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THE ADMINISTRATION OF INTERSTATE COMPACTS. By *Richard H. Leach* and *Redding S. Sugg, Jr.* Baton Rouge: Louisiana State University Press. 1959. Pp. vi, 256. \$4.50

Until comparatively recently, the interstate compact device was practically an unused instrument in the scheme of American federalism. Although this approach to the solution of problems of mutual state concern was made available to the states by the original terms of the United States Constitution, prior to 1900 only some twenty-one compacts had been entered into by states. All of these early compacts were of a bilateral character for the purpose of resolving boundary or jurisdictional disputes. Interest in the potentialities of the compact as an instrument for creating multi-state administrative organs empowered to act in a continuing fashion upon problems of mutual state concern was stimulated by a comprehensive article on the compact clause of the Constitution published in the *Yale Law Journal* for May 1925. Noting that cooperative state action offered an alternative to the "false antithesis embodied in 'States-Rights' and 'National Supremacy,'" the authors, Felix Frankfurter and James M. Landis, urged an "imaginative adoption of the compact idea" for the solution of problems confronting regional groups of states.

Coming at a time when national action in many areas of social and economic control was temporarily being held in check by politically-inspired roadblocks in Congress, reinforced by the Supreme Court's unwillingness to free congressional powers from the inhibiting dogmas of an earlier era, the suggestion fell upon fallow ground. The feasibility of dealing with such problems as child labor, minimum wage standards, farm surpluses, conservation of natural resources, watershed development, and other similar matters through the use of interstate compacts became a staple of political discussion in the 1920's and 1930's; but the difficulties inherent in bringing

into being state agreements on such complex matters were soon revealed. The eventual resolution of the constitutional crisis in the late 1930's gave the national government a freer hand in developing and applying policies designed to meet the more pressing economic ills of the nation and tended to divert attention from the interstate compact approach toward their solution. Nevertheless, the stirring of interest in this device during this period produced some concrete results, as attested by the formation of the Colorado River Compact of 1928, the Interstate Oil Compact of 1934, and several others.

Encouraged by these developments, advocates of the compact approach continued to press its claims, and from 1940 onward there has been an increasing number of notable experiments with it in a variety of fields. By 1956 the number of compacts negotiated and put into effect, with the necessary approval of Congress, had grown to approximately 100. The subject matters covered by them now include, in the authors' words, "allocation and conservation of waters; flood control; water pollution control; management of fisheries; control of forest fires; harbor management; development of multi-state metropolitan areas; construction and operation of interstate bridges; development of interstate parks; regulation of the New York waterfront; conservation of oil; regional development of higher education; [and] modernization of parole and probation procedures. . . ." (p. 18) Unlike the earlier type compacts, most of which were bilateral "one-shot" agreements for resolving a specific controversy, many of the more recent ones have been multilateral instruments bringing into existence administrative agencies intended to function for an indefinite period of time. For example, the Atlantic States Marine Fisheries Compact of 1940 has as participants all 15 states on the Atlantic seaboard and a permanent supervising administrative commission of 45 members; the Ohio River Valley Compact originated in 1938 now involves eight states; while the Interstate Oil Compact of 1934 now has 29 adhering state members.

This monograph is one of three fairly recent studies of this new phenomenon in the American galaxy of administrative organs. Two earlier studies inspired by the recent splurge of activity on the interstate cooperation front [*The Interstate Compact Since 1925* (1951), by Frederick L. Zimmerman and Mitchell Wendell, and *Interstate Cooperation: A Study of the Interstate Compact* (1953), by Vincent V. Thursby] are more comprehensive treatments of the political, constitutional and legal aspects of the interstate compact device. This study, as its title suggests, supplements these earlier ones in a most informative way by concentrating attention upon the nature of the administrative organisms spawned by interstate compacts. The authors bring to their undertaking some practical experience in the field, both having served on the staff of the Southern Regional Education Board, a sixteen-state compact agency formed in 1949 for the purpose of conducting studies and making recommendations on questions of mutual interest in the field of higher education.

