

BRIDGES AND TUNNELS IN THE STATE OF MARYLAND

[90-12]

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FIRST SESSION

ON

H.R. 11627

SEPTEMBER 19, 1967

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BRIDGES AND TUNNELS IN THE STATE OF MARYLAND

TUESDAY, SEPTEMBER 19, 1967

HOUSE OF REPRESENTATIVES,
COMMITTEE ON PUBLIC WORKS,
Washington, D.C.

The committee met at 10:10 a.m., in room 2167, Rayburn Building, Hon. George H. Fallon, chairman, presiding.

Mr. FALLON. Ladies and gentlemen, the Committee on Public Works is meeting in an open hearing this morning on H.R. 11627, to amend the act of June 16, 1948, to authorize the State of Maryland, through its States Roads Commission, or the successors to said commission, to construct, maintain, and operate certain additional bridges and tunnels in the State of Maryland.

(Copy of H.R. 11627 follows:)

[H.R. 11627, 90th Cong., first sess.]

A BILL To amend the Act of June 16, 1948, to authorize the State of Maryland, by and through its State roads commission or the successors of said commission, to construct, maintain, and operate certain additional bridges and tunnels in the State of Maryland

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first section of the Act of June 16, 1948 (62 Stat. 463, Public Law 654, Eightieth Congress) is amended by striking out "and (2)" and inserting in lieu thereof "(2)" and by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "(3) a bridge parallel to the existing Chesapeake Bay Bridge in the State of Maryland from a point in Anne Arundel County at or near Sandy Point to a point in Queen Annes County at or near Kent Island, and approaches, including connecting highways, thereto, (4) a bridge across or a tunnel under the Chesapeake Bay in the State of Maryland from a point in Baltimore County at or near Millers Island to a point in Kent County, or a combined bridge and tunnel at such location, and approaches, including connecting highways, thereto, (5) a bridge across or a tunnel under the Chesapeake Bay in the State of Maryland from a point in Calvert County to a point in Dorchester County, or a combined bridge and tunnel at such location, and approaches, including connecting highways, thereto, and (6) an additional tunnel under or a bridge across the Patapsco River from a point at or near Hawkins Point in the city of Baltimore to a point at or near Sparrows Point in Baltimore County, and approaches, including connecting highways, thereto."

SEC. 2. The first sentence of section 3 of such Act of June 16, 1948, is amended by striking out "either or both" at each of the two places where it appears and inserting in lieu thereof at each such place "any one or more".

The committee has a number of witnesses this morning and we will not control the time unless it looks like we will not be able to finish; then we will.

We have reports from both the Department of the Army and the Department of Transportation. They have no objections.

As I said before, we give the right to the State of Maryland to construct certain bridges and tunnels. It has been in the past the duty of this committee to consider this type of project only when there is an interstate project involved.

If a bridge is built intrastate, there is no need for permission of the Congress to authorize it.

When we authorize the Interstate System, in the bill we make sure that all of the projects that were apt to be constructed—the different lanes, the different points that were desired by the bill—the location had to be first recommended by the several States. The engineering selection was made by those States. The contractors who were to build the projects were to be selected by the States. Congress has no right to delve into where these projects will be built or who will build them, and that is when we furnish 90 percent of the money.

In this case there is no Federal funds in these projects, or to be used in these projects. They are strictly collected by tolls from the users. So that it is more of a perfunctory position we are in here this morning, just allowing the State to do what it wants to do over which Congress has no control.

So our first witness this morning, who has a short statement I understand, is Mr. Machen.

Will you come up to the microphone?

Mr. Machen, on behalf of the committee, I want to welcome you here this morning.

I do not very often get my colleagues from Maryland to come down to visit us. When they do, we are always glad to see them.

STATEMENT OF HON. HERVEY G. MACHEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MARYLAND

Mr. MACHEN. Thank you, Mr. Chairman. It is a pleasure to appear before the dean of our delegation and chairman of this committee.

