UNTIL recently, the compact device was used primarily to settle interstate boundary disputes or to provide for the equitable distribution of the waters of numerous western rivers. During the past decade, however, in addition to these traditional fields, interstate compacts have been utilized to further interstate cooperation in other spheres of state action, including crime control, the abatement of water pollution, the regulation of petroleum production and the conservation of marine fisheries.

Since the 1941-42 edition of The Book of the States was published, a number of compacts then being negotiated have been ratified, and several new interstate agreements enacted.

Four additional states now operate under the Crime Compact of 1934. During its 1941 legislative session, Connecticut ratified the Crime Compact of 1934. During its 1941 legislative session, Connecticut ratified the Tri-State Pollution Compact for the abatement of pollution in the New York harbor area, thus completing the purpose of the compact and enabling the Interstate Sanitation Commission to carry on its work more effectively.

Three states—New York, Pennsylvania, and Louisiana—became parties to the Interstate Oil Compact, an agreement made increasingly important by the War.

Two new boundary agreements were negotiated and ratified: one between Indiana and Kentucky; the other between New York and Rhode Island. Negotiations were continued on the Little Missouri River Compact. Kansas, Colorado, and Nebraska signed an agreement covering the apportionment of the waters of the Republican River.

Perhaps the most significant development during the past two years was the adoption of the Atlantic States Marine Fisheries Compact by 10 of the 14 Atlantic Coast states. The intent of this Compact was the achievement of an effective, unified management of the fisheries of the coastal states in order to prevent the depletion of one of the nation's important food sources. To this end, the Compact established an advisory commission, representative of the participating states, and provided for cooperation with the U. S. Fish and Wildlife Service by designating it as the primary research body. Plans for the agreement were drawn up in 1937, and between then and 1941 the original compact was redrafted several times to incorporate suggestions of both fisheries administrators and fishermen.

During the negotiations, the value of an interstate compact, as opposed to a purely voluntary agreement among the states, was discussed at length. It was felt that the compact would provide a "legal affirmation of the principle of cooperation among the states to conserve the fisheries."

Some indication of the attitude of Congress toward interstate compacts concerned with more complex problems than the settlement of boundary disputes was
given by the two amendments made to the act granting final Congressional approval to the fisheries compact. One amendment limited approval to 15 years from the date of the Congressional act; the other required the Commission to report its progress to Congress annually.

Two states, Massachusetts and New Hampshire, have taken steps to abrogate the Concord Compact of 1934, relating to minimum wages of women and children. These states felt that federal legislation and Supreme Court decisions, subsequent to the Compact, made the agreement unnecessary. Rhode Island, the only other state which ratified the Compact, decided not to withdraw from the agreement at the present time.

Acknowledgement is made to the state legislative reference bureaus and secretaries of state who supplied much of the material included in the table which follows. In several instances, citations from the United States Statutes-at-Large are not yet available and reference to public law number is made in footnotes.

### Interstate Compacts 1934-1943

<table>
<thead>
<tr>
<th>Name</th>
<th>Subject</th>
<th>State Ratification</th>
<th>Consent of Congress</th>
<th>Citation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Colorado River Compact</td>
<td>For equitable division of the waters of the Colorado River and establishing an interstate commission</td>
<td>Arizona, 1939&lt;br&gt;A California, 1929&lt;br&gt;C Colorado, 1925&lt;br&gt;N Nevada, 1925&lt;br&gt;Utah, 1929&lt;br&gt;W Wyoming, 1925</td>
<td>1928</td>
<td>45 Stat. 1057-1066</td>
</tr>
<tr>
<td>NAME</td>
<td>SUBJECT</td>
<td>STATE RATIFICATION</td>
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<td>New Jersey, 1934</td>
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<tr>
<td>Tri-State Pollution Compact</td>
<td>Creation of Sanitation District to deal with pollution in New York Harbor</td>
<td>New Jersey, 1935</td>
<td>1935</td>
<td>49 Stat. 932</td>
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<td>New York, 1935</td>
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<td>Connecticut, 1941</td>
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<tr>
<td>Interstate Oil Compact</td>
<td>To conserve oil and gas by the prevention of physical waste</td>
<td>Arkansas, 1911</td>
<td>1935 consent</td>
<td>49 Stat. 939</td>
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<td>Colorado, 1935</td>
<td>1937 for two years</td>
<td>50 Stat. 617</td>
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<td>Illinois, 1935</td>
<td>1939 years</td>
<td>53 Stat. 1071</td>
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<td>Kansas, 1935</td>
<td>1919</td>
<td>55 Stat. 605</td>
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<td>Kentucky, 1912</td>
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<td>Louisiana, 1911</td>
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<td>Michigan, 1911</td>
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<td>New Mexico, 1935</td>
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<td>New York, 1911</td>
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<td>Oklahoma, 1923</td>
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<td>Pennsylvania, 1911</td>
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<td>Texas, 1935</td>
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<td>Virginia, 1936</td>
<td>1936</td>
<td>49 Stat. 1239</td>
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<tr>
<td>Tobacco Compact of 1936</td>
<td>Regulation and control of tobacco production</td>
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<td>New York, 1927</td>
<td>1929 for 2 years</td>
<td>50 Stat. 617</td>
</tr>
<tr>
<td>Development of Parkway and Recreational Areas</td>
<td>Authorizes any two or more states to negotiate compacts for planning, developing, improving, and maintaining any park, recreational area</td>
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<td></td>
</tr>
<tr>
<td>New England-Ohio Basin Pollution Control</td>
<td>Authorizes any two or more states of Maine, New Hampshire, New York, Vermont, Massachusetts, Rhode Island, Connecticut, Pennsylvania, West Virginia, Kentucky, Indiana, Illinois, Tennessee, and Ohio to make compacts for the abatement of pollution in interstate streams</td>
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</table>

* Ratification to become effective when California and Nevada accept tri-state compact embracing the terms of the water distribution set up in the Boulder Canyon Project Act.

b Connecticut and New York have authorized the Crime Compact but have not signed it.

Kansas is signatory but requires ratification.

* Ratification for 2 years; must be reenacted every 2 years if state to participate.

* Ratification act of 1935 gave governor authority to place Colorado in compact by executive order.
### The Book of the States

<table>
<thead>
<tr>
<th>Name</th>
<th>Subject</th>
<th>State Ratification</th>
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<th>Citation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ohio River Valley Water Sanitation Compact</td>
<td>For the control and reduction of the pollution of the Ohio River drainage basin</td>
<td>Indiana, 1939 Indiana, 1939 Illinois, 1939 Kentucky, 1940 New York, 1939 Ohio, 1939 West Virginia, 1939</td>
<td>1936 (Further approval by Congress required)</td>
<td>49 Stat. 1490</td>
</tr>
<tr>
<td>Flood control compacts</td>
<td>Authorizes any two or more states to enter into compacts or agreements in connection with any project or operation authorized by Secs. 5, 6 and 7 of Act of June 22, 1936 (49 Stat. 1572-1596) for flood control or prevention of damage to life or property by reason of floods upon interstate streams.</td>
<td></td>
<td>1936 (Approval granted)</td>
<td>49 Stat. 1571</td>
</tr>
<tr>
<td>Concord Compact of 1934 (signed by 7 states)</td>
<td>Compacts for minimum wages for women and children</td>
<td>Massachusetts, 1934</td>
<td>1937</td>
<td>50 Stat. 633</td>
</tr>
<tr>
<td>Potomac Valley Pollution and Conservation Compact of 1937</td>
<td>Creation of conservation districts for prevention of pollution</td>
<td>District of Columbia, Maryland, Virginia, West Virginia</td>
<td>1937 (Further approval by Congress required)</td>
<td>50 Stat. 884</td>
</tr>
<tr>
<td>Maine-New Hampshire Interstate Bridge Authority</td>
<td>Creation of authority with power to construct, maintain, and operate bridge between Portsmouth, New Hampshire, and Kittery, Maine</td>
<td>Maine, 1937 New Hampshire, 1931</td>
<td>1937</td>
<td>50 Stat. 538</td>
</tr>
</tbody>
</table>

