner until the officer or person having charge of him is ready to proceed on his route; such officer or person being chargeable with the expense of keeping.

Whenever complaint shall have been made before any judge or magistrate in this state setting forth on the affidavit of any credible person in another state that a crime has been committed in such other state and that the accused has been charged in such state with the commission of the crime, and, except in cases arising under Section 6, has fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of his bail, probation, or parole, and is believed to be in this state, the judge or magistrate shall issue a warrant directed to any peace officer commanding him to apprehend the person named therein, wherever he may be found in this state, and to bring him before the same or any other judge, magistrate, or court who or which may be available in or convenient of access to the place where the arrest may be made, to answer the charge or complaint and affidavit, and a certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

SECTION 14

ARREST WITHOUT A WARRANT. The arrest of a person may be lawfully made also by any peace officer or a private person, without a warrant, upon reasonable information, that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term exceeding one year, but when so arrested the accused must be taken before a judge or magistrate with all practicable speed and complaint must be made against him under oath setting forth the ground for the arrest as in the preceding section; and thereafter his answer shall be heard as if he had been arrested on a warrant.

SECTION 15

COMMITMENT TO WAIT REQUISITION: BAIL. If from the examination before the judge or magistrate it appears that the person held is the person charged with having committed the crime alleged and, except in cases arising under Section 6, that he has fled from justice, the judge or magistrate must, by a warrant reciting the accusation, commit him to the county jail for such a time not exceeding thirty days and specified
in the warrant, as will enable the arrest of the accused to be made under a warrant of the governor on a requisition of the executive authority of the state having jurisdiction of the offense, unless the accused give bail as provided in the next section, or until he shall be legally discharged.

SECTION 16.

BAII: IN WHAT CASES: CONDITIONS OF BOND. Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, a judge or magistrate in this state may admit the person arrested to bail by bond, with sufficient sureties, and in such sum as he deems proper, conditioned for his appearance before him at a time specified in such bond, and for his surrender, to be arrested upon the warrant of the governor of this state.

SECTION 17.

EXTENSION OF TIME OF COMMITMENT, ADJOURNMENT. If the accused is not arrested under warrant of the governor by the expiration of the time specified in the warrant or bond, a judge or magistrate may discharge him or may recommit him for a further period not to exceed sixty days, or a judge or magistrate judge may again take bail for his appearance and surrender, as provided in Section 16, but within a period not to exceed sixty days after the date of such new bond.

SECTION 18.

FORFEITURE OF BAIL. If the prisoner is admitted to bail, and fails to appear and surrender himself according to the conditions of his bond, the judge or magistrate, by proper order, shall declare the bond forfeited and order his immediate arrest without warrant if he be within this state. Recovery may be had on such bond in the name of the state as in the case of other bonds given by the accused in criminal proceedings within this state.

SECTION 19.

PERSONS UNDER CRIMINAL PROSECUTION IN THIS STATE AT TIME OF REQUISITION. If a criminal prosecution has been instituted against such person under the laws of this state and is still pending, the governor, in his discretion, either may surrender him on demand of the executive authority of another state or hold him until he has been tried and discharged or convicted and punished in this state.

SECTION 20.

GUILL OR INNOCENCE OF ACCUSED, WHEN INQUIRED INTO. The guilt or innocence of the accused as to the crime of which he is charged may not be inquired into by the governor or in any proceeding after the demand for extradition accompanied by a charge of crime in legal form as above provided shall have been presented to the governor, except as it may be involved in identifying the person held as the person charged with the crime.

SECTION 21.

GOVERNOR MAY RECALL WARRANT OR ISSUE ALIAS. The governor may recall his warrant of arrest or may issue another warrant whenever he deems proper.

SECTION 22.

FUGITIVES FROM THIS STATE; DUTY OF GOVERNORS. Whenever the governor of this state shall demand a person charged with crime or with escaping from confinement or breaking the terms of his bail, probation, or parole in this state, from the executive authority of any other state, or from the chief justice or an associate justice of the Supreme Court of the District of Columbia authorized to receive such demand under the laws of the United States, he shall issue a warrant under the seal of this state, to some agent, commanding him to receive the person so charged if delivered to him and convey him to the proper officer of the county in this state in which the offense was committed.

SECTION 23.

APPLICATION FOR ISSUANCE OF REQUISITION; BY WHOM MADE: CONTENTS. I. When the return to this state of a person charged with crime in this state is required, the prosecuting attorney shall present to the governor his written application for a requisition for the return of the person
charged, in which application shall be stated
the name of the person so charged, the
crime charged against him, the approximate
time, place, and circumstances of its com-
mmission, the state in which he is believed
to be, including the location of the accused
therein, at the time the application is made
and certifying that, in the opinion of the
prosecuting attorney, the ends of justice
require the arrest and return of the
accused to this state for trial and that the
proceeding is not instituted to enforce a
private claim.

II. When the return to this state is required
of a person who has been convicted of a
crime in this state and has escaped from
confinement or broken the terms of his bail,
probation, or parole, the prosecuting at-
torney of the county in which the offense
was committed, shall present to the governor
a written application for a requisition for the
return of such person, in which application shall be stated
the name of the person, the crime of which
he was convicted, the circumstances of his
escape from confinement or of the breach
of the terms of his bail, probation, or parole,
the state in which he is believed to be, in-
cluding the location of the person therein
at the time application is made.

III. The application shall be verified by
affidavit, shall be executed in duplicate,
and shall be accompanied by two certified
copies of the indictment returned, or of the
complaint made to the judge or magistrate,
stating the offense with which the accused
is charged, of the judgment of conviction,
or of the sentence. The prosecuting officer,
parole board, warden, or sheriff may also
attach such further affidavits and other
documents in duplicate as he shall deem
proper to be submitted with such applica-
tion. One copy of the application, with
the action of the governor indicated by en-
dorsement thereon, and one of the certified
copies of the indictment, complaint, informa-
tion, and affidavits, or of the judgment of
conviction, or of the sentence shall be
filed in the office of the secretary of state
to remain on record in that office. The
other copies of all papers shall be forwarded
with the governor's requisition.

SECTION 24

'Costs and Expenses. [When the
punishment of the crime shall be the con-
finement of the criminal in the penitentiary,
the expenses shall be paid out of the state
treasury, on the certificate of the governor
and warrant of the auditor; and in all other
cases they shall be paid out of the county
treasury in the county wherein the crime is
alleged to have been committed. The ex-
spenses shall be the fees paid to the officers
of the state on whose governor the requisi-
tion is made, and not exceeding . . . cents a
mile for all necessary travel in returning
such prisoner.]

Note: The provisions in this regard will so
vary with the different states that
same must be drafted separately in
each state.

SECTION 25

Immunity from Service of Process in
Certain Civil Actions. A person brought
into this state by, or after waiver of, ex-
tradition based on a criminal charge shall
not be subject to service of personal process
in civil actions arising out of the same facts
as the criminal proceedings to answer which
he is being or has been returned, until he
has been convicted in the criminal proceed-
ing, or, if acquitted, until he has had reason-
able opportunity to return to the state from
which he was extradited.

SECTION 25a

Written Waiver of Extradition Pro-
cedings: Any person arrested in this state
charged with having committed any crime
in another state or alleged to have escaped
from confinement or broken the terms of
his bail, probation, or parole may waive
the issuance and service of the warrant pro-
vided for in Sections 7 and 8 and all other
procedures incidental to extradition pro-
cedings, by executing or subscribing in the
presence of a judge of any court of record
within this state a writing which states that
he consents to return to the demanding
state; provided, however, that before such
waiver shall be executed or subscribed by
such person it shall be the duty of such
judge to inform such person of his rights to
the issuance and service of a warrant of
extradition and to obtain a writ of habeas
corpus as provided for in Section 10.
If and when such consent has been duly executed, it shall forthwith be forwarded to the office of the governor of this state and filed therein. The judge shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent or agents of the demanding state, and shall deliver or cause to be delivered to such agent or agents a copy of such consent; provided, however, that nothing in this section shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding state, nor shall this waiver procedure be deemed to be an exclusive procedure or to limit the powers, rights, or duties of the officers of the demanding state or of this state.

section 25b

NONWAIVER BY THIS STATE. Nothing in this act contained shall be deemed to constitute a waiver by this state of its right, power, or privilege to try such demanded person for crime committed within this state, or of its right, power, or privilege to regain custody of such person by extradition proceedings or otherwise for the purpose of trial, sentence, or punishment for any crime committed within this state, nor shall any proceedings had under this act which result in, or fail to result in, extradition be deemed a waiver by this state of any of its rights, privileges, or jurisdiction in any way whatsoever.

section 26

NO RIGHT OF ASYLUM. NO IMMUNITY FROM OTHER CRIMINAL PROSECUTIONS WHILE IN THIS STATE. After a person has been brought back to this state by, or after waiver of, extradition proceedings, he may be tried in this state for other crimes which he may be charged with having committed here as well as that specified in the requisition for his extradition.

section 27

INTERPRETATION. The provisions of this act shall be so interpreted and construed as to effectuate its general purposes to make uniform the law of those states which enact it.

section 28

CONSTITUTIONALITY. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

section 29

REPEAL. All acts and parts of acts inconsistent with the provisions of this act and not expressly repealed herein are hereby repealed.

section 30

SHORT TITLE. This act may be cited as the “Uniform Criminal Extradition Act.”

section 31

TIME OF TAKING EFFECT. This act shall take effect on the day of 19....

UNIFORM ACT TO SECURE THE ATTENDANCE OF WITNESSES FROM WITHOUT A STATE IN CRIMINAL PROCEEDINGS

Drafted and recommended by the Interstate Commission on Crime and the National Conference of Commissioners on Uniform State Laws.

Be it enacted, etc. (Use the proper enacting clause for the state.)

section 1

“Witness,” as used in this act, shall include a person whose testimony is desired in any proceeding or investigation by a grand jury or in a criminal action, prosecution, or proceeding.

The word “state” shall include any territory of the United States and the District of Columbia.

The word “summons” shall include a subpoena, order, or other notice requiring the appearance of a witness.

section 2

SUMMONING WITNESS IN THIS STATE TO TESTIFY IN ANOTHER STATE. If a judge
of a court of record in any state, which by its laws has made provision for commanding persons within that state to attend and testify in this state, certifies under the seal of such court that there is a criminal prosecution pending in such court, or that a grand jury investigation has commenced or is about to commence, that a person being within this state is a material witness in such prosecution, or grand jury investigation, and that his presence will be required for a specified number of days, upon presentation of such certificate to any judge of a court of record in the county in which such person is, such judge shall fix a time and place for a hearing, and shall make an order directing the witness to appear at a time and place certain for the hearing.

