

quired the institution of a service like the Mall shuttle, it seemed inconceivable that the opinion of the Secretary of the Interior, who was charged with administering the Mall and making it attractive to visitors, would not weigh extremely heavy with the Commission. So if the Secretary came in to us, or his representative came in to us, and testified, "I administer the Mall and I have made a determination that this is what is required," it just seems to me that the regulatory process being what it is, that would weigh very heavily with the Commission.

Mr. WRIGHT. I think it may be quite useful—this obviously needs clarification by Congress.

I do disagree with what appears to be one of your summary conclusions wherein you say, referring to the possibility of exempting this particular type of transportation from the compact authority:

It is our belief that if this is the purpose of the legislation, it would not accomplish that result since unilateral amendment of the compact is impossible.

Of course, you recognize that the Congress making the determination in this specific area, from the compact and subsequent legislation which created the compact, would come under the doctrine of preemption and we could very well do that if we wanted to?

Mr. AVERY. I think an administrator like myself, if he had a recurring nightmare, it would be the nightmare to have to come before Congress and tell them maybe they cannot do something. But, frankly, I have to say, as a lawyer, that I think there is a real question as to whether you can do it unilaterally.

The compact is an agreement between three parties like any other compact.

Mr. WRIGHT. One of them being the District of Columbia, one of them being the State of Maryland, and one of them being—

Mr. AVERY. One of them being Virginia. And all three legislatures of those entities—the legislature of the District being Congress—have agreed to that.

I am not sure one party can change it unilaterally.

Mr. WRIGHT. I am not proposing one of the three parties change it; I am proposing the Congress of the United States, under whose authority the compact was initially agreed—

Mr. GRAY. If we decided to pull out the District of Columbia, which is a Federal city, you would have Maryland and Virginia left. You would not have a leg to stand on if Congress wanted to undo what it did 6 years ago, or any portion of it.

As the gentleman from Texas said, if we wanted to amend what we did 6 years ago, Congress would certainly have authority. Without Congress authority, you would not have a compact. That is what a compact means and as for, getting together and working out common interests.

Mr. AVERY. Mr. Chairman, suppose the Legislature of Maryland passed an act saying that they are going to exempt from our jurisdiction transportation between Rockville and Silver Spring. I just do not know whether that would effect that result or not. I think it is a difficult question.