To members of the committee, I am Hervey G. Machen, from the Fifth Congressional District of Maryland. I am honored to be a co-sponsor of H.R. 11627 with the distinguished chairman of this committee and with five of my Maryland colleagues.

The legislation before you today is an authorization bill, the enactment of which is a prerequisite to the construction of additional crossings of the Chesapeake Bay and the Baltimore Harbor. This legislation is very far sighted, because it would authorize a number of bay and harbor crossings, enough, in my opinion, to meet our needs for decades.

Enactment of this bill would allow the State of Maryland to proceed with construction of each additional bay and harbor crossing on a priority basis as the State sees fit, without the necessity of coming back to Congress for additional legislation each time an additional project is needed.

As many of you are aware, there has been some controversy about which additional bay crossing should be constructed first. This legislation does not settle that controversy, nor is it intended to; but it will, if enacted, allow the State to assign and implement its construction priorities on each additional crossing without further congressional action.

Mr. Chairman, I strongly support this bill and urge its enactment, because additional bay and harbor crossings are very badly needed to serve the people of our State and those who travel through it.

Additional bay crossings, in particular, can mean closer economic and social ties within our State with the resulting strengthening of

our economy and growth. We have already seen this to a significant degree as a result of the building of the first Chesapeake Bay Bridge. What follows on the Eastern Shore was almost less than dramatic.

If we should enact this omnibus authorization bill, it would assist southern Maryland, the southern and northern portions of the Eastern Shore in achieving similar economic growth.

Mr. FALLON, it is my understanding that this legislation does not provide for the expenditure of any Federal funds, does not place any additional financial obligation on the Federal Government, but is merely congressional authorization for the State of Maryland to undertake the construction of the various additional crossings under its own priority system and under its own system of financing.

I strongly urge the committee to give this bill a favorable report with a view toward early passage in the 90th Congress.

I appreciate very much the opportunity to be here, Mr. Chairman. If there are any questions, I will defer them to you.

Mr. FALLON. Thank you, Mr. Machen.

Any questions on my right?

Mr. KLUCZYNSKI. No questions, Mr. Chairman.

I am happy to see my very good friend, the Congressman from the Fifth District of Maryland, here before this august body, and having the dean as chairman of this committee.

Mr. MACHEN. Thank you you very much.

Thank you all.

Mr. FALLON. Mr. Denney.

Mr. DENNEY. Mr. Chairman, I am still at a loss to understand the reason for the hearings in view of your opening statement, it is not necessary that the State of Maryland go ahead and construct this; it is not costing the Federal Government anything.

What is the purpose of the bill we are now considering?

Mr. FALLON. This is an amendment to the 1938 act, which was passed, and supplemented and amended in 1948, so that that was a congressional act. So in order to amend it, to add due projects, it has to have congressional permission.

Mr. DENNEY. I thought I understood the chairman to say the State of Maryland could go ahead and do this whether we passed this bill or not.

Mr. FALLON. They could, except for the fact there is one interstate bridge in the authority, which is the bridge over the Potomac. If that bridge were not in the Maryland Bridge Authority, there would be no need for congressional action.

Mr. DENNEY. I see.

Mr. FALLON. In the State of Maryland, their legislature could do it.

Mr. DENNEY. In other words, this is to coordinate the Federal system with the State system?

Mr. FALLON. That is right.

Mr. DENNEY. I see.

Mr. MACHEN. All of our funding of this type of toll projects is in one package.

Mr. DENNEY. I just do not want to get in the position of agreeing to a toll facility.

Mr. FALLON. May I say, a member of the attorney general's staff is here from Maryland also the State director is here, and they would be better qualified to answer.

Mr. DENNEY. It is just curiosity on my part.

Mr. FALLON. Thank you very much, Mr. Machen.

Mr. MACHEN. Thank you very much.