If at a hearing the judge determines that the witness is material and necessary, that it will not cause undue hardship to the witness to be compelled to attend and testify in the prosecution or a grand jury investigation in the other state, and that the laws of the state in which the prosecution is pending, or grand jury investigation has commenced or is about to commence [and of any other state through which the witness may be required to pass by ordinary course of travel], will give to him protection from arrest and the service of civil and criminal process, he shall issue a summons, with a copy of the certificate attached, directing the witness to attend and testify in the court where the prosecution is pending, or where a grand jury investigation has commenced or is about to commence, at a time and place specified in the summons. In any such hearing the certificate shall be prima facie evidence of all the facts stated therein.

If said certificate recommends that the witness be taken into immediate custody and delivered to an officer of the requesting state to assure his attendance in the requesting state, such judge may, in lieu of notification of the hearing, direct that such witness be forthwith brought before him for said hearing; and the judge at the hearing being satisfied of the desirability of such custody and delivery, for which determination the certificate shall be prima facie proof of such desirability, may, in lieu of issuing subpoena or summons, order that said witness be forthwith taken into custody and delivered to an officer of the requesting state.

If the witness, who is summoned as above provided, after being paid or tendered by some properly authorized person the sum of ten cents a mile for each mile by the ordinary traveled route to and from the court where the prosecution is pending and five dollars for each day that he is required to travel and attend as a witness, fails without good cause to attend and testify as directed in the summons, he shall be punished in the manner provided for the punishment of any witness who disobeys a summons issued from a court of record in this state.

SECTION 3.

WITNESS FROM ANOTHER STATE SUMMONED TO TESTIFY IN THIS STATE.

If a person in any state, which by its laws has made provision for commanding persons within its borders to attend and testify in criminal prosecutions, or grand jury investigations commenced or about to commence, in this state, is a material witness in a prosecution pending in a court of record in this state, or in a grand jury investigation which has commenced or is about to commence, a judge of such court may issue a certificate under the seal of the court stating these facts and specifying the number of days the witness will be required. Said certificate may include a recommendation that the witness be taken into immediate custody and delivered to an officer of this state to assure his attendance in this state. This certificate shall be presented to a judge of a court of record in the county in which the witness is found.

If the witness is summoned to attend and testify in this state he shall be tendered the sum of ten cents a mile for each mile by the ordinary traveled route to and from the court where the prosecution is pending, and five dollars for each day that he is required to travel and attend as a witness. A witness who has appeared in accordance with the provisions of the summons shall not be required to remain within this state a longer period of time than the period mentioned in the certificate, unless otherwise ordered by the court. If such witness, after coming into this state, fails without good cause to attend and testify as directed in the summons, he shall be punished in the manner provided for the punishment of any witness who dis-
obey a summons issued from a court of record in this state.

SECTION 4

Exemption from Arrest and Service of Process. If a person comes into this state in obedience to a summons directing him to attend and testify in this state he shall not while in this state pursuant to such summons be subject to arrest or the service of process, civil or criminal, in connection with matters which arose before his entrance into this state under the summons.

If a person passes through this state while going to another state in obedience to a summons to attend and testify in that state or while returning therefrom, he shall not while so passing through this state be subject to arrest or the service of process, civil or criminal, in connection with matters which arose before his entrance into this state under the summons.

SECTION 5

Uniformity of Interpretation. This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of the states which enact it.

SECTION 6

Short Title. This act may be cited as “Uniform Act to Secure the Attendance of Witnesses from Without a State in Criminal Proceedings.”

SECTION 7

Inconsistent Laws Repealed. All acts or parts of acts inconsistent with this act are hereby repealed.

SECTION 8

Constitutionality. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 9

Time of Taking Effect. This act shall take effect.
CONDENSED MINUTES
of the
CONFERENCE
of the
INTERSTATE COMMISSION
on
SOCIAL SECURITY

JUNE 26 AND 27, 1936
*TRAYMORE HOTEL
ATLANTIC CITY, NEW JERSEY
ROSTER OF DELEGATES

Hon. William J. Ellis, Commissioner of Institutions and Agencies of New Jersey
Hon. Fred E. Barrett, member of the Indiana Commission on Interstate Cooperation
Senator Walter W. Capers, member of the Mississippi Commission on Interstate Cooperation
Milton Murphy, Assistant Attorney-General of Nebraska
Charles Queary, Director, Legislative Reference Office, member of the Colorado Commission on Interstate Cooperation

Senator George A. Rupp, member of the Pennsylvania Commission on Interstate Cooperation
Donald M. Smith, New Hampshire Division of Unemployment Compensation (representing Gordon P. Eager, Administrator of New Hampshire Unemployment Compensation)
Conrad Van Hyning, Florida Commissioner of Social Welfare
T. A. Wilson, North Carolina State Industrial Commission

The delegates were assisted by the following representatives of interested groups and other state governmental agencies:

John J. Corsón, Federal Social Security Board
Tensard DeWolf, Pennsylvania Department of Institutions and Agencies
Marc P. Dowdell, New Jersey Department of Institutions and Agencies
Hon. John P. Hartigan, Attorney-General of Rhode Island

John Lemp, New Jersey Social Security Commission
Burdette G. Lewis, American Public Welfare Association
Charles P. Messick, New Jersey Civil Service Commission
Hon. Fred L. Zimmerman, New York Commission on Interstate Cooperation

The speakers were:

Judge Richard Hartshorne, Chairman of the New Jersey Commission on Interstate Cooperation and of the Interstate Commission on Crime of the Council of State Governments
Joseph E. Alloway of New Jersey
Hon. Frank W. Goodhue of Massachusetts

Hon. Gordon P. Eager of New Hampshire (Speech read by Donald M. Smith)
Robert T. Lansdale of the staff of the Public Administration Committee of the Social Science Research Council
Cornelius Cochran of the Social Security Board
THE luncheon session opened the meeting of the Interstate Commission on Social Security, held June 26-27, 1936, in Atlantic City, New Jersey.

JUDGE HARTSHORNE: You are to discuss a problem, or series of problems, which is certainly close to the hearts of not only people of the United States, but to the people of the world. I know nothing about it. But when it comes to the method of attack, perhaps some of the trials we have undergone with our old friend, crime, may be of help to you.

We held a conference with representatives of different states in Trenton last October. That conference determined on a series of general principles applicable to the problem of crime; principles on which the different states would better cooperate with each other in meeting that problem of crime. They set to work to build up those principles by statutes, or compacts, or regulations, as necessary. We tackled the statutes first, because regulations must be built on the basis of law, and we called in expert drafters on criminal statutes from twenty-six of the outstanding law schools of the country.

We met over the week-end of November 30 to December 2 in New York City. The first day we divided into five different groups, each to discuss one of the five angles of our problems. Then we met as a whole to consider the results of the sectional meetings. In that meeting as a whole we reached conclusions in drafting and adopting uniform statutes on four separate plans of interstate cooperation to curb crime.

The legislators met from January 1 on, but there were only a handful of them, because this last year was an off legislative year. Next year forty-three will meet; hence, the much greater importance of having your work in statutory form before January 1, 1937. We kept in touch with our commissions, giving them drafts of these model statutes through the course of these sessions, and placed upon their shoulders the responsibility for enacting these statutes. Out of the nine states meeting in regular sessions eight had enacted some or all of our program.

This is simply a method which turned out to be fairly successful. We have only started. We are meeting in Boston to lay plans for a heavier campaign next year. I feel confident that with the important project you have on your minds, if you settle on your principles, draft your regulations or statutes, get them in the hands of your legislators, well before the time of the biennial legislative year coming, you will find at the end of that year that you will have accomplished much, not only for your states but for the people of the entire United States.

The meeting adjourned.

FRIDAY AFTERNOON SESSION
June 26, 1936

THE Friday afternoon session of the Interstate Commission on Social Security met at 2:30 P.M., Hon. William J. Ellis presiding.

CHAIRMAN ELLIS: I have asked Mr. Alloway to list the topics on which he feels we could focus our attention.

MR. ALLOWAY: At the present time there is no way of compelling relatives, financially able, to contribute to the support of their less fortunate kin. A first step in attacking that problem is to establish some uniformity as to who should be considered legally responsible relatives.

Records of vital statistics should be made available to other states without charge. There is, of course, a need for documentary proof of age for old-age assistance.

Reimbursement clauses signed by relief clients bring up the problem of whether or not the relief laws should be amended to
permit states to file prior liens on recipient's property located outside the state granting assistance.

It seems to me there is also an interstate problem concerning recipients of assistance who may see fit to move across the state boundary for reasons of health. It might be advantageous to establish reciprocal agreements permitting recipients of assistance to transfer their residence from one state to another without losing their rights to public aid.

Uniform settlement laws are vital to the solution of all these problems. How can uniform deportation action be advanced? We have cases of dependent children where there is a legal settlement in another state, but it is difficult to convince that state that it should settle the responsibility.

There is a great need for free interchange of information concerning what is known about the relatives and the financial ability of relatives living in other states. Unless there is a definite plan for carrying out such an exchange, I think the possibilities of reciprocal actions will be greatly impeded.

Mr. Barrett: We have every provision in Indiana to operate the law properly. We provide for leaving the courts in custody of all cases, but when you operate the law between states, you could not have one state operate against another state. You would have to have a tribunal higher than the state to operate between them.

Mr. Alloway: As I visualize it, there would be an interstate exchange of free information rather than a tribunal. You would need some plan, which probably would not have to be set up by legislation but which might be arranged by an agreement, to give all information requested, with the understanding that the requesting states would reciprocate.

Chairman Ellis: I shall ask Mr. Lansdale to present his material on the problem of old-age assistance. Mr. Lansdale has been making a study for the Committee on Public Administration of the Social Science Research Council.

Mr. Lansdale: It might be best to indicate first where there is uniformity. We have forty odd state laws and some thirty plans approved by the Security Board, all of which concern old-age provisions and all of which set the age at sixty-five. All set up residence-requirements of five out of nine previous years; all provide for some form of appeal; and all provide for grants with cash.

In regard to laws, there are two types, specific and general. Massachusetts is an example of the general law under which a great many administrative details and policies are left to the decisions of the state board. In the area of administration, we have either complete state administration or state-local cooperation. Still another area in which there is lack of uniformity is the method of contribution.

As to eligibility, there is a wide difference among the states. Some have specific, although varying, property qualifications. In Massachusetts, there is a state law requiring banks and insurance companies to furnish information on bank accounts and policies.

