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INTERSTATE ASPECTS OF UNEMPLOYMENT INSURANCE

EMMETT CONNER* AND CHARLES K. COSNER†

BRIEF HISTORY

State-operated systems of unemployment insurance, first instituted in the United States in Wisconsin in 1932, were set up in all of the states, and in the District of Columbia, Hawaii and Alaska within the two years following the enactment in 1935 of Titles III and IX of the Social Security Act.[1] Mutual problems of administration and of coordination among the various state programs led to a series of conferences of state officials charged with the operation of the systems. These early conferences were informal in nature, but steps were taken looking toward the creation of a formal organization.

With the cooperation of the Social Security Board and other interested federal agencies, an Interstate Conference of Unemployment Compensation Agencies was established. Representatives of all of the states attended its first Annual Meeting in October, 1937. The purpose of the organization was set out as follows:

> "The objectives of this organization shall be study, discussion and action upon any problem or question pertaining to the successful progress of the joint Federal-State program for unemployment compensation."[2]

The Federal Social Security Act,[3] Wagner-Peyser Act[4] and Unemployment Tax Act,[5] together with state laws enacted in conformity with them, constitute the basic statutory framework for the employment security program in this country. These statutes establish a federal-state program. The statutory framework assigns certain authority and responsibilities to the Federal Government and certain authority and responsibilities to the states. In some areas the authority and responsibility are clear; in others there is room for honest differences of opinion. In any event, this statutory framework establishes a program which involves delicate relationships between the federal officials and state officials. To establish and maintain satisfactory relationships requires constant and continuous negotiation. For the

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1. 49 STAT. 620 (1935), 42 U.S.C.A. § 1305 (1952).
2. CONSTITUTION OF THE INTERSTATE CONFERENCE OF UNEMPLOYMENT COMPENSATION AGENCIES, Art. II.
3. *Supra*, note 1.
4. 48 STAT. 113 (1933).
5. 53 STAT. 183 (1939).

states to negotiate effectively they must have an organization which can crystallize and represent the state point of view. Thus, one reason for the existence of the Interstate Conference is to provide a channel of communication between themselves collectively and the Federal Government.

Another function of the Interstate Conference is to provide a channel of communication among the states themselves. It was early recognized that the program in each state was affected by programs in other states; that there were problems of interstate cooperation, and that even where no interstate problem existed, there would be value in exchanging experience and discussing mutual problems. The Interstate Conference evolved in part to provide orderly machinery for discussion of common problems and of interstate problems.

Employment security programs affect and are affected by the broad interest groups of labor, management and the public. Individual state agencies are responsible for handling their own relationships with these interest groups in their states. However, it became apparent early in the development of the program that some machinery was needed to present state viewpoints collectively to these various interest groups when represented in their national organizations. One purpose of the Interstate Conference, therefore, is to provide a channel of communication between the states collectively and various organizations which have an interest in the employment security program.

The successful functioning of the federal-state system of employment security requires also that the federal and state agencies work together cooperatively in the solution of joint problems, with a minimum of duplication among the states, and between the states and the federal agency. The Interstate Conference provides the machinery for developing joint work programs which will minimize duplication and maximize cooperative effort. At the beginning of each conference year Bureau of Employment Security and conference officials sit down together to develop a conference program which will fit into the work of the Bureau and contribute most to the development of the program in the states. At this time agreement is reached concerning the conference work program for the year as well as the number of committees and meetings necessary to carry it out. Moreover, the Bureau participates in the work of the conference through participation in the various meetings held under conference auspices and the appointment of consultants on conference committees.

In this article we are primarily concerned with that portion of the work of the Interstate Conference that has been developed and handled by its technical committees. Some of the technical committees of the Conference are listed below:

1. Committee on Administrative Grants
2. Committee on Benefit Financing Studies and Policy
3. Committee on Employment Service Programs and Operations
4. Committee on Farm Placement
5. Committee on Fraud Prevention and Detection
6. Committee on Intergovernmental Relations
7. Committee on Research and Reporting
8. Committee on Unemployment Compensation Programs and Operations
9. Committee on Veterans
10. Committee on Interstate Benefit Payments

In connection with the study of the interstate aspects of unemployment insurance we might well note the specific assignments of duty to certain of the previously mentioned committees. For example, the Committee on Interstate Benefit Payments was given the following assignments by the National Conference:

> "The Interstate Benefit Payments Committee has certain general responsibilities established by interstate agreements. These agreements are as follows:
>
> 1. Interstate Benefit Payment Plan
> 2. Interstate Plan for Combining Wages
> 3. Interstate Reciprocal Coverage Arrangement
>
> "Under the direction of the National Executive Committee the work of the committee during the current year, in addition to these general responsibilities, shall also specifically include, but shall not necessarily be limited to:
>
> 1. Following up on Resolution IV adopted at the 1953 Annual Meeting which urges all States to adopt and participate in the Extended Plan for Combining Wage Credits as recently submitted.
>
> 2. Working with the Bureau of Employment Security in testing any new training material relating to the writing of nonmonetary determinations.
>
> 3. Following up with the States and the Bureau on the various recommendations of the 1952-1953 committee relating to reciprocal coverage.
>
> 4. Continuing the work of previous committees in the area of interstate fraud by:
>
> (a) Stressing the importance of acceptance by each State of agent State responsibility for detection and prosecution of interstate fraud.
>
> (b) Urging each State which has a legislative session in 1954 to seek specific statutory authority
>
> 1—As agent State to prosecute fraud in interstate claims, and
>
> 2—As liable State to transfer original records needed by the agent State, if the State agency does not already have such authority.

5. Considering revised formats of certain uniform interstate forms to be developed by the "Technical Advisory Committee." [The "Technical Advisory Committee" was established in 1952 pursuant to joint agreement between the Bureau and the Conference to study and make recommendations on the numerous suggestions made by the several States for technical interstate program improvements.][6]

The Committee on Intergovernmental Relations was charged with this responsibility:

"Under the direction of the National Executive Committee the Committee on Intergovernmental Relations is responsible for advising and conferring with the President's Commission on Intergovernmental Relations on Federal-State relations in the employment security field. . . ."[7]

The Committee on Research and Reporting received the following assignment:

"Under the direction of the National Executive Committee the Committee on Research and Reporting is responsible for representing the Conference in connection with research, statistical and reporting matters.

Specifically the work of the committee during the current year shall include, but shall not necessarily be limited to, the following:

1. Providing assistance, as requested, to the staff of the Bureau of Employment Security by:

(a) Reviewing proposed changes in required statistical reporting, including the definitions of items and report forms.

(b) Reviewing the findings and recommendations of technical work committees comprised of State technicians, selected by the Bureau of Employment Security, on specific subjects.

2. Taking necessary steps to fulfill recommendations of preceding committee that the 1953-1954 committee:

(a) Keep in touch with developments related to the benefit adequacy study which is now being planned.

(b) Follow up on the recommendation contained in the report on the July 1953 meeting relating to the reporting of agricultural placements.

(c) Follow up on the recommendation that all instructions pertaining to the current employment statistics program be issued by one federal bureau.

3. Representing the Conference in connection with the development of research and reporting programs required for defense manpower mobilization purposes. The committee shall emphasize that proposed special reports should be evaluated in terms of their need, their impact on State reports and analysis staffs and provision for financing them.

4. Studying the problems of State research and reporting programs to determine whether Conference action can be of assistance in improving the quality of State research and labor market information programs.

6. COMMITTEE ASSIGNMENTS, 1953-1954, NATIONAL EXECUTIVE COMMITTEE, INTERSTATE CONFERENCE OF EMPLOYMENT SECURITY AGENCIES 4.

7. *Id.* at 3.

5. Continuing, as needed, the review of plans for uniform establishment reporting patterns and conversion to SIC codes for nonmanufacturing industries."[8]

The Committee on Unemployment Compensation Programs and Operations received the following directive:

"Under the direction of the National Executive Committee the Committee on Unemployment Compensation Programs and Operations shall be responsible for working on means for promoting more effective, efficient and economical unemployment compensation programs and operations. The committee may consider any unemployment compensation problems arising during the year, except those specifically assigned to other committees. It shall be responsible for representing the Conference in its relationships to the federal administration of the veterans unemployment compensation program. In carrying out these responsibilities it shall, on its own initiative or on request, consult with the Bureau of Employment Security on the operation of the program and on proposed policies, rules, regulations and legislation relating to it. (Any proposed legislation shall be referred to the Legislative Committee for review and disposition.) The Committee shall also continue to study and report on the relationships between unemployment compensation and proposals for guaranteed wages, if there are further developments in this field."[9]