* Ratification to go into effect when New York, Pennsylvania, and West Virginia enter compact as parties and signatory states.
* Ratification to go into effect when New York, Ohio, Virginia, and Pennsylvania enter compact as parties and signatory states.
* Governor has notified New Hampshire and Rhode Island that Massachusetts wishes to abrogate compact. Act pending in legislature (April, 1943) provides for abrogation to take effect in January, 1945.
* Governor has notified Massachusetts and Rhode Island that New Hampshire wishes to abrogate compact. Act pending in legislature (April, 1943) provides for abrogation to take effect in July, 1943.
* By joint resolution of Congress.
<table>
<thead>
<tr>
<th>NAME</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Pymatuning Lake Compact</td>
<td>Establishment of recreation district, for conservation of water, with concurrent penal jurisdiction of lake.</td>
<td>Ohio, 1937 Pennsylvania, 1937</td>
<td>1937</td>
<td>50 Stat. 865</td>
</tr>
<tr>
<td>Yellowstone River Compact</td>
<td>Authorizes compact between Montana, Wyoming, and North Dakota for the equitable distribution of the waters of the Yellowstone River.</td>
<td>1937 (Further approval by Congress required)</td>
<td>1940</td>
<td>54 Stat. 399</td>
</tr>
<tr>
<td>Great Lakes Fisheries Compact</td>
<td>For uniform regulation of fishing in the Great Lakes and connecting waters by any two or more of the states of New York, Pennsylvania, Ohio, Indiana, Illinois, Michigan, Minnesota, Wisconsin.</td>
<td>1938 (Further approval by Congress required)</td>
<td>1938</td>
<td>52 Stat. 200</td>
</tr>
<tr>
<td>Delaware River Vehicular Tunnel Agreement between Missouri and Iowa establishing a boundary between the two states.</td>
<td>New Jersey, 1937 (authorized)</td>
<td>1938</td>
<td>52 Stat. 163</td>
<td></td>
</tr>
<tr>
<td>Missouri - Iowa Boundary Agreement</td>
<td></td>
<td>Missouri, 1939 Iowa, 1939</td>
<td>1939</td>
<td>53 Stat. 1345</td>
</tr>
<tr>
<td>NAME</td>
<td>SUBJECT</td>
<td>STATE RATIFICATION</td>
<td>CONSENT OF CONGRESS</td>
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<tr>
<td>Atlantic States Marine Fisheries Compact</td>
<td>Authorizes any two or more of the states of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, and Florida, to make compact to promote better utilization of marine, shell, and anadromous fisheries of the Atlantic Seaboard and to establish the Atlantic States Marine Fisheries Commission</td>
<td>Delaware, 1911</td>
<td>1910</td>
<td>54 Stat. 261</td>
</tr>
<tr>
<td>Little Missouri River Compact</td>
<td>Authorizes Montana, North Dakota, South Dakota, and Wyoming to make compact for division of waters of the Little Missouri River</td>
<td></td>
<td>1940</td>
<td>54 Stat. 382</td>
</tr>
<tr>
<td>Indiana - Kentucky Boundary Compact</td>
<td>Agreement between Indiana and Kentucky establishing a boundary between the two states</td>
<td>Indiana, 1913; Kentucky, 1912</td>
<td>(m)</td>
<td></td>
</tr>
<tr>
<td>Republican River Compact</td>
<td>For an equitable division and apportionment, among the states of Colorado, Kansas, and Nebraska of the waters of the Republican River.</td>
<td>Colorado, 1913; Kansas, 1913; Nebraska, 1913</td>
<td>1912</td>
<td>56 Stat. 736</td>
</tr>
</tbody>
</table>

¹ Pending in legislatures of Connecticut, Florida, and Pennsylvania. Pennsylvania authorized to become party according to section of compact which provides that states contiguous with any of the listed states, and riparian upon waters frequented by anadromous fish, may do so.

² Enacted by 1913 legislature; requires Governor's signature.

³ Public Law 539, 77th Congress, Chapter 283, 2d Session.

⁴ Congressional approval being secured (April, 1913).
THE INTERSTATE COMMISSION ON THE DELAWARE RIVER BASIN

BEFORE entering upon a brief review of what the Interstate Commission on the Delaware River Basin has been doing since the publication date of the last edition of The Book of the States, it is proposed to take last things first and summarize what the Commission has been doing since Pearl Harbor, and what it proposes to do during the months that lie ahead. For the coming of the War has brought many changes to Incodel. The Commission has recognized that new problems and responsibilities confront governmental agencies at all levels.

At a business meeting of Incodel held in Philadelphia on December 19, 1941, 10 days after the United States entered the War, a review of the work program, in the face of the country's war effort under the Victory Program, was begun. The chairmen of the parent committees and commissions on interstate cooperation were consulted; and the Executive Committee of Incodel undertook a special review of its activities. Based upon this survey, the Commission decided to curtail its activities and retrench on expenses for the duration. It is to focus its attention on problems that are most vital to the war and postwar period; it is to continue, within these limitations, to direct its efforts toward its basic and enduring objectives of interstate coordination and cooperation in dealing with land and water resource problems of the Delaware River basin.

THE PROGRAM FOR 1942-1913

Incodel proposes to confine its efforts in the immediate future to the following six-point program:

1. Adoption of the Incodel Water Pollution Act in Pennsylvania
2. Adoption of the Incodel Water Supply Act in each of the affected states
3. Continuance of the Commission's efforts to clear away the legal aspects of the Philadelphia pollution problem
4. Continuance of the Incodel Industrial Water Supply Survey
5. Continuance of the Multiple Purpose Survey
6. The undertaking of such emergency war jobs as the Water Conservation Campaign

Water Pollution

The Incodel Concurrent Act, "To Promote Interstate Cooperation for the Conservation and Protection of Water Resources in the Delaware River Basin," has now been approved by the legislatures and signed by the governors of Delaware, New Jersey, and New York.

Despite an intensive effort to secure ratification of this interstate water pollu-
tion agreement by Pennsylvania during the 1941 session, the bill died in the Senate, along with similar measures providing for cooperative action among the states of the Ohio and Potomac River Basins.

During the past year an educational campaign was undertaken in Pennsylvania which, it is hoped, will lead to the adoption of this bill by the 1943 legislature. As a first step, a public meeting was held on July 23, 1942, in Bethlehem, Pennsylvania, to review the objectives of the bill and to inform the interested groups in the Lehigh River sub-basin of the purposes and procedures outlined in the legislation. Completion of its legislative program on water pollution is of first importance to Incodel.

Water Supply

It is a pleasure to be able to report on the results of more than three years of patient and painstaking investigation and research on the most critical problem in the Delaware River basin—water supply diversions.

In 1931, New York's right to divert six hundred million gallons of water a day from the Delaware River basin to supplement New York City's supply (water that will not be returned to the main stream or its tributaries, as is usually the case) was contested by New Jersey, with Pennsylvania an intervenor, in a case fought before the United States Supreme Court. This litigation resulted from almost ten years of fruitless negotiation by tri-state compact commissions; it stemmed from a quarter of a century of individual state study of water supply problems.

The decree of the Supreme Court was handed down two years and twelve days after New Jersey's complaint was filed, during which period the Special Master appointed by the Court to take evidence and make findings of fact and conclusions of law heard more than one hundred and fifty attorneys, counsels, and expert and lay witnesses. More than sixty volumes of argument, testimony, and exhibits were placed before the Court covering more than ten thousand printed pages of record. Well in excess of a million dollars was spent in this litigation by the contesting states.