Mr. FALLON. I would like to have a statement from Congressman Garmatz in support of the legislation made a part of the record. I ask unanimous consent that we insert it in the record at this point.

(Prepared statement of the Honorable Edward A. Garmatz, follows:)

STATEMENT OF EDWARD A. GARMATZ

Mr. Chairman: I wish to present to you and the Members of your Committee my strong personal endorsement and support of H.R. 11627.

I regret that I will be unable to personally appear before your Committee for a scheduled hearing on September 19th and will, therefore, appreciate your placing my statement in the record.

H.R. 11627 is a bill which gives congressional authorization for the State Roads Commission of Maryland to construct an additional tunnel crossing of the Baltimore Harbor; a bridge parallel to the existing Chesapeake Bay Bridge; a northern crossing of the Chesapeake Bay between Baltimore County and Kent County and a southern crossing of the Bay between Calvert County and Dorchester County. These proposed crossings will be financed from tolls and the legislation is permissive only and does not require the crossings to be built.

There is one tunnel under the Baltimore Harbor at this time. As a Member of Congress from Baltimore City, I am familiar with the traffic needs of the City and I am convinced that another crossing is urgently needed. The need for a bridge parallel to the existing Bay Bridge has been adequately demonstrated not only from present traffic needs but by engineering studies and projections which reflect traffic growth. The wisdom of a bridge for a northern and southern crossing of the Bay at this time and purchasing certain land needed for the approach roads before it is built up and developed also makes good sense. Both of these bridges will be needed to meet Maryland traffic demands.

The Legislature of Maryland has passed legislation authorizing these four crossings. I am advised that the Governor of Maryland and the State Roads Commission of Maryland are in favor of the legislation now before your Committee.

I, therefore, Mr. Chairman and Members of the Committee, add my endorsement and support to H.R. 11627.

Mr. FALLON. The next witness this morning will be our colleague from the Second District of Maryland, Mr. Long.

I do not think Mr. Long needs an introduction to the members of the committee. You all know him.

We are very happy to have you here this morning.

STATEMENT OF HON. CLARENCE D. LONG, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MARYLAND

Mr. LONG. It is a privilege to appear before this distinguished committee, headed by my eminent colleague, the dean of the Maryland delegation, and my very, very good friend.

Mr. Chairman and members of this committee, I appreciate the opportunity to testify before you today on H.R. 11627, the bill to amend the act of June 16, 1948, to authorize the State of Maryland, by and through its State roads commission or the successors of said commission, to construct, maintain, and operate certain additional bridges and tunnels in the State of Maryland.

This bill authorizes the construction of three bridges across the Chesapeake Bay: One bridge parallel to the existing Bay Bridge from a point in Anne Arundel County at or near Sandy Point to a point in Queen Annes County at or near Kent Island—this is a bridge

that will be parallel to the existing bridge and largely duplicative of that bridge; a second bridge, or tunnel, from a point in Baltimore County at or near Millers Island to a point in Kent County—which I shall hereafter refer to as the northern crossing, this bridge would be about 25 miles north of the present parallel bridge, which this bill proposes to add; and third, one bridge, or tunnel, from a point in Calvert County to a point in Dorchester County which I shall hereafter refer to as the southern crossing.

I wholeheartedly endorse the provisions in this bill to grant congressional authorization for northern and southern crossings of the Chesapeake Bay; that is to say, crossings at locations different from the one that now exists. But I respectfully urge the committee to delete from this legislation the authorization for a Chesapeake Bay bridge parallel to the existing bridge.

A close analysis of the wishes of the Maryland voters themselves, of actual traffic on the existing bridge and traffic estimates for the parallel bridge, and of the extent to which the proposed parallel bridge is neither financially feasible nor economically sound leads me to recommend that the committee refuse to go along with this game of "duplicate bridge."