Many interstate problems have developed in the course of the last twenty years of experience in unemployment compensation administration. This article will not endeavor to detail all interstate problems nor will it deal with all efforts made to cope with these problems. It is felt that the most important interstate problems have been at least partially solved through the exploratory and developmental work of the various technical committees of the Interstate Conference working jointly with the technicians of the Federal Bureau of Employment Security. A number of interstate agreements, procedures, forms and other mechanics of operation have developed.[10] It is felt that perhaps the best approach to most interstate problems in this field can be made through a study of the various interstate agreements that have been developed—each to cope with some particular area of concern.

The agreements fall into two main categories. Some deal with benefits, others deal with coverage.

INTERSTATE BENEFIT AGREEMENTS

We shall first discuss the benefit agreements: the Interstate Benefit Payment Plan, the Agreement between Canada and the United States, the Basic Interstate Agreement for Combining Wages and the Interstate Plan for Combining Wages—Extended Plan.

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8. *Id.* at 6-7.
9. *Id.* at 7.
10. Checklist of states participating in the current interstate arrangements.

Interstate Benefit Payment Plan

Early in the program questions arose with reference to handling:

1. Claimants who worked in one state but who upon being separated from employment moved their residences to another state,

2. Claimants who at the time of their separation from employment had wage credits sufficient to make them eligible in more than one state.

In anticipation of such problems the legislatures of most states had inserted provisions in the state unemployment compensation laws authorizing the responsible executives to enter into certain interstate agreements.

With these problems in mind and with the knowledge that most state administrators were armed with authority to act, a plan was adopted by the Interstate Conference in October, 1937, and became effective, on acceptance by a majority of the states, in May, 1938. Many states did not begin the payment of benefits until July, 1938, and others did not begin until January of 1939. As the states approached the date on which benefits first became payable under their laws they subscribed to the plan. We would not attempt to list the dates on which the plan became effective state-by-state for the reason that we are quite sure that some states actually began their operations under the plan prior to the date of the formal subscription on file in the Bureau

STATE	Interstate Benefit Payment Plan	Extension of IB Payment Plan to Canada	Basic Arrangement for Combining Wages	Reciprocal Coverage Arrangement	Maritime Reciprocal Arrangement	Great Lakes Reciprocal Arrangement
Ala.	x	—	x	x	x	—
Alaska	x	x	x	—	—	—
Ariz.	x	x	x	x	—	—
Ark.	x	x	x	—	—	—
Cal.	x	x	x	x	x	—
Colo.	x	x	x	x	—	—
Conn.	x	x	x	x	—	—
Del.	x	x	x	x	—	—
D. C.	x	x	x	x	—	—
Fla.	x	x	x	x	x	—
Ga.	x	x	x	x	—	—
Hawaii	x	x	x	—	—	—
Ida.	x	x	x	—	—	—
Ill.	x	x	x	x	x	x
Ind.	x	x	x	x	—	x
Iowa	x	—	x	x	x	—
Kan.	x	x	x	x	—	—
Ky.	x	—	—	—	—	—
La.	x	x	x	x	x	—
Me.	x	—	x	x	x	—
Md.	x	x	x	x	x	—
Mass.	x	x	x	x	—	—
Mich.	x	x	x	x	—	x
Minn.	x	x	x	x	—	x
Miss.	x	x	—	—	—	—
Mo.	x	x	x	x	x	—
Mont.	x	x	x	x	—	—
Neb.	x	x	x	x	x	—
Nev.	x	x	x	x	—	—
N. H.	x	—	x	x	—	—
N. J.	x	—	—	—	x	—
N. M.	x	x	x	x	—	—
N. Y.	x	x	x	—	x	x
N. C.	x	x	x	x	—	—
N. D.	x	x	x	x	—	—
Ohio	x	x	x	x	x	x
Okla.	x	x	x	x	—	—
Ore.	x	x	x	x	—	—
Pa.	x	x	x	x	x	x
R. I.	x	x	x	—	x	—
S. C.	x	x	x	x	—	—
S. D.	x	x	x	x	—	—
Tenn.	x	x	—	x	x	—
Tex.	x	x	x	x	x	—
Utah	x	x	x	x	—	—
Vt.	x	x	x	x	—	—
Va.	x	x	x	x	x	—
Wash.	x	x	x	x	x	—
W. Va.	x	x	x	x	x	—
Wisc.	x	x	x	x	x	x
Wyo.	x	x	x	x	—	—

of Employment Security. Since this plan, as well as the others, does not contain procedural or regulatory material, it has not needed to be changed each time those features were amended. Other than the procedural overhaul which was given to the operation of this plan in 1950 to strengthen the claimstaking function the only significant changes have resulted from the changes in the order of liability of states for the payment of benefits under the plan.