There is the question of responsibility of relatives. Massachusetts has recently exempted grandchildren.

Another area where there is lack of uniformity is in the additional services, such as medical care, given recipients of grants. There may be elaborate care in one place and none in another. That will create a little migration, which may become an inter-state problem.

There seem to be several administrative problems. Reinvestigation and reapplication are sometimes interpreted as covering a complete check-up on all relatives and all sources of information. That is causing a difference among some states which have been cooperating in furnishing information on request.

Another problem is that of a relative visiting out of the state. Iowa boasts that once a person has received old-age assistance and continues to be eligible, it will take care of him, no matter where he goes. On the other hand, in Massachusetts, if the recipient goes away for more than three weeks, his grant is automatically stopped. There is the question of the settlement of the estate at the death of the relative. There is the question of insurance policies which may be held by relatives living out of the state, who may not realize that the benefits have been assigned. I think the problem of state administration versus local administration must also be faced.
CHAIRMAN ELLIS: I wonder if Mr. Queray, who has had a great deal to do with writing the Colorado laws, cares to speak on any of the problems outlined?

MR. QUEARY: The only two questions that would appeal to me are the questions of transfer of information among boards of states and the endorsement of property lien. In regard to the latter our law requires that when a person makes application, he signs a statement that he will reimburse the state for money paid in his behalf. The state has the right to place a lien on the property of the individual. If the property is located in another state, then comes the question of endorsement. I think the act of the legislature permitting another state to file a lien and have access to all the laws of the state to endorse that lien would be a very good thing.

As to the information, I am not familiar enough with what laws require before application is granted. We do have the question of legal settlement for relief purposes for transients, particularly tubercular persons who come for health reasons. The only two requirements I can see that would need consideration are the questions of endorsing state liens to recover money, and of obtaining information on the granting of assistance.

MR. MURPHY: Federal action, I think, should require that the states adopt legislation giving liens to other states on property.

JUDGE CAPERS: The only question in my mind is about the constitutionality of a statute in my state.

ATTORNEY-GENERAL HARTIGAN: I think one state could, by statute, recognize liens of another state, but every state should have uniformity.

MR. LANDSDALE: In an industrial city we were convinced we were spending too much money in doing the work. The amount recovered does not equal the administrative expenses. I think a great deal of work should be done on simplifications.

Do lien laws make the administration more generous toward the applicants?

CHAIRMAN ELLIS: My observation in New Jersey is that the administration is anything but generous.

We want to get on to this question of uniform settlement.

SENATOR RUPP: It appears to me that the southern states, and maybe the New England states, will have to furnish a great deal of information because of the migration of recent years.

MR. WILSON: Have you thought of a basis for paying these expenses of information exchange?

CHAIRMAN ELLIS: Do you have in mind, Mr. Wilson, that perhaps the federal security board should make supplementary grants to states for these additional services that they will be called upon to render?

MR. WILSON: I really believe it will have to come to something of that kind.

MR. BARRETT: I believe it is a very serious mistake for us to think that the federal government should come in and disturb the sovereign rights of the states. I think this commission should be organized so that it can regulate, suggest, coordinate, and not let either the federal government or the states do too much.

CHAIRMAN ELLIS: Who administers old-age assistance under your statute?

MR. BARRETT: We selected a circuit judge to choose fifty-two women who had been residents of the county for at least two years and who were employed by the commission.

MR. VAN HYNING: In Florida, we grouped the counties into districts with one or more members from each county on a district board which was appointed by the governor. There are actually twelve administrative units in the state.

CHAIRMAN ELLIS: We have been asked by the Council of the State Governments to set up a temporary commission of this group to carry on in the interim, and perhaps to formulate some of the discussion we have had today into resolutions. I am going to ask Mr. Wilson, Mr. Van Hyning, and Mr. Murphy to take on that job, and meet with Dr. Benson immediately following the adjournment this afternoon.

Does Mr. Messick have anything to present on the personnel problems?

MR. MESSICK: I do not think there is anything that I can lay down as a general principle. I am satisfied that the success of this work, or of any other important work in government depends primarily on the personnel.

CHAIRMAN ELLIS: Mr. Goodhue will out-
line for us the problems he has come here to discuss.

Mr. Goodhue: A number of welfare problems which should be included in a broad interpretation of "social security," call for considered collective action by state governments.

In very few states do existing relief laws allow adequate consideration of all types of dependents.

The enactment of special laws providing for the support of certain types of dependent children, the aged, and blind persons, has unquestionably improved the standards of care and support. It should be noted, however, that the enactment of such special laws generally results in an increase in the number of dependents.

It is also interesting to observe that some states which previously did not give reasonable consideration to certain types of dependent persons, who come within the provisions of the social security act, have established new organizations and new systems of support, and have received early approval of their state plans from the federal authorities.

Apart from the fact that the types of dependents included in the social security act may be more appealing from a sentimental point of view, it is difficult to understand why similar consideration should not be given to the largest and most difficult group of dependents, which includes families having no legal settlement, transients, and unattached and homeless men and women.

The plain fact that transients have migrated across state lines gives more reason for federal cooperation and grants in aid than for any other welfare group. It is unfortunate that the federal government is withdrawing its participation in the transient problem.

During the past five and a half years, this subject has been considered by the committee on interstate problems of the American Public Welfare Association. The committee came to the conclusion that its effort should be directed toward securing uniform laws regarding the relief of dependents. The committee has been most fortunate in receiving excellent cooperation from the National Conference of Commissioners on Uniform State Laws, which, together with the American Bar Association, has approved and recommended to the states for adoption as a uniform act, the Uniform Transfer of Dependents Act. (See page 74 for text.) It has also drafted a form of reciprocal agreement (see page 75 for text) in which are incorporated basic principles necessary for uniformity of action as well as for the welfare of dependent persons.

Reciprocal agreement laws have already been enacted in a few states, and other states will undoubtedly adopt the Uniform Act. In order, however, that the act may be successfully applied, states signing the reciprocal agreement must have in operation a system of relief that will enable dependent persons to receive support regardless of their settlement status. Therefore, the next goal to be reached would, in my opinion, be uniform relief laws, which would enable all dependent persons who do not come within the provisions of the federal social security act to receive humane consideration and support.

While we cannot ignore the urgent necessity for the strictest economy, it is essential that the welfare activities of many states should be still further extended, and that the well-being of persons in need of assistance should be the primary consideration. A considerable reduction in the present cost of relief could undoubtedly be effected by the elimination of the three outstanding handicaps—favoritism, prejudice, and politics.

To summarize, the most important change needed is the enactment of laws that will authorize adequate relief for all types of dependent persons regardless of their legal settlement status.

Chairman Ellis: If we make laws to relieve additional classes of dependents, real property owners have to pay the bill. You are not going to have public welfare provided as long as that fact remains.

Judge Capers: I think there is much in what the Massachusetts commissioner says about not entirely waving aside this problem of dependents. If the states themselves showed a great willingness to help, I think they could insist on acts being passed by the federal government for the care of those who are solely federal charges, such as transients. It is important that the states
cooperate to prevent persons who are now charges of a single state from becoming transients. This can be accomplished if the states, through interstate action, create means by which these individuals can retain their state citizenship.

This seems to me to be a logical project for this Commission to take up.

Only recently two hundred files of juvenile delinquents were placed on my desk. One hundred and ten were not delinquent, but some were hungry, some illegitimate, and some had diseases. I raised a fund sufficient to give them temporary relief, food, and clothes. Through the cooperation of doctors, they received temporary medical relief. I think those children are more important than the old people, and I do not see why the federal government ignored the children. If there is an organization that could and should take hold of that, it is an organization of this type, which supposedly would not be influenced by politics.

The meeting adjourned.

FRIDAY EVENING SESSION

June 26, 1936

SENATOR RUPP: In Pennsylvania, we passed these security measures last week, but they will be meaningless unless appropriations are made. What taxes are we going to impose is the question that to me is most vital.

MR. MEISSICK: The two most important things I see from the discussion so far are the matter of finance and the elimination of politics and prejudice.

CHAIRMAN ELLIS: I think we should hear from a man who has one of the jobs of really setting up a complete new system in the social welfare field—Conrad Van Hyning of Florida.

MR. VAN HYNING: I went to Florida a year and a half ago and found that they had practically nothing in the way of local or state laws to interfere with starting a new welfare setup. So in January we wrote a new welfare law.

Because of the rural nature of the state of Florida, we combined groups of counties into districts and organized district welfare boards. The net result is twelve districts in the state with twelve district boards, and a state board which has fairly good control besides.

Under the plan we do not establish a district staff. We divide our districts into units, one of which may contain, for example, four hundred cases, which take five workers. We have a liberal law giving the state board complete control of the policies of the organization, and giving district boards the power to hire and fire the personnel.

The general scheme includes the aged, dependent children, the blind, and those on relief.

One of the things we are doing which is particularly interesting to me is in the line of selling the program. We are not letting these district boards sit as administrative boards and get into ruts. We are making them get out and sell programs to groups in all their counties, and recently we have had the district board members put on radio programs.

Briefly, what we have there is an experiment which should be interesting to rural states for administrative purposes.

CHAIRMAN ELLIS: Mr. Wilson of North Carolina has with him tonight suggestions in the form of resolutions. I am going to ask him to present them now. Perhaps we can get some action on them before we separate this evening.

The following resolutions which can be found on page 74 were passed at this time: endorsement of the Uniform Transfer of Dependents Act; establishment of a committee to continue the work of the Interstate Commission on Social Security; authorization of a study of the proposal to make records of vital statistics available to offices of other states; recommendation for a study of restrictions and limitations of records bearing on social security laws;
THE INTERSTATE COMMISSION ON SOCIAL SECURITY
recommendation for investigation of the possibility of securing uniform legislation with reference to the imposition and enforcement of liens on recipients of assistance; endorsement of a one-year, uniform-settlement law.

The meeting adjourned.

SATEURDAY MORNING SESSION

June 27, 1936

R. CORNELIUS COCHRAN:

There are two main groups of employment which I shall discuss. The first concerns the worker who performs service for an employer in one state and later goes to a second state and enters the service of another employer. For the purpose of our discussion here we will describe him as a migratory worker. The second classification describes the employee who works for one employer, but whose service takes him into more than one state. We will identify him as an interstate employee.

There are certain definite types of workers who constitute these two groups. Under the head of migratory are those workers who move from community to community and frequently from state to state following a seasonal occupation in industry. There is the transient youth. Another type is the skilled worker, frequently a union employee, who follows the market in his own industry. There is the occasional migratory worker, moving from state to state in search of better employment opportunities, or for personal reasons.