Let us examine the wishes of the Maryland voters first, because all of us are ultimately here to be responsive to the needs and desires of the voters. In a November 8, 1966, referendum, Maryland voters decisively rejected the proposal to construct a second bridge parallel to the present bridge across the Chesapeake. This vote was by far the largest of that on any of the referendum questions. In Metropolitan Baltimore alone, 70 percent of the voters pulled the "No" lever against the parallel bridge.

Second, is the present bridge so inadequate that a duplicate crossing is required right beside it?

The fact is that traffic on the existing Chesapeake Bay Bridge is only 4.3 million vehicles a year, about half of the 8½ million capacity given in the 1950 report of the State roads commission. Forecasts for future traffic are clouded by an actual decline in 1964, and by a 1965 level still below 1963. Arguments that stoppages in traffic growth are only temporary cannot be proven or disproven for a number of years.

On only a few summer weekends a year is the traffic on the bridge congested. Even then, inconvenience to motorists is small in relation to the cost of a new bridge. Most of the year, by the standard of peak weekends in July or August, the bridge operates at half or a third of capacity or far below.

Various means of relieving congestion on the present bridge during summer weekends have yet to be explored. These include: Advertising extensively that people of northern Baltimore areas can get to shore resorts just as quickly by going around the head of the bay; opening more toll booths, especially at the eastern end of the bridge; keeping all toll booths open instead of closing one or more of them down during periods of fairly heavy traffic—for example, on Labor Day I crossed the bridge and they had one toll booth closed down during lunch hour, thereby slowing up to some extent traffic coming from the Eastern Shore; eliminating stoplight bottlenecks which now exist several miles west of the bridge—after crossing the bridge, coming back a week or so ago, there was heavy traffic on the weekend, I had no trouble getting

across the bridge, but having gotten across, on the western side we were tied up for several miles by a stoplight up by the Howard Johnson, eliminating delays caused by the nearby Kent Narrows Bridge, which is lifted up to 50 times daily; raising the toll for the summer weekends and lowering it during the week, to induce motorists to adjust travel plans; and scheduling express bus service from Sandy Point to Ocean City. These are all possibilities that have not yet been explored.

But the main point I want to make is that if we built bridges in other locations, they would divert enough traffic, so that you would never conceivably have any congestion at the present location.

Now, let us next examine the relative economic impact of alternative bridge locations. Any new transportation channels—bridge, tunnel, beltway, or expressway—is a powerful determinant of future population, traffic, and economic development.

A new bridge location would generate new traffic patterns, and therefore new economic growth; a parallel bridge would bring no such potential with it, since it would merely duplicate an existing facility.

Moreover, building a parallel bay bridge will prevent the Baltimore area from getting a northern crossing for decades to come, and will abort the future economic and population development of that vital area.

Nor should we forget the potential value of a new bridge location in the event of natural disaster or enemy attack. One bomb could conceivably wipe out both bridges if you had two bridges right beside each other. If you have a 7-mile crossing, it would be really disastrous in time of national emergency.

Finally, pessimistic estimates of traffic on the proposed northern or southern bridge, based on "origin-destination" studies of traffic in 1965, did not forecast the potential traffic explosion that might be created by the new communities and new travel habits generated by a new bridge in a new location.

A really bleak financial future can be forecast for the State if a parallel bay bridge is built. Building a parallel bay bridge in addition to a second harbor tunnel could use up, possibly to the year 2000, any money or borrowing capacity that might have been available to build a bay bridge in another location, such as in Baltimore or in southern Maryland. Moreover, the costs of this bridge will prevent all existing toll facilities from becoming free, as they otherwise would in a couple of years.

A parallel bridge would be a money loser during the entire period projected by the State roads commission to 1985, although this loss would no doubt be concealed by paying the cost of the new parallel bridge out of the revenue of existing bridges and the Harbor Tunnel. Because, keep in mind, all toll facilities in Maryland are in one package. So although this is a deficit proposal, they can swing it by forcing people who travel across other bridges to pay for the deficit cost of this second parallel bridge.