The original requirement provided that a claimant had to claim benefits in an arbitrary sequence from the states. A claimant was required to claim benefits first against the agent state in which he was at the time he filed his new claim for benefits. After he had exhausted his benefit rights in the "filing or agent state" or in event he did not qualify from a wage credit standpoint in that state he was required to claim benefits from other liable states in the same sequence in which his wage credits were earned. In other words he was required to utilize his oldest wage credits first. The next order of liability of states was adopted in April of 1951. It gave the claimant a restricted choice in determining against which state he would file his claim. Under its terms he might file against the agent state first and then against the other liable state in inverse chronological order, or he might skip the agent state. This change was apparently made because it was found that many claimants had little earnings in the agent state which would allow them only minimum benefits, whereas they had the greater portion of their wage credits in some other liable state. Since very few claimants had earnings in more than the agent and one liable state, it, no doubt, was felt that this choice would take care of a majority of cases in which claimants had been required to exhaust the minimum benefits in the agent state before filing against the state in which they had the greater portion of their wage credits. At the time that this order of liability was adopted, however, many states went further and suggested that the claimant be allowed a completely free choice in filing a claim against any state in which he had sufficient wage credits. Apparently most of the members of the Interstate Benefits Payment Committee accepted this line of thinking in principle but were concerned with the administrative difficulty which they thought would result from such a system. Experience with the new order of liability of states, which involved the restricted claimant choice, dispelled these fears. It was found that the states were experiencing no difficulty in advising claimants of their potential benefit rights under the agent state laws and under the laws of any potentially liable state. Probably the most significant factor in the adoption of a free choice of liable states by the claimant was two studies conducted by the Bureau and several states in connection with wage combining. These studies showed that there were so few

claimants with earnings in more than the agent state and one other state that in effect claimants were being allowed a free choice of liable states. These facts led to the adoption of the principle of unrestricted choice for all claimants of the state against which they wished to file a claim. This order of liability was adopted and became effective July 1, 1953.

All states are now participants in this plan and apparently none has indicated any desire to withdraw from it as it expressly provides that any subscribing state agency may cease to participate in the plan by filing notice of its intention to do so with the chairman of the committee (Interstate Benefit Payments Committee) charged with responsibility under the plan.

Agreement Between Canada and the United States

Early experience disclosed the fact that a substantial number of individuals were faced with the problem of living in the Dominion of Canada and having wage credits in one of the states of the United States against which they were desirous of filing or with the same situation in reverse since the Dominion of Canada also had a very strong unemployment compensation program.

In view of the fact that the individual states were prohibited from entering into agreements with foreign governments by the Constitution of the United States, the Federal Government took the initiative in the area and as a result of their joint efforts an agreement was entered into between the Dominion of Canada and the United States Government providing for reciprocal exchange of services between participating states and Canada in the field of unemployment compensation. This agreement became effective April 12, 1942. It was amended in 1951. Under the terms of this agreement any state that wishes to include Canada in the Interstate Benefit Payment Plan on a reciprocal basis need only notify the Federal Bureau of Employment Security of the date on which it wishes the participation to become effective.

The agreement further provides that "if any State does not substantially carry out any of such provisions, the Unemployment Insurance Commission of Canada may suspend the operation of such provision with reference to such State."[11]

According to latest available information obtained from Federal Bureau sources all states, including Alaska, Hawaii and the District of Columbia (usually termed states in unemployment insurance legislation), are participants in this plan with the exception of Alabama, Iowa, Kentucky, Maine, New Hampshire and New Jersey.