This statistical summary should emphasize the fact that the interstate agreement which has been reached among the engineers representing the water resources agencies of New York, New Jersey, and Pennsylvania, establishing interstate principles and rules to govern the diversion of water from the Delaware River and its tributaries for domestic water supply purposes, is a notable achievement. Three years of work by the Incodel staff, operating under the direction of its Advisory Committee on the Quantity of Water in the Delaware River Basin, was involved.

Having agreed that the principles established by the United States Supreme Court in the Delaware River Case of 1931 were sound and should be upheld, but seeing the urgent necessity of expanding and supplementing those principles to the extent required to permit other diversions, or a series of diversions, by the states of the basin, the Quantity Committee proceeded to study more than twenty different modifications of the basic rule established by the Supreme Court.

These modifications were applied to the same hypothetical water projects used in testing the original Supreme Court rule for the ten-year period, 1929-1938, which included one of the most extended and severe periods of low flow on record—the years from 1930 to 1932. The analysis and tabulation of the results of these tests necessitated more than 25,000 separate daily computations of the flow of the Delaware River at Port Jervis, New York, and Trenton, New Jersey. In addition, hundreds of graphs, diagrams, and charts depicting these results were prepared.

The Committee unanimously agreed upon the technical engineering conditions to apply to diversions of water from the Delaware River basin for domestic water supply purposes; this agreement has been put in statutory form under the title: "An Act to Promote Interstate Cooperation for the Use, Conservation, Protection, and Equitable Diversion of the Water Resources in the
Delaware River Basin between the Commonwealth of Pennsylvania and the States of New York and New Jersey, for the Purpose of Meeting Present and Prospective Needs for Domestic and Municipal Water Supply." This legislation is now pending before the 1943 sessions of the three state legislatures.

**Industrial Water Supplies**

In the Delaware River Case of 1931, the Commonwealth of Pennsylvania, as intervenor, asked the Supreme Court of the United States to retain jurisdiction over the case for three principal reasons: (1) the advisability of appointing a River Master, in the future, to regulate and control the taking of water from the Delaware River and its tributaries; (2) the apparent necessity for an allocation to Pennsylvania of its fair and equitable share in the waters of the Delaware River basin, as soon as a plan could be drafted and officially adopted; and (3) the possible need for future proof regarding the effect of the New York taking upon salinity conditions in the lower Delaware River.

Industrial users in the Pennsylvania and New Jersey sections of the lower Delaware basin insisted that New York should be required to release water from storage reservoirs, during periods of low flow, in sufficient quantity to prevent the advance of salinity above the Pennsylvania-Delaware boundary line. To forestall such an advance of salt water, a flow of four thousand cubic feet per second, or about two and a half billion gallons a day, at Trenton, is required.

New York is not to be required to release more than three hundred million gallons of water a day, during low flow periods, which would be insufficient under extreme conditions. Therefore, the problem remained, as did the possibility of a re-opening of the Delaware River Case by industries in the lower basin which might claim damages after New York City's project is in operation.

Most of the larger industries in this heavily concentrated area rely on the Delaware River for water supplies to use in their manufacturing processes. The periodic invasions of salt water, in concentrated form, cause serious difficulties. Actual losses or damages to the operating companies average approximately a half-million dollars a year.

Incodel has recently completed a study of the salinity situation in this area which concludes that it is impractical, if not impossible, to eliminate incursions of salt water above the Pennsylvania-Delaware boundary line and that the construction of large, multiple purpose reservoirs in the Delaware River above Trenton, while beneficial, would not eliminate the salinity problem. Incodel's conclusions have been accepted by the industrialists in this area and they have recently requested that the Commission continue its investigation with a view to recommending other possibilities for their relief.

The line of investigation now being followed will call for the construction of one or more reservoirs, as an alternative source of water supply for the industries in the area, for use during periods of damaging salinity invasions. The cost of such a project is negligible when compared with the possible cost to New York, New Jersey, and Pennsylvania of maintaining and operating reservoirs for the release of compensating water during periods of low flow. This system of reservoirs would have been required, had the erroneous premise been followed that such releases would so increase the rate of flow in the Delaware River at Trenton as to retard materially the advance of salt water above the Pennsylvania-Delaware boundary line.

**Multiple Purpose Developments**

In the past, many reports have been made advocating the construction of a series of dams and reservoirs on the Delaware River and its tributaries. These reports suggest the possibility of constructing a chain of reservoirs throughout the watershed for a combination of uses, such as for water supply, water power, recreation, salinity control, sanitation, flood control, navigation, and irrigation, by and for the use of all states in this area.

Carl A. Bock, consulting engineer, retained by Incodel during the past year
to review its water supply studies and to prepare an analysis of Incodel's past, present, and prospective work programs, recommended that the next major step be an investigation of such multiple purpose possibilities.

Beginning with an analysis of the "308" Report of the Army Engineers (the most comprehensive of all multiple purpose surveys), Incodel is now in the process of evaluating all of such projects. None of the states in the Delaware River Basin has undertaken this task in the past, so that no appraisals of these federal proposals are available.

If a public works program of major magnitude is begun at the end of the War, it is logical to presume that the federal government will renew its efforts to blanket the nation with water conservation authorities. At such a time, the states on the Delaware River would be in a better position to resist encroachment if the facts were assembled, digested, and immediately available.

Water Conservation

As a concluding section in this analysis of Incodel's past, present, and prospective program, one illustration of another aspect of its present job should be given—that of emergency activity in connection with the war effort.

The five Pennsylvania counties in the Philadelphia Metropolitan District comprise an important nerve-center in the nation's network of industrial war production. Planes, tanks, jeeps, guns, ships, and shells—these and thousands of other materials and instruments of war are manufactured in that district. These war industries cannot operate without a vast amount of water—water that is of the same high quality as is sent through the distribution mains for home usage.

While there is no shortage of "raw" water in the district, the supply of mechanically and chemically treated water, filtered and processed to make it safe for human consumption and for use in twentieth century industrial plants, is definitely limited by the capacity of the water filtration systems to treat more than a specified quantity.

Water is a manufactured product; the quantity available is limited by the size of the filtration plants. Because of that factor—because water is not, as free as air—a definite and critical shortage threatened the Philadelphia Metropolitan District in the summer and fall of 1942.

Upon the request of the Philadelphia Metropolitan District Council of Defense, strengthened by the appeals of the major water companies, Incodel undertook the organization and administration of an extensive water conservation campaign in the five-county district, designed to save the fifty million gallons of water a day now wasted or used for nonessential purposes in the area.

Five hundred thousand printed leaflets outlining the facts of the water emergency and pointing out several specific ways of avoiding waste were distributed, house to house, by air raid wardens. More than a hundred thousand poster displays and window cards, printed from sketches designed by Incodel, were placed throughout the district. A series of 14 radio addresses and round table discussions on water and the War in the Philadelphia Metropolitan District was "aired" during a concentrated two-week period on free time furnished by Philadelphia's major radio stations. Full newspaper coverage was secured through articles, feature stories, editorials, and cartoons.

Based on reliable estimates furnished by the three major water supply agencies in the Philadelphia Metropolitan District, the use of water in the critical summer months of 1942 was thirty million gallons a day less than in the same months of the preceding year.

If, in addition, the tremendously increased demand for water by population increases, war industries, war housing, and war employment is considered, the adoption and practice of water conservation measures to the extent of sixty-five million gallons a day was indicated.

CONCLUSION

Incodel is operating on a war basis. The Commission feels that it has a dual responsibility, one normal, the other a
responsibility to be faced by all governmental agencies in wartime—the need to strip all programs to bare essentials.

After six years of successful effort in promoting and assisting in the formulation and execution of policies and programs for the wise use, development, and control of the natural resources of the Delaware River basin, the Commission feels it would be lacking in faith to its responsible committees and commissions on interstate cooperation if it were to overlook its basic and continuing function in the stress of war's immediate demands.