Under the second classification of the interstate employee is the employee who works for one employer, but whose service takes him into more than one state, as in train service. Then there is the one who is transferred by his employer. There is also the commuter. We do not know a great deal about this type of laborer. The Bureau of Research and Statistics is devoting time to study this in an attempt to produce more information on this type of laborer.

The migratory worker is, more than likely, covered by state compensation act. The employee thus builds up weeks of employment credit. For such reasons as may be, he leaves the service and goes to another state to enter the service of a different employer. Somewhere along the line he becomes unemployed. It is quite possible that he has earned weeks of employment in these various states, but he may not have earned sufficient weeks of employment in any one state to become eligible to receive benefits. At any rate, it is likely that he will not receive the duration of benefits to which he believes he is entitled for the reason that he has left part of his credit in the state in which he previously worked.

The interstate employee presents a problem of coverage. Assume, for example, a salesman in the employ of a New York concern, who operates from the branch office in Boston and whose territory comprises Massachusetts, Connecticut, and Rhode Island. It is entirely possible for this man, because of the distribution of the service rendered in these states, to fall somewhere in a gap between the coverage of these four states.

I might indicate certain formulas under consideration in an effort to find a solution to these problems. For the migratory worker it has been proposed that, when a man leaves the state where he was employed, he obtain a certificate from that state, indicating the number of weeks he has to his credit; that he carry that certificate with him; and somewhere along the line deposit that certificate as evidence of credit. On the basis of that certificate, the state in which he becomes unemployed will pay the benefits on the basis of the weeks of credit shown, and then, by what may be described as a book-keeping transaction, charge the account of the state which issues the certificate to the unemployment trust fund, and credit that amount to the state which paid him.

One of the formulas suggested for the interstate worker's problem of coverage permits the employer to select a state with
the provision that the state selected is the one in which the greater part of the work is performed. This state takes jurisdiction for the employees in question. Whatever the solution may be to these questions, it seems to me that it must involve the cooperative action among states, perhaps either through the adoption of some uniform division of coverage or through other agreement.

Mr. Barrett: There is one problem which, I think, this commission would do well to consider. In eleven states which have passed unemployment compensation laws, there are five distinct programs. One of these, the pooled-fund system, seems to me unconstitutional. In three cases decided in the Supreme Court, one of which was on the Railway Retirement Act, the court held that the pooled system was unconstitutional. Because of these decisions, we adopted a one-sixth pooled system in Indiana, and I think even that may be unconstitutional.

We have in our bill a master-and-servant clause which provides that there must be the relationship of master and servant before the employee is qualified to receive unemployment compensation. There must be twenty-one continuous weeks of service in our state if he works for a contractor with contracts in various states.

Mr. Cochran: I would like to point out that most of the state laws do not disqualify a man who voluntarily quits, but many of the states, if he voluntarily quits, penalize that individual by an extended waiting period. The normal waiting period may be two weeks.

Chairman Ellis: We sometimes have a situation where a firm of traveling men does not have a sufficient number of employees in one state to come within the provision of the minimum number of employees. Is there any consideration being given that?

Mr. Cochran: Of course numerical exclusion is provided in all the states, but it varies from one state to another. For example, let us take a given state that covers eight or more. The employer has ten. Perhaps four of these spend all their time in the state. The remaining six spend some time in the state and some in other states. Residence is not required as a sound test.

It is the place of employment that counts.

Chairman Ellis: At this time we will ask Mr. Smith, who was sent by the governor of New Hampshire, to address us.

Mr. Smith: I have the opportunity to read a prepared speech by Mr. Eager.

The Social Security Act relies on the states to take the initiative in unemployment compensation, removing only the competitive advantages of employers in states without laws, through a uniform, federal payroll tax. With this freedom, however, goes the responsibility for making the program of unemployment compensation a success.

The Social Security Board has been given authority to require only a few minimum standards for state laws as a condition of certification under Title IX of the Social Security Act, thus allowing a wide variation among state laws. The only leadership which the board has taken is to influence new legislation by suggesting to the states various draft bills so written as to assure federal approval under Title IX. They offer the various alternatives of pooled funds, reserve accounts, or guaranteed employment accounts.

The Social Security Act, although leaving complete freedom has, at the same time, given us the tremendous responsibility of achieving a national program by mutual agreement. Some uniformity in the requirements of the various state laws is imperative or the whole structure of unemployment compensation may collapse. The employers of the country will find labor costs so measurably increased by the expense of record keeping that they will be driven to open revolt. The employees are also likely to side with the employer because the mere chance of employment in one state rather than another will entitle some employees to a higher rate of benefits or no benefits at all. Those problems occur when we deal through state action alone. In order to solve these problems, some way must be found to produce needed uniformity in legislation and administration.

Last December, New Hampshire took the lead in trying to obtain interstate action by visiting her neighbor, Massachusetts, to settle the problems of interstate employment. Through periodic conferences of state-unemployment-compensation officials,
the Social Security Board, the United States Treasury, and the Department of Labor, some progress has been made toward uniformity, but a great deal remains to be done.

The most important question before these conferences has concerns the records and reports to be required from employers. An employer operating in the eleven states now collecting contributions is making a different form of report to each state. We might save the employer much work and extra expense by using the same form in all of the states. But thus far it has proved impossible to reach agreement on a uniform pay roll report. Real uniformity in pay roll reporting depends, ultimately, on uniform state legislation.

Almost equal in importance to uniform pay roll reporting is interstate agreement upon definitions of unemployments excepted from coverage by unemployment compensation laws. Most states are now writing the federal exemptions into their laws and will probably be guided by the United States Treasury rulings, but decisions will need to be made by the states in advance of the Treasury on the interpretation of such terms as farm labor and domestic service.

The need for uniformity in the definitions of exempted employments is present also in the application of the legal definition of an employee. At present a person may be designated as an independent contractor in one state and as an employee in another state.

Uniformity in rules governing the coverage of employees might well be obtained in the manner used to bring about agreement on what constitutes employment within a state. Through a series of conferences between state officials, consistent rules are now in force in the eastern states.

While problems of coverage and pay roll reporting may seem perplexing to the state administrators now, they are easier to solve than the problems involved in the payment of benefits. Many state laws provide for reciprocal agreements between the states to take care of the employees who have paid contributions under one system but have moved to employment in another state. Clearance of benefit funds will have to be made between states in order that the state in which the employee applies for benefits can draw for funds upon the state in which the employee has been employed. This necessitates numerous reciprocal agreements between the states with unemployment compensation laws.

Substantial progress has been made in the use of a uniform numbering system for employees and employers by all of the states, the Social Security Board, and the United States Employment Service. The numbering systems will permit the comparison of statistics on employment, unemployment, and related matters because the industrial classification used in different states will be the same.

The field of interstate action should then encompass at least the points mentioned above: First, uniformity in the reporting requirements of employers, which suggests that efforts be made to secure the enactment of uniform legislation; second, uniformity in the rulings on exempted employments, the legal status of persons as employees, and other definitions; third, uniformity in statistical methods; and fourth, reciprocal arrangements between the states on the payment of benefits.

CHAIRMAN ELLIS: We have with us Mr. Corson this morning.

MR. CORSON: I want to point out a bit of the organization of the social security board which may have some part to play in this program. Within the last month and a half the board has created twelve regional offices, which will each be run for some months in the future with only a skeleton structure. It is the objective of the board to decentralize its offices and bring the services it can render to the several states.

The meeting recessed for about fifteen minutes while the temporary executive committee drafted some resolutions. After the meeting was resumed two resolutions were adopted. (See page 74 for text.)

CHAIRMAN ELLIS: At this time we have with us Mr. Burdette Lewis of the American Public Welfare Association.

MR. LEWIS: The idea in back of social security is employment, and we may have to change the pattern of employment for those who have to go through a period of stabilization.

The meeting adjourned at 12:05 P.M.
1. RESOLVED, that the Commission endorse the Uniform Transfer of Dependents Act which has been recommended to the states by the Commissioners on Uniform State Laws, the American Bar Association, and the American Public Welfare Association.

2. RESOLVED, that there be a committee appointed by the chairman of the Interstate Commission on Social Security for the purpose of continuing the work of this Commission, and to suggest uniform agreements with reference to all Social Security legislation between states.

3. RESOLVED, that the proposal to make records of vital statistics available to officials of other states be thoroughly canvassed with the end in view that practical measures be initiated and recommendations for that purpose be submitted at the next meeting of the Interstate Commission on Social Security.

4. RESOLVED, that the Interstate Commission on Social Security recommend that an appropriate branch of the Council of State Governments undertake a study of the restrictions and limitations of records bearing on the social security laws with particular reference to the use or availability of records heretofore considered of a private nature.

5. RESOLVED, that the Interstate Commission on Social Security recommend that steps be taken to investigate the possibility of securing uniform legislation with reference to the imposition of liens on recipients of assistance under social security laws or other public welfare assistance, and enforcing such liens against the property of such recipients wherever situated.

6. RESOLVED, that the Interstate Commission on Social Security recommend to the states the adoption of a one-year uniform settlement law.

7. WHEREAS, the recent development of a joint federal-state social security program promises much for the happiness of many millions of American citizens, and

WHEREAS, it is the opinion of the Interstate Commission on Social Security that adequate standards of administration are absolutely essential to the proper development of such an intergovernmental program for social security; and

WHEREAS, these adequate standards of administration can be secured only through the selection, retention, and encouragement of competent administrative employees, and

WHEREAS, the development of a career service in social security work is essential in securing the high type of personnel needed for this important work,

THEREFORE, BE IT RESOLVED, that the Interstate Commission on Social Security recommend to the various states that the personnel employed in the administration of social security benefits be selected on the basis of their ability to do the work required in the most effective manner possible in each state department or agency which is in charge of the administration of social security.

8. RESOLVED, that the Commission, urge the Social Security Board and the Interstate Conference of Unemployment Compensation Administrators to take joint action to make studies with reference to the establishment of uniform administrative procedure and uniform laws to bring about uniform operation of the unemployment compensation (consistent with the needs of the various states), and that these studies be made and prepared in time to be presented to the Council of State Governments at its meeting in January.