11. AGREEMENT BETWEEN THE GOVERNMENT OF CANADA AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA, Art. III.

Interstate Arrangement for the Determination and Payment of Interstate Benefits

Another plan deserves mention merely from a historical standpoint as it is no longer in effect. This plan was technically known as the "Interstate Arrangement for the Determination and Payment of Interstate Benefits." It provided that the liable state would make the monetary determination (a determination pertaining to wage credits eligibility only) and that thereafter the agent state would make the week-to-week determinations from other standpoints and also make the benefit payments and subsequently billing the liable state for same. This plan became effective in only eighteen states during the period 1947-1949. It presented a number of legal questions relative to the ability of a liable state to recognize week-to-week determinations by the agent state based upon the laws of the agent or paying state. One of the larger subscribing states questioned its authority to continue its participation and the plan was soon discontinued.

Various Agreements for Combining Wage Credits of Claimants Possessing Wage Credits in More than One State

Repeated efforts have been made by state and federal officials concerned with unemployment compensation administration to properly handle the interests of those claimants who have wage credits in a number of states but who fail to qualify from a wage credit standpoint in any state and who might qualify if the wage credits were considered together.

1. *Basic Interstate Agreement for Combining Wages*

In order to properly deal with this right of claimant an interstate plan for combining wage credits was first adopted in 1943. This plan required all individuals having wage credits in more than one state to combine such wage credits until they were eligible for maximum benefits. Only sixteen states subscribed to this plan. The procedures were quite cumbersome and benefits were delayed for this reason. The plan was superseded by the Basic Wage Combining Plan of 1945. The latter plan has been accepted by all States, including Hawaii, Alaska and the District of Columbia, except Kentucky, Mississippi, New Jersey and Tennessee.

This plan now in effect defines the "Combined-wage Claimant" for whose benefit it was developed as "a claimant who has earned earnings in covered employment in more than one participating State but who, at the time he files his initial claim, is not eligible to receive benefits under the general provisions of the unemployment insurance law of the State in which he files such claim or of any other State which is operating under the Interstate Benefit Payment Plan."

The stated purpose of the plan is "to establish a system whereby unemployed workers not eligible for benefits in any one State may through combining of wages in more than one State, become eligible for benefits."

Briefly the plan provides for payment of benefits by the state in which the claimant is filing, even though he has no wage credits in such state.

The paying state requests each participating state in which the claimant has worked in the base period of the paying state to furnish it a report on the claimant's wages.

The claimant's benefit year, base period, qualifying wages, benefit amount and duration are determined according to the laws of the paying state.

The paying state sends each state transferring wage credits to it a quarterly statement of the benefits chargeable to it. Each charge must bear the same ratio to the total benefits paid a combined-wage claimant as the wages reported and used bear to the total wages reported and used.

2. *Extended Plan for Combining Wages*

This Basic Interstate Agreement for Combining Wages has been the subject of criticism in that it takes care of the claimant who has wage credits in several states but is unable to qualify in a single state but does not purport to do anything for the claimant who qualifies for less than maximum benefits in one or more states and who also possesses certain *insufficient* base period wages necessary to qualify in one or more other states.

In order to take care of these types of claimants an additional plan has been developed. This plan is known as the "Extended Interstate Plan for Combining Wages."

The stated purpose of the latter plan is to "establish a system whereby unemployed workers having sufficient base period wages to qualify for benefits in one or more states and insufficient base period wages to qualify for benefits in one or more other states, may increase the benefits to which they are entitled by combining wages earned in one of the states in which they have sufficient base period wages with base period wages earned in all states in which they have insufficient wages."[12]

The Interstate Benefit Payments Committee of the Interstate Conference of Employment Security Agencies, to which reference has heretofore been made, is specifically charged with certain responsibilities calculated to properly instrument this plan as well as the "Basic

12. EXTENDED INTERSTATE PLAN FOR COMBINING WAGES, § I.

Interstate Agreement for Combining Wages" and the "Interstate Benefit Payment Plan."

It is to be noted that the claimant under this plan may combine wages earned in one state where he qualifies for less than maximum benefits with wages earned in other states where he has available wage credits but same are *insufficient* to qualify him for any benefits under the laws of such other states.

He is not privileged to combine wage credits that entitle him to less than maximum benefits in one state with wage credits that entitle him to less than maximum wage credits in another state.