Incodel therefore recognizes as a part of its job—its wartime job—the need to proceed deliberately and calmly with the main business of furthering interstate cooperation in its field of work.
SINCE 1941, when this Commission was formally organized, it has been actively engaged in the control of pollution abatement in the Potomac River basin. The Commission consists of representatives from the states of Maryland, Virginia, and West Virginia, from the District of Columbia, and from the federal government. Pennsylvania, which contains a small portion of the basin area, has not as yet ratified the compact with the other states, but has the matter before its present legislature.

The value and importance of our natural resources is well known, and the value of planning for their conservation and judicial use has been an accepted fact for many years. This is particularly true of the control of pollution throughout the various drainage basins of the country. There has been, however, considerable controversy in the past as to the manner of this planning, by whom it should be done, and by whom these plans might best be made operative.

This Commission has been formed for, and its aims are: to plan and execute policies and programs for the best use, development, and control of the natural resources within the Potomac River Basin. This is to be accomplished through the use and cooperation of the various state agencies within the basin states which are connected with planning and pollution control. The Potomac River Commission has been planned as a demonstration unit of what might be done by means of the compact method between the various states to exercise control effectively, economically, and democratically over interstate waters, by means of interstate cooperation, and through such cooperation to set up a uniform program of pollution abatement within any interstate watershed area. It is the Commission’s object to investigate conditions, propose methods for pollution control, suggest administrative procedures, legislative and educational programs which might be of benefit not only in this area but in any similar watershed area.

**ORGANIZATION AND PROCEDURE**

In any organization such as this one, which is of a service nature, it is essential that continuous correlated advisory planning be carried on in conjunction with all interested organizations within the area. In order to accomplish this, the organization is as follows: (1) The Commission itself, consisting of three representatives from each state, three from the District of Columbia, and three from the federal government; (2) Technical advisory committees, consisting of men outstanding in their various professions, whose advice would be of benefit to the Commission, and who are vitally interested in the Commission’s problems; and (3) The regular staff of the Commission, which must of necessity carry on definite and detailed planning in order that the entire program may be unified. This last is a most important function in dealing with long range planning because in the continuity of effort there can best be disclosed opportunities for cooperative effort.

The advisory committees are composed of the heads of the various state planning boards, the heads of the state health departments of the signatory states, and representatives of national organizations which are interested in the same type of pollution control. Thus, the Commission has access to all available information and expert advice.

In planning an orderly pollution control program for the Potomac Basin, the Interstate Commission is proceeding as follows: All available information is being obtained regarding the basin area, not only in so far as pollution is concerned, but also as concerns those facts which might affect a pollution control
program. Thus, information is being obtained regarding land uses, recreational areas, population trends, hydroelectric development, water supplies—both surface and underground—location of present and future industries, and any other additional information which might seem to be pertinent. From these facts then, there is to be developed a long range program for pollution control and control of water resources within the basin. Such a program is, of course, being formulated in connection with the various state planning agencies, health departments, and other state planning bureaus. The Commission is acting more as a correlating agency than as an actual planning agency within itself.

PRESENT PROGRAM

The Commission is gathering basic data at the present time in regard to facts about the basin and in regard to proposed plans for the area. During the period of the war emergency, the Commission is attempting to protect the streams in the basin from further pollution, and, where pollution is unavoidable, to keep it at a minimum. The Commission is investigating existing legislation in the various states with the idea of suggesting and recommending any new legislation which may be found to be desirable for the better control of pollution, and is keeping in mind any enabling legislation which may be advisable in order to speed up a postwar program of pollution abatement. This would be of considerable benefit to the various states and their individual municipalities. From the basic data gathered for the basin area, a program is being formulated for pollution abatement. This program is to be carried out after the War is over, constructing the most essential treatment plants at first, and then, as soon as desirable, constructing those which are not so badly needed.

The Commission proposes to promote such a postwar program, once formulated, through publicity and through interesting officials of the various municipalities in the preparation of the necessary preliminary plans and estimates so that projects can proceed at an early date after the War ceases.

INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

Members

District of Columbia:
J. B. Gordon, Director, Division of Sanitary Engineering
D. L. Seckinger, M.D., Assistant Health Officer
James W. Lauderdale, Assistant Corporation Counsel

Maryland:
Governor Herbert R. O'Conor, Annapolis
Hon. L. Harold Sothoron, State Senator, Annapolis
J. Andrew Cohill, Hancock

United States:
Abel Wolman, Baltimore
Harold A. Kemp, Office of the Chief of Engineers, Rivers and Harbors Board, Washington
Ralph E. Tarbett, Senior Sanitary Engineer, Office of Civilian Defense, Washington

Virginia:
Raymond V. Long, Director, Virginia State Planning Board, Richmond
N. C. Bailey, Orange
John A. K. Donovan, Falls Church

West Virginia:
C. F. McClintic, M.D., Commissioner of Health, West Virginia State Department of Health
Hon. George H. Williams, State Senator, Romney
John I. Rogers, State Representative, Keyser

Secretariat:
Edwin R. Cotton, Engineer-Secretary
522 Transportation Building, Washington, D.C.
When the Atlantic States Marine Fisheries Commission met for the first time in New York on June 5, 1942, and proceeded to organize and elect officers, it marked the beginning of an interesting experiment in interstate cooperation. Only twice since the ratification of our Constitution have a greater number of states been banded together for a common interstate purpose. The interstate compact with respect to the handling of paroled prisoners has been entered into by 37 states but is implemented by no permanent agency. The interstate oil compact, on the other hand, represents a joint effort by 12 states and functions through a commission representing the 12 signatories. The fisheries compact affecting the Atlantic Seaboard has been accepted by 10 states: Maine, New Hampshire, Massachusetts, Rhode Island, New York, New Jersey, Delaware, Maryland, Virginia, and South Carolina. Four other Seaboard states eligible to membership—namely, Connecticut, North Carolina, Georgia, and Florida—are giving consideration to the matter at the present time. The commissions on interstate cooperation and the fisheries departments in at least two of these states are recommending its acceptance and Pennsylvania, although not a producing state, is eligible to membership by reason of its interest in the shad in the Delaware River, and is giving consideration to its adherence to the Compact.

The Problem to be Solved

The problem which this Commission was created to solve is one which has been growing in importance with the years. The great shore fisheries resources of the Atlantic Coast have been subject to serious depletion by reason of the intensity of fishing pressure. Declines in the annual take of particular species have brought vividly to the industries
affected the need for coordinating their efforts to secure harmony of each state's regulations with those of other states. No single government had control over conservation measures affecting migratory fisheries. Beyond the jurisdictional limits of the states, the fisheries are subject to international law but within the jurisdictions of the states the regulation of the fisheries has generally been held, by judicial interpretation, to be within the internal police power of the states. Independent action by individual states places its fishermen at real or fancied disadvantage in comparison with fishermen of neighboring states, with a resulting lack of unified action and ineffectiveness.

The new Commission which has been established under the Compact has not been given the regulatory power which was at one time thought desirable. Instead, it is only an advisory body, charged with responsibility of studying the needs of the fisheries and recommending to the governors and legislatures of the states affected the adoption of uniform or integrated regulations, designed to protect and promote the maximum yield of the fisheries. The Compact itself specifically disclaims any intention of limiting the production of fish for the purpose of establishing or fixing the price thereof or creating and perpetuating any monopoly.

Eligibility to Make Recommendations

Only those states having a definite "interest" in a given species may have a voice in determining the recommendations with respect to such species, and the rules adopted by the Commission define what constitutes such an interest. Specifically, a state has an interest when, according to the latest available records of the United States Fish and Wildlife Service, such fish are found customarily or periodically in its territorial waters in marketable sizes or quantities, or are customarily or periodically in such waters for the purpose of spawning or in transit to and from spawning grounds, or when the citizens of any state are recorded as having taken 5 per cent or more of the total Atlantic catch of such species. Groups of states having an interest in the species are designated as a panel in the Commission and decisions reached by the Commissioners of such states only have validity and may be transmitted to the governors and the legislators of the states affected.