UNIFORM TRANSFER OF DEPENDENTS ACT

An Act Concerning Reciprocal Agreements for the Interstate Transportation and the Support of Poor and Indigent Persons, and to Make Uniform the Law With Reference Thereto.
INTERSTATE COMMISSION ON SOCIAL SECURITY

General, is hereby authorized to enter into reciprocal agreements with corresponding state agencies of other states regarding the interstate transportation of poor and indigent persons, and to arrange with the proper officials in this state for the acceptance, transfer, and support of persons receiving public aid in other states in accordance with the terms of such reciprocal agreements, provided that this state shall not nor shall any county or other political subdivision of this state be committed to the support of persons who are not in the opinion of said [Department of Public Welfare] entitled to public support by the laws of this state.

SECTION 2. (Uniformity of Interpretation.) This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the laws of those states which enact it.

SECTION 3. (Short Title.) This act may be cited as the “Uniform Transfer of Dependents Act.”

SECTION 4. (Time of Taking Effect.) This act shall take effect .

The Committee has also proposed a form of reciprocal agreement, a copy of which is included.

FORM OF RECIPROCAL AGREEMENT

Agreement between the Department of Public Welfare of the State of ........ and the Department of Public Welfare of the State of ..............

This Agreement, made by and between the Department of Public Welfare of the State of ............ and the Department of Public Welfare of the State of ..............

Witnesseth:

That, Whereas, the contracting parties are by the laws of their respective states severally authorized and empowered to enter into reciprocal agreements to receive from and return to their respective states dependent persons, so as to facilitate removal of such persons from each of said states to the other, in proper cases.

Now, Therefore, It Is Mutually Agreed By and between the parties hereto, as follows, to wit:

—1—

The term “nonresident” shall include any poor and indigent person who shall have been continuously absent less than ........ from the state wherein he last resided for ........ or more consecutive years. The fact that a person received public or private relief during the said ........ years’ residence shall not in any manner interrupt said period of residence within the meaning of this agreement nor affect the operation of said agreement.

This provision shall not apply to cases where the dependency of such persons is likely to be of short duration, due to temporary conditions, unless it can be shown that the dependent persons are chronic relief cases.

—2—

It is hereby agreed that the authority for transfer shall be granted if the application for transfer is made within the period of absence established in this agreement, even though the agreed period of absence may have elapsed before the actual transfer can be effected; provided, however, that the transfer must be made within a reasonable time.

—3—

In all cases arising under paragraph 1 a person may be returned to the state in which he or she has resided for ....... years and such person shall be accepted by said latter state through arrangement with local boards of public welfare, i.e. county, city, or town boards providing home relief, if necessary, or admission to a proper institution.

Arrangement shall also be made for the reception of the household goods and effects of such person, if desirable.

—4—

The expenses of transfer and transportation shall be borne by the state requesting and making the transfer.
In any case arising under paragraph 1, such persons shall not be transferred if such transfer would endanger their health or the public health.

For the purpose of this agreement, the residence of a married woman shall be considered that of her husband, provided there has been no legal separation; and the residence of a minor shall be considered the same as the residence of the parents, provided, however, that whenever the custody of any such minor has been awarded to either parent by final judgment or decree of any court of competent jurisdiction, the residence of the parent to whom such custody has been awarded shall be deemed the residence of the said minor.

It is generally agreed that the unity of families must be preserved. Any exception to this rule must be by mutual agreement in the individual case.

An accurate and detailed investigation in each case falling under paragraph 1 of this agreement shall be made by both states, the state requesting the transfer to present accurate and detailed personal and residence histories to the state to which such person is to be transferred.

By mutual consent, this agreement may be modified to meet special conditions in any particular case not covered by its terms.

This agreement shall be subject to approval by the Attorney-General of each state which is a party hereto, and shall be executed by the officials of the respective Departments of ... and ... having jurisdiction over the persons described in paragraph 1, and may be terminated by sixty days' notice in writing by either party.

In Witness Whereof, the said parties hereto have caused these presents to be executed by the duly authorized officials of the respective states.
CONDENSED MINUTES
of the
CONFERENCE
of the
INTERSTATE COMMISSION
on the
DELAWARE RIVER BASIN

October 2 and 3, 1936
Buckwood Inn
Shawnee-on-the-Delaware
Pennsylvania
CONFERENCE ON THE DELAWARE

DELAWARE

R. C. Beckett, Dover
Mrs. A. Bremington, State Board of Health
C. A. Mellinger, du Pont Company
W. Dent Smith, Secretary of State
Fred C. Zeisberg, E. I. du Pont Company

WASHINGTON, D.C.

W. B. Bell, Department of Agriculture
H. T. Cory
Henry S. Dennison, National Resources Committee
Charles W. Eliot, National Resources Committee
Clarence S. Jarvis, Soil Conservation Service
Lewis A. Jones, Department of Agriculture
Edward McKernon, National Resources Committee
Harold Merrill, National Resources Committee
Robert H. Randall, National Resources Committee
Beardsley Rum, National Resources Committee
R. E. Tarbett, U. S. Public Health Service
Chester G. Wigley, National Resources Committee

ENGLAND

L. C. Hill, London

MARYLAND

S. T. Powell, Baltimore

NEW JERSEY

Asher Atkinson, New Brunswick
J. B.-Baty, Department of Health
James W. Burnison, Camden
Howard T. Critchlow, Water Policy Commission
H. P. Croft, Department of Health
Charles W. Dare, Collingswood
Charles W. Dare, Jr., Collingswood
Bernard B. Eddy, Trenton
Major G. W. Forny
Alfred C. Gregory, Trenton
Eugene Greider, Economic Council
J. Norwood Griswold
Judge Richard Hartshorne, Trenton

NEW YORK

H. M. Brinckerhoff, New York City
Mrs. William W. Brush, New York City
William W. Brush, New York City
Peter H. Bush, New York City
George L. Cooke, Monticello
E. S. Cullings, Watertown
Emerson D. Fite, Poughkeepsie
Maurice Fitzgerald, Assembyman
Arthur W. Harrington, Albany
Wayne D. Heydecker
Charles A. Holmqvist
Luis de Hoyes, Mayor, Monticello
W. H. Larkin, Department of Health
Raymond G. Leonard, Cobleskill
John H. McManus, New York City
Arthur N. Meyers, Narrowsburg
Guy Moffett, Spelman Fund
Dr. G. Otto Pobe, Port Jervis

NEW MEXICO

Hugh G. Calkins, Regional Conservator
New York—continued

Ogden J. Ross, Flood Control Commission, Adelbert M. Striber, Monticello
E. Malchey Shipp, Newburgh
R. W. Smith, Monroe
George A. Soper, New York City
Walter E. Spear, New York City
Allen M. Tucker, Port Jervis
Stacy Westbrook, Port Jervis

Pennsylvania

H. F. Alderfer, State College
Paul S. Armstrong, Easton
Henry K. Bauman, Allentown
Russell V. N. Black, New Hope
Albert Brodhead, Bethlehem
John M. Buckland, Allentown
Captain C. W. Burlin, U. S. Engineers
J. W. Calder, Springfield
William H. Connell, Philadelphia
Harry E. Connelly, Philadelphia
George R. Copeland, State Planning Board
Joseph K. Costello
A. J. Crawford, Clifton Heights
H. Gilroy Damon, Ridley Park
Frank W. Decker, Delaware Water Gap
W. F. Delehanty, Chester
R. LeRoy Dengler, Monroe County
W. E. Emerg, Mt. Bethel
J. H. Engle, Stroudsburg
G. Coe Farrier, Philadelphia
R. D. Forbes, U. S. Forestry Service
Leonard P. Fox, Chamber of Commerce
Robert Fox, Bethlehem
H. M. Freeburn, Department of Health
A. Greenwald Gearhart, Stroudsburg
S. Edward Hannestad
W. B. Hart, Atlantic Refining Company
Edgar Herish, Sharon Hill
Lewis G. Hill, Lookout
Harold E. Hillman, U. S. Army Engineers
John W. Hobomick, Dingmans
Nathan B. Jacobs, Pittsburgh
Michael D. Jones, Allentown
S. E. Kappe, Philadelphia
Florence Keen, Haverford
F. W. Kelly, Philadelphia
J. M. Kelly, Philadelphia
F. Norton Landon, Sun Oil Company
Dale H. Learn, Monroe County
R. D. Leitch, Pittsburgh
S. M. Dan Loan, Philadelphia

Newton B. Lyle, Scranton
J. W. Maegan, U. S. Geological Survey
L. D. Matter, Wilkes-Barre
James Maxwell, Ridley Park
Daniel McCarthy, Bethlehem
Fred S. Mickle, State College
James B. Miller, Eddystone
E. W. Mockley, Allentown
E. F. Muser, Chester
John Nice, Upper Black Eddy
August Niemier, Drexel Hill
Charles Penrose, Chamber of Commerce
F. A. Pitkin, State Planning Board
Willard L. Quick, Stroudsburg
Lawrence N. Ramsey, Stroudsburg
Mary F. Reardon, Philadelphia
C. A. Reese, Easton
Anthony Rezzonico, Kishifnersville
John S. Roberts, Bristol
C. Ross Rosencrane, Greencastle
Alan Rupp, Delaware Water Gap
Charles E. Ryder, Department of Health
Joseph A. Schuelz, Philadelphia
Charles B. Seib, Allentown
Adelaide A. Sheble, Philadelphia
Mrs. F. J. Sheble, Philadelphia
George F. Shids, Swiftwater
T. Singley, Upper Black Eddy
E. A. Smith, Newportville
Thomas B. Smith
V. F. Spring, Philadelphia
E. J. Stanton, Waymart
G. Willard Stettler, Stroudsburg
John Stiles, Bangor
Thomas B. Stockbano, Mayor, Morrisville
Chas. A. Stroh, Milford
A. C. Throne, Glenolden
Ellwood J. Turner, Chester
Charles H. Unangst, Bath
Walter Von Brook, Monroe County
Isaac S. Walker, Philadelphia
Rolland S. Wallis, United States Council
Edward A. Weiss, Rutledge
Jacob M. Weller, Oakford
R. I. Wheeler, Allentown
Frank White, Upper Black Eddy
W. H. Wilson, Easton
Senator George Woodward
C. Jod Young, Fullerton
George E. Yundt, Allentown

West Virginia

Miss Florence S. Frierson, Charleston
FRIDAY AFTERNOON-SESSION

October 2, 1936

HON. ELLWOOD J. TURNER, vice-chairman of the Interstate Commission on the Delaware River Basin, acted as presiding officer at the opening session.

HON. THOMAS A. LOGUE: The Interstate Commission on the Delaware River Basin is an official interstate body composed of seventeen state legislators, planners, and administrators, serviced by a secretary representing an official interstate agency, the Council of State Governments, and supplied with technical assistance by the National Resources Committee.