This plan from the standpoint of procedures and interstate philosophy closely parallels the Basic Agreement. It is to be noted, however, that benefits are charged on a slightly different formula basis. According to the wording of the plan "each such charge shall be for only the difference between the amount payable to the combined wage claimant under the Employment Security law of the *paying State* before wage-combining and the amount actually paid to the combined-wage claimant. If there are two or more *transferring States* such charges shall be prorated among the *transferring States* in proportion to the wage credits that were transferred by each of such *transferring States*."[13]

This plan is to become effective at the beginning of the calendar quarter following the date that it has been subscribed to by a majority of the states and also by those states having a majority of the nation's covered workers in 1953.

It had not become effective as of November, 1954.

This plan also provides that when it applies "it shall supersede any inconsistent provisions of the Interstate Benefit Payment Plan and the Basic Interstate Plan for Combining Wages."[14]

Interstate Contribution Plans

Having discussed the various interstate problems and agreements that deal with unemployment insurance benefits we will now turn our attention to those interstate problems and agreements that deal with "coverage" or the so-called "tax angle" of unemployment insurance.

These agreements are as follows:

1. The Interstate Reciprocal Coverage Agreement
2. The Interstate Maritime Reciprocal Arrangement
3. The Interstate Great Lakes Reciprocal Arrangement

13. *Id.*, § F(5).
14. *Id.*, § J.

1. *The Interstate Reciprocal Coverage Agreement*

The purpose of the plan is stated as follows: "to provide for coverage under the unemployment insurance law of one State of services performed by an individual for a single employing unit for whom such services are customarily performed by an individual in more than one jurisdiction, to the end that duplication of contributions with respect to the same services be avoided and continuity of coverage of services customarily performed in more than one jurisdiction be assured."[15]

The Interstate Benefit Payments Committee is charged with certain responsibilities of instrumentation.

Among other duties this committee, with the assistance of technical advisers of the United States Department of Labor, is required to "recommend rules, regulations, instructions, procedural forms—relating to this plan to be utilized by the State agencies."[16]

As of November, 1954, all states were signatories to this agreement with the following exceptions:

Alaska, Arkansas, Hawaii, Idaho, Kentucky, Mississippi, New Jersey, New York and Rhode Island.

Authority for Tennessee's participation in this agreement is the following statutory language:

> "L. (a) *Reciprocal Benefit Arrangements.* The Commissioner is hereby authorized to enter into reciprocal arrangements with appropriate and duly authorized agencies of other States or of the Federal Government or both, whereby:
>
> (1) Services performed by an individual for a single employing unit for which services are customarily performed by such individual in more than one State shall be deemed to be services performed entirely within any one of the States (i) in which any part of such individual's service is performed or (ii) in which such individual has had residence or (iii) in which the employing unit maintains *a place of business,* provided there is in effect, as to such services, *an election by an employing unit with the acquiescence of such individual,* approved by the agency charged with the administration of such State's unemployment compensation law, pursuant to which services performed by such individual for such employing unit are deemed to be performed entirely within such State. . . ."[17]

It should be clearly noted that this agreement does not become effective as to any worker without his assent, the assent of the employer, the assent of all transferring states and the assent of the state assuming jurisdiction of the worker's services.

Insofar as Tennessee is concerned the contracting-out provisions

15. INTERSTATE RECIPROCAL COVERAGE ARRANGEMENT, § I.
16. *Id.*, § II(A), ¶ 2.
17. 2 TENN. CODE SUPP. § 6901.11(4) (1950).

of this agreement have been steadily growing in importance. A review of the experience of the Tennessee Department of Employment Security for the period January 1, 1954, through November 22, 1954, shows that only three employers have elected to cover a total of sixty-one multi-state employees in Tennessee during the period. The contracting-in provisions have therefore not been of major significance. During the same period, however, the records disclose that the contracting-out provisions have been utilized to a substantial extent. Sixty-four employers have moved coverage on 2,720 employees to twenty-one other states.

In 1945 the anticipated coverage (which, of course, subsequently became an actuality) of maritime services under the Federal Unemployment Tax Act led to the development and establishment of the next interstate agreement that will engage our attention.

2. *Interstate Maritime Reciprocal Arrangement*

Special interstate problems in the field of maritime service are dealt with in the interstate agreement known as the Interstate Maritime Reciprocal Arrangement.