Membership and Financial Support

Membership on the Commission from each state embraces: the executive officer of the administrative agency charged with the administration of the coastal fisheries; a member of the legislature designated by the commission on interstate cooperation; and a third person, appointed by the governor, who must have "a knowledge of and interest in the marine fisheries problems." The latter are customarily appointed for a period of three years.

Financial support of the Commission consists of appropriations made by the participating states, in accordance with the ratio of the primary market value of the catch of such state to the primary market value of the whole Atlantic catch, after excluding cod and haddock in both computations. These appropriations are made on the basis of the latest published figures of the U. S. Fish and Wildlife Service and the Commission itself is charged with the responsibility of restudying this formula and arriving at a more equitable one, if such can be found.

Advisory Committee Created

To assure wider participation in the formulation of recommendations, the Compact authorizes the creation of an advisory committee representative of the commercial fishermen, salt water anglers, and such other interests of each state as the Commission deems advisable. Such an advisory committee has been created and to it has already been referred a basic question, namely, that of providing an integrated system of state catch statistics adjusted to the needs of each state but so devised that the records of one state will be reasonably comparable to the catch records of other states. The details of these problems have been worked out by the states themselves, with the help of the U. S. Fish and Wildlife Service.
Officers Elected and Work Begun

The Atlantic States Marine Fisheries Commission, at its organization meeting in June, 1942, canvassed the basic problems confronting it, received suggestions from technicians of the U. S. Fish and Wildlife Service, and elected as officers the following: Edmund L. Dunn of Massachusetts, President of the New England Fish Exchange, Chairman; Commissioner Edwin Warfield, Jr., of Maryland, Chairman of the Department of Tide water Fisheries, Vice-Chairman; Wayne D. Heydecker of New York, Regional Representative of the Council of State Governments, Acting Secretary-Treasurer.1

Rules and regulations prepared by the Drafting Committee were also adopted and the Commission got down to work. During the summer a temporary agreement was reached for the performance of secretarial services by the Council of State Governments. At its September meeting in New York City, the Advisory Committee called for by the Compact was established. The temporary officers were re-elected; minor amendments were made to the rules; possible modifications of the formula were explored, and the subject of state catch statistics was debated at length and ordered submitted to the Advisory Committee for comment. An interesting proposal for the development of management programs was presented by Commissioner Tucker. The Executive Committee authorized the establishment of various panels and disposed of numerous matters of organization detail.

At the two-day meeting in Baltimore on December 9-10, 1942, the panels established earlier debated the problems of the striped bass, the blue crab, and the channel/bass or red drum. A forum meeting on fisheries management, participated in by staff members of the U. S. Fish and Wildlife Service, developed further the proposal originated by Commissioner Tucker.

On the following day, after receiving the comments from the Advisory Committee, the Commission formally approved and recommended to the states the institution of state systems of catch statistics. It received the reports of the recommendations of the several panels, ordered them transmitted to the states involved, and approved the annual report which the Compact requires to be filed with the governor and the legislature of each of the compacting states. Similar reports have been filed with the Congress of the United States, as required by the Congressional Consent Act.

After reviewing the financial set-up contained in the original Compact, the Commission concluded, in the fall of 1942, that to perform properly the work entrusted to it would require a larger budget than was initially provided for. Accordingly, its request to the compacting states for funds for the ensuing biennium were presented to the budget authorities of the several states on the basis of a 50 per cent increase which, when all the eligible states have become members, will yield the Commission a revenue of $15,000. At an Executive Committee meeting in New York, in February, 1943, the Commission concluded that the time had come to establish a modest independent office and steps were taken to that end. The Commission is now established at 415 Lexington Avenue, in New York City, where it is convenient to the Regional Office of the Council, and where close cooperation between the two agencies is continuing.

From this brief review it will be seen that the Commission proceeded promptly with the business for which it was created, recognizing that the field in which it will operate is new and that considerable time will be required to arrive at well digested conclusions. No miracles are to be expected over night.

1 David W. Robinson is the present Eastern Regional Representative of The Council of State Governments and represents the Council on the Commission.
## INTERGOVERNMENTAL RELATIONS
### MEMBERSHIP OF THE COMMISSION

<table>
<thead>
<tr>
<th>State</th>
<th>Administrator</th>
<th>Legislator</th>
<th>Governor’s Appointee</th>
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<tbody>
<tr>
<td>Maine</td>
<td>ARTHUR P. GREENLAUF (Commissioner Sea and Shell Fisheries)</td>
<td>FRANK BAKER (Representative)</td>
<td>CARROLL B. PEACOCK</td>
</tr>
<tr>
<td>New Hampshire</td>
<td>RALPH G. CARPENTER (Director Fish and Game Department)</td>
<td>RENFREW A. THOMSON (Senator)</td>
<td>OREN V. HEYDERSON</td>
</tr>
<tr>
<td>Massachusetts</td>
<td>RAYMOND J. KENNEY (Commissioner of Conservation)</td>
<td>ARTHUR I. BURGESS (Representative)</td>
<td>EDMUND L. DUNN</td>
</tr>
<tr>
<td>Rhode Island</td>
<td>DR. RAYMOND G. BRESSLER (Director of Agriculture and Conservation)</td>
<td>HAROLD I. HURB (Senator)</td>
<td>DR. CHARLES J. FISH</td>
</tr>
<tr>
<td>New York</td>
<td>J. VICTOR SCIFF (Superintendent of Inland Fisheries)</td>
<td>ELSIE T. BARRETT (Assemblyman)</td>
<td>ALFRED TUCKER</td>
</tr>
<tr>
<td>New Jersey</td>
<td>GEORGE C. WARREN, JR. (President Board of Fish and Game Commissioners)</td>
<td>DUANE E. MINARD, JR. (Assemblyman)</td>
<td>GEORGE A. MOTT</td>
</tr>
<tr>
<td>Delaware</td>
<td>HARLEY G. HASTINGS (President Board of Fish and Game Commissioners)</td>
<td>BURTON S. HEAL (Senator)</td>
<td>ARNOLD J. STEWART</td>
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<tr>
<td>Maryland</td>
<td>EDWIN WARFIELD, JR. (Chairman, Department of Tidewater Fisheries)</td>
<td>ALBERT W. WOODFIELD (Representative)</td>
<td>GEORGE T. HARRISON</td>
</tr>
<tr>
<td>Virginia</td>
<td>CHARLES W. LANKFORD, JR. (Commissioner of Fisheries)</td>
<td>ROBERT O. NORRIS (Senator)</td>
<td>WILLIAM P. HUNT</td>
</tr>
<tr>
<td>South Carolina</td>
<td>J. M. WITSELL (Chairman Board of Fisheries)</td>
<td>J. D. PARKER (Senator)</td>
<td>CHARLES J. GEILFUSS</td>
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**Council of State Governments**—DAVID W. ROBINSON, Regional Representative, 522 Fifth Ave., New York

**Chairman**
- EDWARD L. DUNN, President
- New England Fish Exchange
- Boston Fish Pier
- Boston, Massachusetts

**Vice-Chairman**
- EDWIN WARFIELD, JR., Chairman
- Department of Tidewater Fisheries
- State Office Building
- Annapolis, Maryland

**Secretary-Treasurer**
- WAYNE D. HERTZINGER
- 415 Lexington Avenue
- New York, N. Y.
The International Board of Inquiry for the Great Lakes Fisheries was established February 29, 1940, by an exchange of notes between the governments of the United States and Canada for the purpose of studying the taking of fish, and submitting recommendations for the preservation and development of the Great Lakes fisheries. Members of the Board, whose work has now been completed, include: Hubert R. Gallagher, Chairman, Assistant Director, Council of State Governments; A. G. Huntsman, Secretary, Consulting Director, Fisheries Research Board of Canada, Toronto, Ontario; John Van Oosten, U. S. Fish and Wildlife Service, Ann Arbor, Michigan; and D. J. Taylor, Deputy Minister, Game and Fisheries Department, Toronto, Ontario. The appointment of this Board by the President of the United States and the Prime Minister of Canada was the direct result of the recommendation of a conference of cooperation commissioners and other public officials held at Detroit, Michigan, on February 25-26, 1938, under the auspices of the Council of State Governments.