The commission itself is not, fundamentally, a study group; it is not, fundamentally, a planning agency. It is a group which hopes to bring about, first, an enlightened public opinion concerning the problems of the Delaware River Basin, and, second, through the medium of that public opinion, to devise and effect a unified plan of action in respect to the three interrelated problems in the basin which we have chosen as our first points of attack: water pollution, water supply, and recreational development.

HON. ELLWOOD J. TURNER: I have the pleasure of presenting Mr. Abel Wolman of the National Resources Committee at this time.

HON. ABEL WOLMAN: The picture of the Delaware River Basin does not differ essentially from that of any other drainage basin in this, or any other, country. It is a picture of a large group of people settled, by favorable and fortuitous circumstances, on a large river basin. The problem is, essentially, what to do with an enormous, valuable, beautiful body of water in relation to the people who live in the drainage basin.

I calculated yesterday that there are under consideration at this moment potential projects for public water supply, alone, in which the Delaware River is the major source of approximately two billion gallons of water which would involve an expenditure of approximately $550,000,000.

I should like to say a word about the so-called "master plan" or pattern by which the river should be developed. It means the setting up of some kind of a layout for the basin as a whole. It does not mean, as I am afraid most people are beginning to assume, a set of abstract principles surrounded by a mass of verbiage which diverts all of you from concrete activity.

To me the pattern of the basin, at least in its primary elements, is an essential to action on any of its details. I should like to emphasize further, however, that there are certain immediate tasks in the basin which could be attacked with the present elementary principles of your basin pattern before you. My point is that there are such things as pollution control, which, today, could proceed actively and could, with careful attention, fit into the general pattern or program for the basin as a whole.

We might then agree, as our next step, on the physical facts about the stream, and the multiple uses to which that stream can be put. Approaches made elsewhere on this particular problem are exemplified by activity such as that on the Red River in the North, which covers the three states of North and South Dakota and Minnesota. That group of states has finally agreed on the best and most advantageous use of that stream with the result that a master plan was signed by the three states. The second is the upper Rio Grande. Investigation, in which the states of Colorado, New Mexico, and Texas are participating, now underway, shows evidence that there will soon be agreement on the future use of that stream. The Kansas River flood studies, the national drainage basin studies, the New England regional plan studies of our streams, the Northwest plan studies of our streams are additional examples.

MR. TURNER: The National Resources Committee kindly gave us a water consultant, in the person of Mr. Isaac S. Walker, who is now going to speak on the drainage basin study of the National Resources Committee and the Interstate Commission on the Delaware River Basin.

MR. ISAAC S. WALKER: I have been surprised by the wide lack of understanding of what the word "resources" really means as applied to water, even among persons of the highest intelligence.
Even among many engineers who have made hydraulic and sanitary engineering their life-work, there is no clear perception of the possibilities of what Mr. Wolman has aptly termed "a master plan or pattern" of the river basin, nor could there be, unless they had occasion to make such a comprehensive study of coordinated uses and development as the committee is now engaged upon.

This drainage basin study, brief as it has been, has opened my eyes. The possibilities of what may be accomplished for the residents of this great river basin in carrying forward a master plan, coordinating the problems of water supply, floods, power, pollution, navigation and recreation, truly stir the imagination. But to bring such a program to fruition will require much further study, cooperation, educational work and publicity, and the problems must be set forth in plain, simple, non-technical terms.

Of all the manifold resources of our streams and rivers, first call must be for domestic water supply. In any given watershed or drainage basin area there is a definite amount of water available for the use of the population resident in the area. When the water supply needs of the population to be served exceed the minimum flow of the stream from which the supply is to be taken, we must build dams to impound the flood flows, and create artificial lakes or reservoirs which provide a reserve of stored water to make up for the deficiency in natural stream flow.

Another resource, which is a factor of great importance in alleviation of the reckless and indefensible fouling of our streams with sewage and industrial wastes, is the natural disposal of sewage, discharged into the river, through the mediums of dilution and "self purification."

Our sanitary sewer systems, at least in other than small villages, are an absolute necessity for public health and elimination of nuisance. Where sewage treatment is not practiced, problems which are serious indeed in our streams are created.

Ways and means must be found to solve these abuse problems which can no longer be considered as purely local or state.

As a general proposition, it is believed every community which, by means of a sewer system, transfers its wastes from its homes, other buildings, and factories, to the streams, should, in common decency, at least be required to install first stage or primary treatment works to settle and remove the objectionable solids.

Plants of this type usually cost from $7.50 to $15 per capita. They remove about 35 per cent of the organic impurities. The liquid discharged into the stream still contains 65 per cent of the impurities, leaving a lot of purification work to be done by the diluting water which is available in the streams. If sufficient dilution is lacking, the community must be called upon to install artificial oxidizing works to remove more of the organic matters than is possible by sedimentation. Such works are generally termed "second stage" or secondary treatment. A complete plant of this type usually costs from $15 to $25 per capita, frequently double the cost for first stage treatment, both for construction and operation. It may be expected to remove about 85 per cent of the organic impurities.

In the New York City Water Diversion Case, you will recall that the United States Supreme Court ruled that New York City might build reservoirs, as proposed, on the Delaware tributaries, in accordance with its comprehensive plan, and divert 440,000,000 gallons daily for water supply purposes. Contingent upon this taking, however, was a requirement for compensation water to be released during periods of minimum stream flows. The court also made another revolutionary ruling, in that New York, before any waters are diverted, must construct a sewage plant for complete treatment of the sewage of Port Jervis.

As I understand this court decision, applicable to interstate waters such as the Delaware, it would appear that in all future reservoir developments thereon above tidal waters, provision must be made for release of compensation waters to the extent decreed by the court in the New York case.

This study has not advanced to a point where the economics of the construction of great reservoirs may be definitely said to be justified for this sole purpose. Individually, neither may such great developments be economically justified for water supply, power, flood control, salinity con-
trol, navigation, or recreation. We are now dealing with a comprehensive basin plan wherein consideration is given to a possible ultimate chain of reservoirs serving all the above purposes. This report, four years in the making, is most exhaustive, exceeding in scope all prior studies. It points out that by virtue of the economics of such combined uses, and credits for developed hydro-electric power, great gravity water supplies at extremely attractive unit cost per million gallons can be developed to serve all future needs until 1980, of New York City, Northeastern New Jersey municipalities, Philadelphia, and Southeastern Pennsylvania with a wholesome supply of upland water, and at the same time regulate and maintain a summer low river flow at Trenton of never less than 3,400 second feet, which is the base figure used in the New York diversion case.

The studies that are in the course of development indicate that prior to such great takings for water supply, there will be long periods when the natural flow of the river may be practically trebled, a factor, which, contrary to general opinion, I consider of great importance for the general betterment of the entire river below the suggested dam sites, particularly in relation to the pollution problems.

If I am correct in this reasoning, the increases of diluting water herein discussed will postpone, and may entirely eliminate, the necessity for the construction of secondary treatment works.

Related to the pollution problem, is the so-called "salinity" problem, or the up-river approach of salt water from the sea. The state health department made a comprehensive survey completed in 1935 which conclusively proved that if the flow of upland water at Trenton could be maintained at 3,630 second feet, there would be no up-river invasion of salinity in excess of 200 parts per million. The reservoir releases heretofore discussed will maintain the flow at Trenton in excess of this figure.

Mr. Turner: Mr. John Fertig, chief of the legislative reference bureau at Harrisburg, has kindly assigned Mr. S. Edward Hannestad of his staff to speak to us on the legislative background.

Mr. S. Edward Hannestad: The control of stream pollution as a public health measure was first recognized as a proper subject for legislation in the early eighteen nineties.

Broad powers are given by statute to various health authorities in New York, New Jersey and Pennsylvania to make, approve, and enforce rules and regulations for the prevention of water pollution, and to carry out the provisions of the statutory law on the subject. Specified agencies are charged with the duty of making studies, investigations, and reports, and to recommend measures to preserve further the water supplies as free as practicable from contamination.

The discharge of sewage from the numerous metropolitan areas, and lesser communities, immediately bordering and within a few miles of both sides of the Delaware and its tributaries, is, by far, the greatest contributing cause for its polluted condition. These municipalities are faced with the serious question of financing the required improvements. The states affected have not as yet seen fit to assume this burden or any part of it, although the project has grown far beyond the limits of a purely local matter.

Because of a constitutional limitation on debts of municipalities in Pennsylvania it is utterly impossible for many municipalities to obtain the money necessary in order to pay their share of the cost of treatment works.

A more expeditious method is, however, at hand. The recent case upholding the validity of the Allegheny County Authority seems definitely to have established the rule, that where a municipality enters into a contract for the construction or acquisition of any public works to be paid for only out of the revenues derived from the operation of such works, and the credit of the municipality is not pledged, nor the obligation to pay made a lien on the works or other property of the municipality, a debt is not created within the meaning of the constitutional limitation. The only security offered is the revenue derived from a self-liquidating project. The only remedy of the trustees for the obligees in case of default is to enter and collect tolls or rentals.

The same end may be accomplished by paying the purchase price from the proceeds of the sale of improvement bonds secured
DELAWARE RIVER BASIN

solely by the revenues derived from the sewer system without any right of the bondholders to look to the municipality or the tangible property of the sewage treatment works for payment.

In a number of instances, federal funds have been made available for sewer projects of various kinds, particularly under the Works Progress Administration.

There is, perhaps, no field of effort where interstate cooperation is more imperative than in the prevention of pollution of a stream forming the boundary between two or more states. Until the creation of the present Interstate Commission on the Delaware River Basin, the most serious effort to accomplish a coordination of state laws in so far as they affect the purity of the water of the Delaware, was that of commissions appointed by the states of New York, New Jersey and Pennsylvania. These commissions did draw up a comprehensive compact, which was adopted by New York but failed to become law in either New Jersey or Pennsylvania.

Under the proposed compact, which dealt largely with the apportionment of the water among the three states, a permanent Tri-State Delaware River Commission would have been created with broad powers and responsibilities in enforcing and carrying out the agreed provisions.

The existence of a permanent interstate commission, with administrative powers, seems almost necessary in carrying out any joint undertaking on the part of the states bordering on the Delaware, whether it be established by formal compact or by reciprocal legislation.

MR. TURNER: We ought now to proceed to a specific picture from the viewpoint of each of the four states concerned.

MR. WAYNE D. HEYDECKER (New York): Considering, first, the pollution problem, we find that less than 20 per cent of the Delaware drainage area lies within the borders of New York, and that the quantity of sewage contributed to the river by the New York population is relatively small. New York, however, through its department of health, is making every effort to bring about a satisfactory degree of treatment of all sewage originating in the state before it is discharged into the river.