The following quotation from the agreement states the problem that it seeks to solve:

> "Whereas, the unemployment compensation laws of some of the participating jurisdictions provide for the coverage of maritime service on a compulsory basis while the laws of other participating jurisdictions permit the coverage of such services on a voluntary basis; and
>
> "Whereas, it is desirable that such coverage be coordinated and integrated as between the jurisdictions so that the coverage of persons engaged in maritime services be as extensive as possible, and that duplication of contributions with respect to such services be avoided and continuity of coverage of services of individuals engaged in maritime service be assured, each subscribing jurisdiction hereby enters into the arrangement set forth with each other jurisdiction subscribing hereto."[18]

As of November, 1954, the following states had subscribed to the arrangement:

Alaska	Maryland	Rhode Island
California	Missouri	Tennessee
Florida	Nebraska	Texas
Illinois	New Jersey	Virginia
Iowa	New York	Washington
Louisiana	Ohio	West Virginia
Maine	Pennsylvania	Wisconsin

This arrangement differs from those previously in that it attempts

18. INTERSTATE MARITIME RECIPROCAL ARRANGEMENT, Preamble.

to identify the state that will assume coverage in the following language:

> "(a) The jurisdiction of coverage in regard to maritime services rendered on a vessel operated by an employing unit shall be that participating jurisdiction in which the employing unit maintains the operating office from which the operations of the vessel are ordinarily and regularly supervised, managed and controlled.
>
> "(b) The maritime services of all persons for an employing unit under the conditions set forth under (a) above shall be deemed performed entirely within the jurisdiction of coverage, including services which are performed wholly or partially without that jurisdiction, but excluding services covered on a compulsory basis in a non-participating jurisdiction."[19]

The Arrangement sets forth the method by which each employing unit establishes the "jurisdiction of coverage" to which it will report.

> "Section 5.
>
> (a) Each employing unit shall notify the agency of each participating jurisdiction of the names of those of its vessels regarding services on which, in its opinion, such participating jurisdiction has become the jurisdiction of coverage under this Arrangement. The agency of each such jurisdiction shall make a proper investigation in order to ascertain whether it has been correctly designated as the jurisdiction of coverage and shall give prompt notice of its findings to the agencies of all other participating jurisdictions. If it finds that the designation was correct and if none of the agencies of the other jurisdiction takes exceptions thereto within twenty days after notice, such agency shall give final notice of its findings to the employing unit and to the agencies of all other jurisdictions.
>
> "If the agency of any participating jurisdiction raises objections against such findings within the specified time, or if the agency of that [jurisdiction which was designated by the employing unit as the] jurisdiction of coverage holds that such designation was erroneous, an umpire shall be selected by the agencies of the jurisdictions involved who shall ascertain the facts and establish the identity of the jurisdiction of coverage."[20]

There is one procedural oddity in this plan which has been found to be very useful by the states involved. The State of New York compiles a list of all vessels operated by the various shipping companies and sends it to the state to which coverage has been assigned. This listing, with periodic up-dating, is furnished by that state to all of the states subscribing to the arrangement. These listings are in turn furnished to the local offices in which most of the maritime workers file claims. The local offices are, as a result of this service, in a position to tell the proper state against which to file a claim on behalf of an affected maritime claimant. The records disclose that it has been used on

19. *Id.*, § 3.
20. *Id.*, § 5.

one or two occasions with reference to operations on the Mississippi river.

3. Interstate Great Lakes Reciprocal Arrangement

An additional arrangement bearing the captioned title was developed and established in order to provide for the coverage of maritime workers on the Great Lakes and connecting bodies of water in a single state in which the firm's main office was situated.

Some efforts were made to promote a single arrangement for both off-shore and Great Lakes maritime industry, but the different definitions required for the two groups resulted in the adoption of the two separate arrangements. As of November, 1954, eight states were participants in this arrangement.[21]

Both of the maritime agreements charge the Subcommittee on Maritime Coverage of the Interstate Conference of Employment Security Agencies with the responsibility of maintaining records relative to the acceptance of and termination of subscriptions by interested jurisdictions.

INTERSTATE APPEALS

The handling of appealed cases involving claimants residing in and filing claims in one state (usually referred to as the agent state) against another state (usually referred to as the liable state) has in the past presented special interstate problems.