In August, 1942, the Board submitted its report to the governments of the United States and Canada. This report, which culminated a two-year investigation, recommended a common or joint agency of control for the fisheries through an international treaty. The report and the supplemental report of the United States members were based on an analysis of all available records of catch; on a review of all pertinent scientific, historical, legal, and administrative documents and reports; and on a study of the testimony of the commercial fishermen and others familiar with the Great Lakes fisheries. Twenty-nine public hearings were held and a detailed questionnaire was sent to some four thousand licensed commercial fishermen.

The report of the full Board covered briefly, in general terms, the principal problems that confront the Great Lakes fishing industry. The report emphasized the deficiencies and gaps that exist in the present knowledge of the Great Lakes fisheries and pointed to the need of further study.

Since most of the research on the Great Lakes fisheries was carried on by United States investigators, and since the question of uniform regulation involved to a large degree the interrelationships of the several Great Lakes states in this country, the United States representatives on the Board felt that a more detailed report was required for a full understanding of the problems from the United States point of view. The supplemental report of the United States commissioners, therefore, contains more specific and detailed information than does the principal report.

It has long been recognized that if proper and effective measures for the management of the Great Lakes fisheries are to be enacted these must be made uniform whenever and wherever conditions, both environmental and competitive, are the same or similar. Not only must the regulations be uniform, but also their enforcement and methods of enforcement must be the same. Such uniformity is especially demanded where the fisheries are dependent on a common stock.

The supplemental report emphasized two points: (1) that attempts in the past to obtain uniform regulations by means of conferences and formal agreements had failed; and (2) that any efforts to accomplish uniformity through such devices as compacts and discretionary powers would also be unsuccessful.

Any interstate compact which includes the Province of Ontario, as it must do to be effective, has been declared to be of questionable validity and contrary to the long-established policy of the United
States government. Repeated attempts to obtain discretionary powers for the conservation departments to cover the commercial fisheries of the Great Lakes have failed, and experience has shown that the possession of such powers will not assure uniformity in regulations. An exhaustive review of all possible methods of solution showed that a treaty with Canada is the only practical device available.

International or federal control has been recommended by virtually everyone who has made an impartial study of the situation on the Great Lakes, be he scientist, administrator, or layman. Many organizations have made similar recommendations.

Two earlier international fish commissions (1893 and 1908), appointed by the two countries, likewise recommended common action through a treaty. Presidents Grover Cleveland, William H. Taft, and Woodrow Wilson, as well as Secretary of State William J. Bryan, were among those who urged the adoption of such a treaty.

According to the supplemental report, not only did a large number of prominent and well informed fishery administrators favor international or federal control, but also every scientific investigator who made extensive surveys of the Great Lakes fisheries with particular reference to their preservation.

On the basis of investigations made by the Board, it was clear that the majority of every important group in the United States specifically interested in the conservation of the Great Lakes fisheries, both commercial and sport, demands the following measures in order to enact proper and effective management practices: (1) international or federal control; (2) uniform regulations and enforcement; and (3) more effective management practices. These groups comprise fishery administrators (state and federal), investigating scientists, commercial fishermen, sportsmen, conservation departments, organizations (scientific and sportsmen), and the three international commissions that have surveyed the Great Lakes fisheries.

The United States members of the Board included in their supplementary report a list of suggestions that should be considered in drawing up the recommended treaty. The more important items provided for: (1) designation of the Fish and Wildlife Service as the regulatory body for United States waters; (2) reciprocal enforcement with the Great Lakes states; (3) grant of power to the Great Lakes states to make additional restrictions not inconsistent with the convention; (4) United States control over the licensing of fishermen, the fees to be retained by the states; (5) continuation of research and fish-cultural operations; (6) collection of adequate statistics of catch; (7) establishment of an advisory committee; and (8) holding of at least one public hearing on each lake each year to discuss and review any proposed changes in regulations or other recommendations.

Information recently received from the Department of State indicates that it has made arrangements to give special attention to the report and recommendations of the Board of Inquiry, with the object of developing a possible basis for international action for the regulation of the Great Lakes fisheries.
THE INTERSTATE OIL COMPACT COMMISSION*

To provide a forum for interstate cooperation, to prevent avoidable waste of an irreplaceable resource, to further efficient conservation practices in the production of oil and gas, and to preserve for the states fundamental rights of local self-government, an interstate compact for the conservation of oil and gas was drawn at a Governors' Conference in Dallas, Texas, on February 16, 1935.

The Interstate Oil Compact Commission, created by its terms, was granted no powers of compulsion. It was directed "to make inquiry and ascertain from time to time such methods, practices, circumstances, and conditions as may be disclosed for bringing about conservation and the prevention of physical waste of oil and gas and at such intervals as said Commission deems beneficial it shall report its findings and recommendations to the several states for adoption or rejection."

The Commission was authorized "to recommend the coordination of the exercise of the police powers of the several states, within their several jurisdictions, to promote the maximum ultimate recovery from the petroleum reserves of said states."

This Compact was promptly ratified by the legislatures of the states of Oklahoma, Texas, Kansas, Colorado, New Mexico, and Illinois; and, as required by the Constitution, Congress gave its consent. Subsequently, the states of Arkansas, Louisiana, Michigan, New York, Pennsylvania, and Kentucky ratified the agreement and became members.

The output of the 12 compacting states currently represents nearly 80 per cent of the nation's daily oil production.

Since its creation, the Interstate Oil Compact Commission has furnished a public forum for the exchange of ideas, information, and experience in the best methods and practices for the conservation and production of oil and gas. Official representatives of the 12 member states and unofficial observers from non-member states meet quarterly in cities in the various oil producing areas to study the intricate problems of this very essential industry. Regulatory officials from the various states attend and discuss joint and mutual problems in state regulation of oil and gas production.

A feature of these meetings is the formal program and open forum discussions where nationally known and recognized authorities participate and give the Commission the benefit of their wealth of specialized knowledge and experience.

Standing committees, selected from the best legal, technical, and engineering talent in the member states, act as research committees. Their reports, containing valuable pertinent information, facts, and data from the various oil producing states, are used by the Commission in formulating its findings and recommendations.

The Legal Committee in a recent report submitted a suggested comprehensive oil and gas conservation law with alternate and optional provisions, and two shorter forms, as an aid to legislators and public officials desiring to draft or amend oil and gas conservation statutes; a summary by the Engineering Committee of established engineering principles and sound conservation practices has received the universal approval of engineers of the petroleum industry; a comprehensive set of rules and regulations for the use of regulatory officials has been prepared by the Regulatory Practices Committee; the Research and Coordinating Committee, composed of technicians from the regulatory bodies of member states, has assembled and disseminated factual and technical data on the results of applied conservation. Last

* By Charles L. Orr, Secretary of the Commission.
year it made a survey of secondary recovery and pressure maintenance operations, reported on the conservation and utilization of natural gas throughout the nation, and conducted a national stripper well survey.

The Commission is now engaged in planning and preparing an educational program for presentation upon request before legislatures, industrial conventions, and public meetings. Motion pictures, animated drawings, charts, maps, models, and slides will be used to explain and illustrate modern and efficient conservation methods and practices in the production of oil and gas. This program will be produced to portray in an understandable manner the desirability and benefits of these practices.

Administration of the business of the Commission is carried on at its headquarters office, located in the State Capitol building, Oklahoma City, Oklahoma. Five well-trained, full-time employees constitute the staff which does the administrative work under the direction of the Executive Committee. This Committee holds monthly meetings.