On the subject of potable water, we find that the upper portion of the Delaware Basin is pre-eminently a potential source of water supply, particularly for the city of New York. At a later date, the waters of the upper Delaware may be needed by the cities of northern New Jersey and eastern Pennsylvania, including even the city of Philadelphia. Fortunately, there is ample water available for all reasonable needs of these communities if it is properly conserved and fully utilized.

The State of New York is interested in flood control in the Delaware Basin as a part of a general state-wide problem of flood relief. New York City is interested especially in the conservation of the flood waters which have heretofore run to waste, because such waste water offers the city its best chance of obtaining an economical supply of potable water. The storage of such flood waters by the City of New York will obviously lessen the problem of flood waters downstream.

The State of New York is interested in the broader phases of conservation in this area and believes that a conservation program should begin with the storage of flood waters for release during dry periods for water supply, navigation, recreation, sewage dilution, and other purposes. Multiservice reservoirs rather than retarding basins should be constructed wherever physical conditions permit.

Throughout the entire area, the recreational facilities of the river and its tributary streams for hunting, fishing, bathing, and the incidental purposes of agriculture should be maintained in a sanitary condition by the release, from storage reservoirs, of sufficient water to meet, at least, the normal requirements of aquatic life. Wherever reasonably possible, recreation facilities should be provided in connection with river improvements, even though the latter may be built primarily for other purposes.

In order to conserve, and in some areas to restore, the beauty and the economic value of our forest lands both in lumber and game and in other recreational uses, consideration should be given to regional programs of reforestation and game management, and the extension by Congress of the Forest Conservation Agreement Act of 1911, to include consent to interstate agreements affecting the conservation of wild life.
Because the full utilization of the waters of the Delaware River requires cooperation between four states, an interstate compact or treaty should be worked out in broad general terms by the Interstate Commission on the Delaware River Basin and submitted to the respective states and Congress for approval. The details of the program should then be worked out by an administrative commission or authority to be appointed under the compact to carry out the program.

Such a program might include the following items: (a) inventory and definition of the resources of the Delaware River Basin; (b) evaluation of factors in order of importance; (c) tentative allocation of waters in accordance with needs and basin rights; (d) settlement of conflicting demands, and (e) subordinate interstate agreements with respect to particular subjects such as uniformity of fish and game regulations in border areas.

The development and protection of adequate potable water supplies by the retention of flood waters for the city of New York and other communities in the southeastern part of the state is the most important use of the waters of the upper Delaware. Such waters should also be reserved in part for potable water supplies for northern New Jersey and eastern Pennsylvania.

New York believes that the protection and further development of recreational facilities should be an element second only to potable water in importance in any program.

To these two major objectives must be added a third: that any development of the Delaware River Basin should give adequate consideration to the special needs of local communities and local industries, and that the whole program should be coordinated by a pattern of highways and transportation that will not only serve local needs but make available the beauties of the valley and thus invite travelers from afar.

DR. CHARLES P. MESSICK (New Jersey): All of the important interests involved in the Delaware River Basin which New Jersey must face and which we can solve in any satisfactory or adequate way only with the cooperation of the other states within the basin area, deal primarily with the condition and use of water alone. As we see these problems, they are: (1) domestic water supply, (2) sanitation, (3) recreation, (4) navigation, (5) power development, (6) industrial use of water, (7) the fish and oyster industry, (8) agriculture and forestry, (9) flood protection and low water control, and (10) real estate and property interests.

The questions to be considered here are: How may the states effectively cooperate? What machinery should be set up best calculated to look after the interests of each state? How may this machinery be created?

For the proper handling of the complex and difficult problems which have been discussed, certainly an over-all, interstate, coordinating agency is required.

Within each state, as we see it, there should be a coordinating body representing the state's group-interest which would study, weigh, and consider the representations and needs of individuals, groups and communities, and through which, primarily, would be presented the proposals, the conclusions and recommendations of the respective states to the interstate agency.

New Jersey's stake in the Delaware River is great. Three thousand square miles or about 40 per cent of the total area of New Jersey lies within the Delaware River drainage area. Eighteen tributary streams flow through this section and are locally important, and approximately 800,000 people, or nearly 20 per cent of the total population of the state live in the basin area.

MR. F. A. PITKIN (Pennsylvania): Pennsylvania's interests in the Delaware River Watershed are extensive. Over half the basin's area is within her boundaries. Three-quarters of its population are her citizens.

Millions of persons depend upon the river as a source of domestic water supply. Thousands of manufacturing plants use it for industrial purposes. The Delaware provides Pennsylvania's only outlet to the sea. At the present time, Pennsylvania's most urgent interests in the Delaware Basin are those of water supply and sanitation.

In the eyes of Pennsylvania, pollution by sewage and industrial waste of the Delaware River and its tributaries is considered to be the foremost problem.
Pennsylvania's second most important problem, one which grows in urgency as well as in complexity, involves a new source of water supply for Philadelphia and other southeastern Pennsylvania communities.

Numerous other problems in the realm of water use are of great interest to Pennsylvania. The development of the recreational use of water is of growing importance. Navigation, at present limited to the tidal estuary of the Delaware below Trenton, is an important interest to Pennsylvania. There are definite possibilities for the development of hydroelectric power in the Delaware watershed. Such development would have to be undertaken by cooperation between the states involved and would probably require the establishment of an interstate agency, such as the New York Port Authority.

While flood protection and control merit future consideration, the operation of regulatory reservoirs for water supply and power development would have a beneficial effect in the reduction of flood heights and damages.

The up-river approach of salinity beyond its normal lines during droughts and periods of low river flow is also a serious problem affecting water-using industries in the vicinity of lower Philadelphia and Chester.

Mr. R. C. Beckett: Delaware has a somewhat slighter interest in the pollution of the Delaware River than do the three other states involved.

It would seem well to rehearse briefly what has been accomplished by a purely voluntary agreement between two neighboring states, Pennsylvania and Delaware. In 1929 the sanitary water board of Pennsylvania, the water department of the city of Wilmington, and the state board of health collaborated in a rather extensive survey of the Brandywine, the industrial wastes of which interfered with the purification processes of Wilmington.

As a result of this survey many improvements have been made to the sewage treatment facilities of the municipalities of Pennsylvania above the Wilmington waterworks intake, and, in addition to that, the various industries in that state have cooperated to cut down the pollution load going into the stream.

The focusing of the interest of these groups in the contiguous states should give impetus to the solving of the pollution problem of the Delaware.

For the rest of this session the conference resolved itself into three sectional group meetings to consider (1) water pollution, (2) water supply, and (3) recreational development.

Friday Dinner Session

Friday, October 2

A n informal dinner meeting of the Interstate Commission on the Delaware River Basin was held Friday evening in the main dining room of the Buckwood Inn at Shawnee-on-the-Delaware, Hon. Thomas A. Logue presiding.

Hon. Thomas A. Logue: May I just pay my humble tribute to Senator Toll, to Hubert Gallagher, and to Dave Robinson, through whose efforts this most significant conference has been made possible?

It is Senator Toll, through his organization of the Council of State Governments, who is giving to us today in America what we really need, a comity, a meeting of the minds of our levels of government.

It is my pleasure to present to you tonight Hon. Charles W. Eliot, II, executive officer of the National Resources Committee.

Hon. Charles W. Eliot: The National Resources Committee is composed of five cabinet officers and an advisory committee. It is a body of officials and of private citizens working together as a general staff for the chief executive.

This committee works through two types of organizations: first, through a series of subcommittees or 'special committees in Washington; and, second, through the stimulation, so far as possible, of state and regional planning. You have heard about the first type of activity from the chairman of our water committee.
In 1933, the President asked for a quick review of various water projects. A cabinet committee under the name of "The President's Water Flow Committee" gathered together such information as was then known of the projects in the water field at the same time that the so-called "308 Reports" were being formulated. As a result, a compendium of the principal projects which, up to that time, had been proposed in all the major drainage basins of the country, was published.

The next step was the report of the Mississippi Valley Committee which brought forward the argument for attack on the drainage basin problems as a whole, stressing the importance of multipurpose projects.

A third effort was the report of the National Resources Board, in 1934, which brought together the material for water planning by an examination of the water resources.

Now we are engaged in "the drainage basin study," as we call it, which is being conducted through our Water Resources Committee. As a result of our second approach there are today forty-seven state planning boards in operation in this country.

For regional planning we have made two types of approach. By regional planning, I mean planning which is not confined to one state but takes in problems which overlap state lines.

The report of a general review of the different methods of organization in this country presented a number of conclusions, among which was emphasized the part which the Council of State Governments and these commissions on interstate cooperation could play in the furtherance of cooperative enterprise among the states. But we wanted some specific examples. So we have fostered and tried to help the regional planning organization in the Pacific northwest; the similar organization in New England; efforts in the Ohio River Basin, in the southeastern part of the country; and two special experiments on the upper Rio Grande and the Red River of the North.

I want you to understand that we fully appreciate in Washington the distinctive aspects of the approach you are making to your problem here on the Delaware. You have the leadership of an intelligent group of public men who want the advice of technicians. It is an interesting experiment and we are only too glad to cooperate and to wish you the best of luck.

Mr. Logue: May I read to you three telegrams: "The President directs me to advise you that it is with regret that he will be unable to be present, and accept your kind invitation. He expresses to you all good wishes. Marvin H. McIntyre, secretary to the President of the United States."

"Regret exceedingly my inability to attend the Regional Conference of the Interstate Commission on the Delaware River Basin. Results and deliberation of this conference will have important bearing on future cooperation of the states involved. I trust you may be able to attend this important meeting furthering the splendid cooperation between the states participating. Please express my greetings and appreciation to members of the conference and guests. George H. Earle, Governor of the Commonwealth of Pennsylvania."

"Regret that trial makes it impossible for me to attend. Express my regrets and give my good wishes to those in attendance. P. Warren Green, Attorney-General for the State of Delaware."

It is a pleasure to introduce to you at this time the energetic, intelligent man who is paving the way for a more perfect union among American states. It is a privilege to present to you Hon. Henry W. Toll, executive director of the Council of State Governments.

Executive Director Toll: It would be a mistake if we did not take time to consider the larger implications of the work which we are engaged upon today. There can be little doubt that the project which we are launching represents the beginning of a development of great importance in connection with the American structure of government.