The claimant, of course, is not usually in a position to attend an appeals hearing in the liable state in person due to the distance and expense involved. On the other hand, the employer is usually at home in the liable state since that is the locale where the claimant worked and where the employer has a place of business.

Prior to 1950 the agency appeals bodies in the liable state usually sought to obtain the testimony of the claimant through the use of prepared questionnaires that were sent either (1) directly to the claimant for completion and return, or (2) to the local office of the agent state where the local office personnel were requested to interview the claimant and complete the questionnaire, or (3) to the appeals body of the agent state where the referee was asked to interview the claimant and complete the questionnaire. This procedure proved unsatisfactory. The questionnaires were necessarily of a form nature. They frequently contained questions that were not applicable to the case. The claimant did not in many cases understand the technical verbage. Long delays between the date of the appeal and its disposition were all too frequent.

In early 1949 the Federal Bureau of Employment Security and the

21. Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin.

Appeals Committee of the Interstate Conference agreed that the Bureau should make a detailed study of the processing of interstate appeals. Twenty states handling the bulk of the national interstate workload participated in this work. The findings of the survey may be briefly summarized as follows:

1. Questionnaires and interrogatories are not an adequate substitute for actual hearings.

2. Transcribing the stenographic records of hearings (when such took place) held by the agent-state referees so that they could be transmitted to the liable-state referees required a disproportionate amount of time and staff and contributed materially to the delay in processing interstate appeals.

3. A substantial amount of time in processing appeals was consumed in the preparation by liable states of special hearing requests directed to the agents-state referees.

These findings led the Federal Bureau of Employment Security and the Interstate Conference of Employment Security Agencies to make a series of recommendations which were eventually accepted during late 1950 by all states.

These recommendations in general involved the following: (1) elimination of special requests by liable-state referees for agent-state hearings, (2) automatic scheduling of agent-state hearings in interstate appealed cases without request from the liable state, (3) the acceptance of untranscribed hearing records made on mechanical recording devices by the liable state from the agent state.[22]

In connection with the hearing in the agent state the referee is furnished a copy of the notice of the appeal, together with all other pertinent records on file in the local office. The hearing is conducted by the agent state with notice to the Appeals Section of the liable state, the employer, the claimant and the local office.

These new procedures have been surveyed, evaluated and occasionally altered since their acceptance and establishment. It can be safely stated that they constitute a great improvement over the older methods. Time lapse in the disposition of appeals has been greatly lessened and the interstate claimant—in practice as well as in theory—now has an opportunity for a "fair hearing" on appeal.

CRIMINAL PROSECUTIONS IN INTERSTATE CLAIMS

A great many difficulties were originally encountered by the various states in connection with those claimants filing fraudulent claims in an agent state against a liable state.

22. Altman, *The New Interstate Appeals Procedure*, 17 EMPLOYMENT SECURITY REVIEW, 15.

The claimant, of course, ordinarily lived in the agent state at the time of the filing; the claimstaker lived in the agent state; the claim was signed in the agent state. As a result of these considerations it was impractical to prosecute in the liable state.

This problem has been met in most states by the passage of legislation making it a crime in the agent state to file a fraudulent claim therein against some other state. For example, Tennessee passed such an Act in 1951 which reads as follows:

> "Section 1, Be it enacted by the General Assembly of the State of Tennessee, That any person who makes a false statement or representation of a material fact, knowing it to be false, or knowingly fails to disclose a material fact with intent to defraud by obtaining or increasing any benefit under the unemployment compensation law of any other State of the United States or of the Federal Government or of any of its territories, or of a foreign government, either for himself, or for any other person, shall be guilty of a misdemeanor, and upon conviction shall be punished by imprisonment in the county jail or workhouse for not more than one year, or by fine not exceeding One Thousand Dollars, or both, in the discretion of the Court; provided, further, that each such false statement or representation or failure to disclose a material fact shall constitute a separate offense."[23]

It is felt this corrective legislation has proved effective as a deterrent to fraud in connection with its interstate claims process.

Conclusion

This article has not sought to discuss exhaustively all areas of interstate relationship in the field of unemployment compensation. It has sought to point out some of the most troublesome areas insofar as administration in concerned; and to show the way in which the major problems have been handled to date. It is felt that the program and procedures of interstate administration will continue to improve with increased experience.

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23. Tenn. Pub. Acts 1951, c. 153.