Full and complete reports of the meetings of the Commission, containing the principal papers and addresses, committee reports, findings, and recommendations of the Commission and factual information regarding oil and gas production and conservation are published in a printed Quarterly Bulletin. Other publications of the Commission include reports of its Legal, Engineering, Regulatory Practices, and Research and Coordinating Committees.

The Commission has pledged to the Petroleum Administrator for War, and to all the federal and state agencies, its full and unreserved cooperation in the prosecution of the war effort, and has made studies and recommendations to insure adequate and continuous petroleum supplies to meet current and future emergency demands.

This oil states Compact is truly a democratic institution. It is predicated on the premise that a knowledge of the truth and an enlightened public opinion will insure efficient and effective conservation by the states. It provides a medium for the states themselves to accomplish voluntary cooperation in safeguarding their vital natural resources, by utilizing the combined experience and talent of the states and of the industry.

After eight years it enjoys general public approval. It has received the approval of the President, the Congress, the governors, the legislatures of twelve of the major oil producing states, and of the petroleum industry.

All oil and gas producing states are cordially invited to join in this worthy cooperative undertaking.
THE BOOK OF THE STATES

DIRECTORY OF
THE INTERSTATE OIL COMPACT COMMISSION

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J. C. HUNTER OF TEXAS, FIRST VICE-CHAIRMAN
CLARENCE T. SMITH OF ILLINOIS, SECOND VICE-CHAIRMAN
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EXECUTIVE COMMITTEE
GOVERNOR ANDREW F. SCHEEPEL OF KANSAS
GOVERNOR ROBERT S. KERR OF OKLAHOMA
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New York
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Research and Coordinating Committee
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Economics Committee
ALEXANDER SACHS OF NEW YORK, CHAIRMAN; JOSEPH E. POGUE OF NEW YORK; E. DEGOLYER OF TEXAS.
THE WORK OF THE CANADIAN COMMISSION ON DOMINION-PROVINCIAL RELATIONS

The report of the Royal Commission on Dominion-Provincial Relations, presented to Parliament and the Canadian people in May of 1940, is an epic document. It surveys the federal system of government that was established by the Fathers of Confederation in 1867, and it proposes important revisions of this system to fit the stubborn socio-economic facts of the present industrial era.

The Commission was instructed, when it was appointed by the Dominion government in 1937, to conduct a "re-examination of the economic and financial basis of Confederation and of the distribution of legislative powers in the light of the economic and social developments of the last seventy years." Evidence to provide a basis for conclusions on this large question was obtained from two main sources: presentations by public and private bodies throughout the country, and research studies undertaken by the Commission's own staff.

Public hearings, at which briefs and testimony from the Dominion and provincial governments, from municipal associations, and from diverse private organizations were presented, were held on 85 days during 1937 and 1938. The research staff that was recruited to undertake special studies and to offer technical advice consisted of some of the ablest economists, lawyers, and political scientists in Canada.

Thus the Commission made every effort to obtain both the views of the mass of the people and the best expert advice on how Canada's constitutional problem should be solved. With this information before them it was to be expected that the five Commissioners, all men of outstanding ability who were unconnected with partisan interests, groups, would make a notable contribution to Canadian political thought.

THE COMMISSION'S DIAGNOSIS

The first volume of the Commission's report, Canada: 1867-1937, is devoted to a survey of the growth of the Canadian federation. Confederation was designed to give the British North American colonies certain economic and political advantages of union, and at the same time to leave them in control of all matters not clearly affected with a national interest. The powers of the Dominion and of the provinces respectively were set forth in some detail by the British Parliament in a written constitution, the British North America Act. To the provinces there was given jurisdiction over education, health, welfare, municipal affairs, "local works and undertakings," administration of justice "in the Province," agriculture, and immigration, subject to the rule that no provincial act should be "repugnant to any Act of the Parliament of Canada," "property and civil rights in the Province," and "generally all matters of a merely local or private nature in the Province."

The Dominion was expressly given jurisdiction over money and banking, defense, external relations, the regulation of trade and commerce, postal service, patents and copyrights, the criminal law and penitentiaries, and all other matters not specifically assigned to the provinces. In addition it was given power to disallow provincial legislation. Economic development—the building of roads, railways, and canals, the opening up of land for settlement, and the encouragement of new industries—was conceived to be the great task of the central government, for which it must have broad powers.

*Based on a monograph by H. M. Cassidy, formerly of the University of Toronto and Director of Social Welfare of British Columbia, now head of the Department of Social Welfare of the University of California. Considerable additional information may be found in Cassidy's Social Security and Reconstruction in Canada, Ryerson Press, Toronto.
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including the right to raise money by "any Mode or System of Taxation."

Since the functions of the provinces, such as education, health, welfare, and control of municipal affairs, were not considered to be particularly expensive, they were left, to quote the Commission, "with but fractions of their former revenue sources" by virtue of the provision that they must limit themselves to "Direct Taxation within the Province." The Commission reports that "the transfer of the dynamic, expanding functions of government to the Dominion, while the provinces retained those which were thought to be static or likely to decline, explains the lop-sided division of the revenue sources of the time." The provisions of the constitution which have been mentioned as well as other evidence led many Canadians to believe that the Fathers of Confederation contemplated a strong central government to which the provinces would be quite subordinate—an interpretation which the Commissioners support in part.

THE WORKING OUT OF THE FACT

If it was indeed the intention of the framers of the constitution to have a strong central government, it has not been realized in practice, since enthusiasm for it waned shortly after Confederation, and during the long depression of the 1870's and 1880's there emerged a doctrine of provincial rights—similar to the states' rights doctrine in the United States—that was vigorously championed by several generations of provincial representatives. Issue after issue of legislative jurisdiction arose that demanded interpretation of the constitution by the Supreme Court of Canada and the final court of appeal in London—the Judicial Committee of the Privy Council. In a number of important decisions the Privy Council limited the powers of the Dominion and broadened those of the provinces, particularly by interpreting the property and civil rights clause of the constitution to cover a very broad area.

In consequence, the residuary powers under the constitution were largely transferred from the Dominion to the provinces. The financial powers of the provinces were strengthened by decisions that interpreted "direct taxation" to cover taxes on corporations and sales taxes, thus opening the way for the use of similar taxes by both the Dominion and the provinces. The culmination of this judicial limiting of federal and strengthening of provincial powers came in 1937, when the Privy Council declared invalid five important statutes adopted by Parliament in 1935 as part of Prime Minister R. B. Bennett's "New Deal." Three of them had provided for nationwide standards of minimum wages, maximum hours of work, and weekly rest periods, the fourth for a national system of unemployment insurance, and the fifth for national control of the marketing of agricultural products.

As the Commission points out, "The Canadian dilemma over social legislation was thus sharply outlined. The constitution forbids the Dominion to establish uniform labour legislation of general application, and despite the unrestricted taxing power of the Dominion, the possibility of framing any contributory social insurance scheme of nationwide extent which could be validly enacted by the Dominion is open to the gravest question." Moreover, "the constitution as it stands today divides the power of regulating economic activity between the provinces and the Dominion. A great deal of the business activity of today is national in its scope and cannot be easily divided into intra-provincial and extra-provincial aspects for the purpose of regulation."

Contrary to the expectations of the Fathers of the Confederation, the functions of the provinces became relatively more, rather than less important as time passed. By the beginning of the present century the provinces and their municipalities had established elementary health and welfare services and were operating extensive educational systems. The coming of the automobile demanded great outlays for highways. "The War," to quote the Commission, "has tened considerably the acceptance of the philosophy of the social service state in Canada," and between 1921 and 1930 public welfare expenditures by all gov-
ernments increased by 130 per cent. And 80 per cent of the total amount expended in 1930 was carried by the provinces and the municipalities. The Dominion’s share would have been very much smaller had it not, in 1927, passed an old age pension act which provided for federal assumption of 50 per cent of the costs of old age assistance schemes adopted by the provinces (in 1931 this was enlarged to 75 per cent).