It is hardly possible to overestimate the importance or the seriousness of America's major problem of governmental structure—the problem of proper adjustment between our forty-eight state governments and our federal government.

It seems astounding, it seems utterly incredible, that during the century and a half of our national existence, no regional group of states has ever organized effectively for the conduct of any mutual undertaking.
Two states have joined in the operation of a port and three states have joined in the operation of a park, but never has a group of several states set up a continuing organization in order to effectuate a long term and comprehensive program for the benefit of a region.

I hope that each of you fully realizes the fact that when we are hunting for a path through the forest, we only have to discover the way once. And so, if we can find the effective route by which New York, New Jersey, Pennsylvania, and Delaware can cooperate in the conservation, the development, and the enjoyment of the natural resources of the Delaware River Basin, or even in reducing pollution of the river, we may at the same time find the way by which other groups of states can cooperate concerning their regional problems.

Today we are thinking primarily about dirt in the Delaware. But this is part of a much larger Delaware Basin problem of cooperation; and that, in turn, is part of a still larger project of governmental structure and of governmental harmony. Of course the project to which I refer is that of the Council of State Governments. In the evolution of that Council, the development of the Interstate Commission on the Delaware River Basin is one step—a step tremendously important in itself, but even more important as a demonstration of what can be done in the field of interstate cooperation and of federal-state cooperation.

Under the pattern which has now been devised, the Interstate Commission on the Delaware River Basin derives its being from the commissions on interstate cooperation of the participating states, and each of those commissions is made up of five senators, five representatives, and five administrative officials.

But this pattern would still be incomplete if it were purely a regional matter, and if it did not provide a means whereby each of the states in this particular region may effectively cooperate with its other neighbors in connection with other problems—and if the pattern did not provide a means whereby each of these states can cooperate with all of the forty-seven other states in matters where such cooperation is needed.

It is to be hoped that all of the states which have not already established commissions on interstate cooperation will do so in order to give the proper impetus to this program of the states for cooperation among themselves.

In behalf of the national organization of the Council of State Governments, I can pledge encouragement and support for the project of the Interstate Commission on the Delaware River Basin. And I bespeak a reciprocal encouragement and support for the Council of State Governments on the part of every individual who is in any way interested in the development of the Interstate Commission on the Delaware River Basin.

At the risk of shocking some of you, I do not hesitate to express the conviction that today we are attempting to solve a problem more difficult than that which confronted the framers of the Constitution. They were dealing with thirteen states, most of which were small. We are dealing with nearly four times that number of states, most of which are large. They were concerned with a relatively sparse sprinkling of less than four million human beings, scattered throughout the colonies. But we are concerned with more than one hundred twenty millions of human beings. They were dealing with a small, primitive, isolated civilization; we are dealing with a vast, complex civilization, tangled within itself and tangled with the civilizations of other nations of the world.

It may well be that the pattern for organized cooperation which we are establishing here today will prove to be as indispensable for the states as the corporation pattern is indispensable for individuals. This is the only constructive effort to save the states that is in progress in America. Every man in this gathering may well take pride in the fact that while millions of citizens are talking about the need for an alternative to centralization, he is engaged in actually providing such an alternative.

MR. LOGUE: We will close our evening by hearing from the chief executive of one of the greatest states in our Union, the Hon. Harold G. Hoffman, governor of the State of New Jersey.

HON. HAROLD G. HOFFMAN: We have been rather proud of the fact that New Jersey was the first state to go along with the Council of State Governments. We
think that it is a very fine idea. And so we are proud that we have taken the lead.

It seems to me that one of three things must come out of this conference on the Delaware Basin. One is that we can meet together and out of our deliberations will come a friendly arrangement between the states for the equitable, eventual distribution of water; for the elimination of pollution; for the promotion of navigation; for the protection of the shellfish; and for flood control. If not that, we may have set up a Delaware Valley Authority by the federal government. A third alternative is to go through long-continued wrangling, with costly litigation, with the promotion of a lot of bad feeling, and certainly, in the end, with no better solution found than can be reached through compacts and interstate cooperation.

I am reluctant to believe that these great states of ours cannot get together and work out some solution that is going to provide for the protection and for the development of the resources of the Delaware River Basin.

It seems to me that this is a typically American gathering, in that we can come together to work out a solution of these problems in a friendly and equitable way. I can pledge to you all that New Jersey will do its part in reaching the solution for which we are all striving.

The meeting adjourned.

SATURDAY MORNING SESSION

October 3, 1936


HON. ELLWOOD J. TURNER: The address that was to have been given by Colonel Lee will now be presented by Captain C. W. Burlin, army engineer in the Delaware River Basin.

CAPT. C. W. BURLIN: The engineers of the War Department are required to carry out the duties entrusted to them by law; to construct, maintain, and operate many works; and to pursue studies and report upon them to Congress. On the other hand, we are forbidden by law to initiate any projects.

A nation-wide planning program was adopted and authorized by Congress in 1927, which provided for the coordinated investigation and study of practically all of our waterways with respect to navigation, flood control, development of hydro-electric power, and water supplies—both for irrigation or other purposes. Here in the Delaware Basin, of course, the matter of domestic and industrial water supply was recognized as of primary importance.

In considering the water supply needs of the Delaware and its tributaries, the problem of pollution becomes a major consideration. We are at present engaged upon a general study of the problem in the river proper, and have been able to accomplish some cooperation with various industries, especially the petroleum industry.

Meanwhile, our navigation work proceeds with the 25-foot channel completed to the Marine Terminals at Trenton, and the 27-foot project well underway which seems destined to carry the major part of Baltimore's commerce to New York, New England, and across the Atlantic, and which should further serve Delaware River ports in the development of water-borne commerce.

Responsibility for this work and for this planning gives one deep concern. However, our people are trained in planning, and practice it all the time.

DR. J. G. LASMAN: We have been going on the assumption here that the data at hand is sufficient for answering questions that we have had before us or which might arise. I think perhaps we have taken too much for granted on that score, particularly concerning industrial waste.

MR. JARVIS: I have outlined some suggestions which I should like to present here.
DELAWARE RIVER BASIN

In order to capitalize to the utmost the fair, friendly, and cooperative spirit pervading this conference, it is hereby proposed: (1) that a Delaware River Authority be established; or that the existing Interstate Commission on the Delaware River Basin be expanded and empowered not only to plan but to function in devising, designing, constructing, and operating such regulating works, conduits, power plants; and other structures or appurtenances as may be found necessary or desirable; (2) that the membership comprise duly accredited representatives from New York, New Jersey, Pennsylvania, and Delaware; from New York City, northeastern New Jersey, Lehigh Valley, and Philadelphia; also from the corps of engineers, United States Army; with technical advisers to be made available from each of the above mentioned organizations as required, and also from such other agencies as may have a direct or substantial interest in the best solution of Delaware River problems; (3) that applications and negotiations be made for federal funds to finance the recommended undertakings on a self-liquidating basis involving payments in proportion to benefits received; (4) that such authority or commission be unrestricted as to scope of investigations; (5) that tacit recognition be given to the consideration leading to withdrawal of commercial shipping lines from the worst polluted sections of the lower river; (6) that the chief of engineers be charged with the general administrative and supervisory authority, but that so far as practicable each state or metropolitan district be encouraged to conduct its own part of the adopted plans.

There followed the business session of the conference during which the resolutions were fully discussed and acted upon. (Resolutions follow.)

RESOLUTIONS

I

BE IT RESOLVED, that the states be urged to undertake an aggressive policy of public acquisition of land for public recreational use and scenic value conservation; that the states be urged to reconcile their respective fish and game legislation and regulation to eliminate conflicts and provide for common stocking of streams and land; that the states and federal government be urged to undertake a comprehensive study of wild life conservation and management; that wherever reservoirs or power dams are, or have been, developed, we recommend the use of such impounded waters by the public for recreation, subject to prohibition of the use of public water supply reservoirs by the state health department having jurisdiction where it deems such use will create a menace to public health; that the states be urged by legislation and general public policy to provide against the abuse of the natural environment of the roadside by commercialization, in all new road construction, and to abate such abuses on existing highways as rapidly as possible, and to eliminate toll bridges; that the states be urged in all public works and commercial developments of the basin to give full protection to the scenic values of the basin; and that a comprehensive study and plan be undertaken for the recreational development of the basin.

II

BE IT RESOLVED, that a mutual agreement for the development of the Interstate Commission on the Delaware River Basin, as an effective agency for the development, control, and distribution of the use of the natural resources and benefits of the Delaware River Basin for the mutual advantage of the participating states, with such reapportionment and regulation of the flow of the River as will protect those communities and interests who now enjoy rights or share in its uses, be effected; that this conference favor a policy for the equitable apportionment of the water of the Delaware River Basin for water supply, in such manner as to restore and preserve the purity of the water for that and other consistent uses; that a series of impounding reservoirs to regulate the flow of the river for water supply, flood control, recreation, and for other economical and industrial purposes, be constructed.
III

BE IT RESOLVED, that we, officials of federal, state, county, and municipal governments and representatives of civic, professional, and business organizations of New York, New Jersey, Pennsylvania, and Delaware, and other interested citizens attending the regional conference on the Delaware River Basin:

First, endorse the efforts of the Interstate Commission on the Delaware River Basin to coordinate the work of the appropriate state and federal agencies for the prevention and abatement of pollution of the waters of the Delaware River;

Second, recommend that the Interstate Commission on the Delaware River Basin bring about an agreement between the different states involved to abate industrial and sewage pollution, and

(a) That this agreement be worked out with the aid of technical assistance from the states involved, and the federal government, and that this agreement be presented to the December meeting of the Interstate Commission for appropriate action, and further

(b) That definite steps be taken to have the agreement ratified by uniform legislation in the different states;

Third, recommend that an advisory committee be established, composed of the members of the Committee of One Hundred and the mayors and officials of the cities and villages located in the basin, to cooperate with the Interstate Commission on the Delaware River Basin in furthering the development of the basin, including such problems as flood control, conservation, navigation, recreation, and pollution abatement, and be it recommended that such an organization take appropriate measures to provide for proper publicity;

Fourth, urge that the legislatures of New York, New Jersey, Pennsylvania, and Delaware appropriate to their commissions on interstate cooperation funds for the continuation of the work of the Interstate Commission on the Delaware Basin.

IV

The Section on Water Pollution realizes that there is need for a uniform policy of federal aid to such municipalities, states or interstate commissions as are responsible for the financing of the necessary work to prevent and abate the pollution of water courses and coastal waters; and urges that the Interstate Commission on the Delaware River Basin undertake a study of the possibilities of developing such a federal policy.