Some thirty different interstate compact agencies, all of them of comparatively recent vintage, are analyzed. For convenience, and to indicate the variety of operations carried on through this type of agency, the authors classify them into three broad categories: (1) "technical" agencies, most of which are concerned with water allocation matters; (2) "study and recommendatory" bodies, designed to investigate matters of common concern to the member states, make recommendations, and publicize their findings in order to persuade the appropriate officials, state or national, to act; and (3) "operating" organizations, charged with creating and operating various types of interstate facilities. Utilizing documentary source materials supplemented by data gathered by letter, personal contact, and questionnaire, the authors present in orderly and illuminating fashion an account of the relations of these thirty selected interstate administrative bodies and their parent state governments and with the appropriate national governmental administrative units. Their internal organization, staffing, and operating procedures are described and evaluated. Chapter V consists of an informative series of more detailed "case studies" of six selected interstate agencies representative of the three broad categories, viz., the Pecos River Commission ("technical"); the Atlantic States Marine Fisheries Commission, the Ohio River Valley Water Sanitation Commission, the Interstate Oil Compact Commission, and the Southern Regional Education Board ("study and recommendatory" bodies); and the Waterfront Commission of New York Harbor (an "operating" agency). A comprehensive bibliographical note supplies useful information on the literature and source materials relevant to the general subject of interstate compacts.

The conclusions reached by the authors regarding the performance of the interstate compact type of administrative agency and the feasibility of its more extended use are generally favorable. They find the agencies studied have made significant contributions toward the solution of the problems they were created to deal with. A testimonial to their success is seen in the fact that no compact undertaking, once set in motion, has been abandoned; in only one instance (the Delaware River Joint Toll Bridge Commission "Scandal" of 1957) has a shadow been cast on the honesty with which the affairs of such agencies have been administered. Manned by efficient and dedicated staffs, they have shown themselves to be "problem-oriented" in their operations; and so far, at least, they have betrayed no symptoms of the universal bureaucratic disease of "empire-building." Contrary to the suggestion of Frankfurter and Landis that the compact device might become the vehicle for establishing a new order of regional governments standing between the national and state governments, the agencies so far established have functioned rather as "carefully selected tools of energetic states anxious to exert their powers effectively." (p. 216) They represent a new dimension in the area of state administration, not the embryo of a system of future "super-states" threatening to sap the strength and prestige of the member states. They provide, essentially, new channels for

achieving cooperation between states, and between groups of states and the national government. On the basis of the evidence presented, it is difficult to challenge the authors' conclusion that interstate administrative undertakings, resting upon congressionally-sanctioned compact arrangements, have proved their utility; and that extension of this form of intergovernmental cooperation into new fields should be welcomed.

Nevertheless, one may question whether interstate cooperation via the interstate compact device is destined to play a major role in the future of American federalism. Interstate compacts may be likened to the intergovernmental contracts and informal cooperative administrative arrangements now widely employed by local units of government in their more or less futile efforts to keep abreast of the governmental problems generated by a dynamic society and economy and the resulting "metropolitan spread." American experience teaches us that when a matter of community concern outgrows the boundaries of existing governmental units expected to deal with it, the solution that must be faced, sooner or later, is transfer of responsibility over it to a higher level of government having a sweep of territorial jurisdiction and resources adequate to handle it in all its ramifications. This transfer of responsibility to a higher unit of government, it should be noted, does not necessarily preclude adapting policies to various regional situations, nor does it necessarily mean a complete ousting of local authority and initiative. Intergovernmental cooperation is possible on a vertical as well as a horizontal plane.

Cooperation by the states through interstate compacts undoubtedly has its uses and virtues; but it is too much to hope or expect that it may be used widely and effectively as a substitute for direct action by the national government over many important areas of social control and service having extra-state significance. The authors of this study are to be commended for maintaining a balanced view of the matter. Despite the success that has so far attended the relatively modest undertakings of the states through compacts, the hard truth is that administrative agencies thus brought into being are likely to continue to be a relatively insignificant and peripheral part of the administrative structure of the governmental system as a whole.

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