THE IMPACT OF THE 1930’S

The inappropriate division of functions and powers between the Dominion and the provinces was sharply brought to light by the great depression of the 1930’s. Prices dropped calamitously, trade fell off, national income per capita fell by 48 per cent from 1928–29 to 1933, and average unemployment in 1933 rose to about six hundred and fifty thousand—including at least 25 per cent of the country’s working force.

This economic setback would have been most serious if it had been evenly distributed by economic groups and by regions. But it was not. The burdens of depression were concentrated particularly upon certain groups and areas, notably the farmers of the West, the workers in exporting industries, the raw material producing districts of the various provinces, and the working class municipalities surrounding the larger cities. The prairie provinces—the great wheat producing area of the country—were particularly hard hit, partly because serious drought conditions appeared concurrently with the lowest grain prices in all Canadian history. The Commission says that “total income in the area fell almost by half, and agricultural income by almost four-fifths, from the 1926–29 average to the 1930–37 average. These bare statistics, however, cannot convey the full measure of the western debacle, with its shattering blows to living standards, to adequate nutrition, to health services, to educational standards, to community equipment such as highways, and to individual hopes and dreams and ambitions.”

This meant relief for the destitute, and relief on a huge scale. The demands for assistance were first made upon the municipalities, and they promptly turned to the provinces. The provincial governments, with their revenues shrinking, called for help from Ottawa, and by the fall of 1930 the Dominion Parliament passed the first unemployment relief act, to provide for grants-in-aid to the provincial authorities, and through them, to the municipalities. This was the first step in the great unemployment relief program which has been continued to the present and which involved the expenditure of about one billion dollars of public funds—federal, provincial, and local—from 1930 to 1937.

As the depression continued, other health and welfare costs also increased, so that by 1937 the outlay for public welfare was about $250,000,000, or 25 per cent of public expenditures for all purposes. Education cost an additional $109,000,000, or 36 per cent of the total cost of government. By 1937, the Dominion government was bearing 44 per cent of all public welfare costs, mainly on account of its large grants-in-aid to the provinces for unemployment relief and old-age pensions.

But even these heavy subsidies, distributed mainly on a percentage of cost basis, did not solve the financial difficulties of governmental bodies. Many municipalities were bankrupted, the western provinces had to be assisted by emergency Dominion loans, and deficits became general. The incidence of the depression varied greatly between the provinces, so that “the costs of relief varied inversely with the ability to meet them. . . . The weight of the burden in Saskatchewan, the Province most severely affected, was about five times as great as that in the Maritimes and Ontario, the Provinces least affected.”

EFFECT ON PUBLIC FINANCES

Consequently, problems of the social services, through their effects on public finance, played a major part in the creation of the constitutional crisis which the Commission was charged to investigate. “The growth in government expenditures and functions has not fitted the simple pattern which was set up in
"1867," states the Commission. "Public welfare, the outlay upon which was negligible in 1874, took more than one-third of the provincial revenues in 1937. Thus [including welfare, highways and transportation, and economic development] expenditures which were virtually nonexistent at Confederation absorbed nearly 60 per cent of total provincial receipts on current account in 1937.

The share of the total costs of government borne by the Dominion, which possesses the broadest base of taxation, fell from two-thirds to less than one-half.”

At the same time, the provinces have been permitted, by virtue of interpretations of the constitution, to enter the field of indirect taxation, so that tax duplication between the Dominion and the provinces has developed. This has made for an inefficient, uneconomic system of taxation, substantially regressive, within which neither the Dominion nor the provinces, nor both together, have been able to employ the progressive taxes to the extent that is socially and economically desirable.”

Dominion efforts to meet the financial needs of the provinces by means of conditional grants-in-aid, particularly for unemployment relief, have not led, in the estimation of the Commission, either to financial justice or to satisfactory administration of the subsidized services. The Commission’s conclusion is that there is needed “some redistribution of the functions [of government] as between the Dominion and the Provinces, . . . . a better allocation of taxing powers and responsibilities,” and adjustment of “the revenue sources to the functions so as to ensure that every unit of government will be financially able to meet its recognized responsibilities.”

A PROGRAM OF CONSTITUTIONAL REFORM

The Commission’s analysis, supported at many points by the independent conclusions of its expert advisers, points the way toward recommendations that are bold and far-reaching in their significance. In Canada, as in the United States, a type of federalism had been developing which involved joint federal and provincial action in various fields. The Commission says that the system has failed, and that there must be a return to an original principle of the British North America Act, that there should be a definite separation of Dominion and provincial powers. “The experience of the last decade,” says the Commission, “has emphasized the supreme importance both of a clear division of responsibility between the Dominion and the provinces and of adequate revenues for each to enable it to fulfill its responsibilities.”

With reference to the central question of jurisdiction, “the topics that call for discussion are surprisingly few . . . . [They] are the great spending functions of social services and education and certain powers having to do with the regulation of economic activities.”

The main recommendations, six in number, suggest that by amendment of the British North America Act, or otherwise, provision should be made for:

1. Transfer from the provinces to the Dominion of full responsibility for the “maintenance of those unemployed who are employable and their dependents” by means of unemployment insurance, “unemployment relief,” or other measures.

2. Complete revision of public finance arrangements between the Dominion and the provinces, involving Dominion assumption of provincial debts, discontinuance of existing Dominion general subsidies and conditional grants, withdrawal of the provinces from the personal income, corporation, and inheritance tax fields, and the payment by the Dominion to the provinces of annual “national adjustment grants” varied in accordance with their needs.

3. Dominion authority to legislate on minimum wages, maximum hours of labor, and the age of employment, and to implement conventions of the International Labour Organization.

4. Concurrent jurisdiction with the Dominion and the provinces with respect to the marketing of a specified list of natural products, with power to add other products, by mutual consent, to the list.

5. Power for the Dominion Parliament to delegate responsibility to a province,
or vice versa, in connection with any function specified in the constitution as belonging to the one or the other.

6. Regular Dominion-provincial conferences to discuss problems of mutual concern, these to be served by a permanent secretariat.

RECENT EVENTS

After issuance of the report in 1940, the Dominion government called a conference of provincial representatives in Ottawa, in January, 1941. The government stated that it desired to use the recommendations of the Commission as a basis for discussion with the provinces, in an effort to reach an agreement upon action to be taken. But while a number of the provinces expressed agreement with the Commission's recommendations, they were violently opposed by the premiers of Ontario, Alberta, and British Columbia, and the conferences broke up without any agreement whatsoever. Since then no attempt has been made for any overall discussion of the major issues involved between the Dominion and the provinces.

However, two very important steps, which represent the adoption in part of the Commission's recommendations, have been taken with the agreement of the provinces. In 1940, the British North America Act was amended by the British Parliament to give the Dominion exclusive jurisdiction over legislation on unemployment insurance, at the request of the Dominion government, and with the approval of the provinces. Shortly thereafter, in August, 1940, a Federal Unemployment Insurance Act was adopted and a national unemployment insurance scheme is now in operation. Secondly, in 1941, a part of the Commission's financial plan was put into effect as a temporary war measure, through an arrangement between the Dominion and provincial governments. The provinces agreed to withdraw entirely from the income tax field for the duration of the War, in return for a guarantee of grants from the Dominion approximately sufficient to compensate them for losses from income tax revenues and from reduction in gasoline tax revenues incidental to war conditions. This was a popular step which will be politically difficult to retrace after the War. The federal government announced at the end of January, 1943, that it proposed to proceed with plans for an inclusive system of social insurance in Canada. In March, a committee of the House of Commons was established to study the problem.

These moves toward a national system of social security will clearly make it necessary for Canada again to face the fundamental question of the distribution of functions between the Dominion and the provinces. The recommendations of the Royal Commission will certainly receive very great consideration in the course of these discussions. Thus, the proposals of the Commission remain very much on the agenda for purposes of postwar planning in Canada.