The original cost of the bridge, including interest during construction has been estimated by the State roads commission at \$73 million. This original cost would mean an annual cost of \$31½ to \$31¼ million, very conservatively estimated, for operating expenses, interest and amortization. Extra traffic compared with 1965 would not yield suf-

ficient revenue to cover these costs until well into the 1980's, and most of increased traffic until then could be carried by the present bridge even if no parallel span were built. This is so because bridge traffic is far below capacity during 10 months of the year, and could continue to increase in these months even if summer traffic could not. In any case, until 1985, a duplicate span would bring in less extra revenue than it would cost annually—even accepting the construction costs of the State roads commission.

But who guarantees this estimate? The present bridge was first estimated in July 1948, to cost \$35 million. Three months later, October 1948, the estimate rose to \$36.4 million. By 1953, when it was finished, the bridge cost \$45 million. A duplicate bridge could, as a result of Vietnamese war inflation and other factors, cost \$90 million or more. If so, annual costs for interest, amortization, operation and maintenance, could be \$4½ million or \$5 million, and the annual loss through 1985 would be much larger than the current estimate.

Before closing—we have been told to listen to the experts on this who recommended the first priority to a parallel bridge—I would urge this committee to examine the reliability record of Coverdale and Colpitts, the traffic consultants who recommended top priority for the parallel bridge.

I have examined the record of the so-called traffic “experts.” I have discovered eight major projects on which this firm made gross exaggerations, or overestimations, in traffic and revenue, including two bridges in Maryland, the Potomac River Bridge and the Susquehanna River Bridge. Coverdale and Colpitts overestimated 1966 traffic by 41 percent on the Potomac River Bridge and by 57 percent on the Susquehanna River Bridge.

The six other blunders include two bridges in Michigan; and toll projects in Illinois, West Virginia, Massachusetts, and Kansas. Three of these projects are in default on interest payments to bondholders. A fourth is paying interest out of borrowed money. On the fifth and sixth projects, tolls had to be raised sharply in an effort to make up for traffic deficiencies. Even with higher tolls, revenue is still below the firm's predictions.

I see one of my distinguished colleagues from Chicago. I want to point out Coverdale and Colpitts recommended the Calumet Skyway, where they estimated traffic would be 19.9 million cars a year, although they knew there would be a freeway, Indianapolis Freeway, competing with it. Actual traffic on that Calumet Skyway is running only 7.7 million, or about one-third, and it is in default on interest and way behind on everything else, with no prospects for the future, because the deficits continue to increase.

MR. KLUCZYNSKI. Mr. Long, they have been trying to get rid of that for 5 or 6 years. They have tried to sell it for \$68 million.

MR. LONG. I think the gentleman knows what I am talking about.

The truth is all of these “experts” are very, very vulnerable. There was a time when you could predict traffic on almost any of these projects and the results would usually exceed your expectations. But there are so many freeways and tollways all over the country, they are all competing with each other, so a great many of these projections have turned out to be very, very disastrous indeed.

MR. Chairman and members of this committee, the building of a parallel bay bridge would be a tremendous economic and financial

mistake for the State of Maryland and for its residents, who would be paying for this blunder by higher taxes and tolls for years to come. We should not penalize Marylanders by asking them to pay for an unnecessary bridge. The need for a parallel bridge is so far from being proven, and the black marks against it so many and varied that the committee would be wise not to authorize its construction at this time. I therefore respectfully urge this committee to delete from this bill all reference to "a bridge parallel to the existing Chesapeake Bay Bridge in the State of Maryland." That is to say, I would support the bill in general, but I think the parallel bridge feature should be deleted.

Thank you very much, Mr. Chairman.

Mr. FALLON. Are there any questions on my right?

Are there any questions on my left?

Mr. SNYDER. I have a couple of questions, Mr. Chairman.

Congressman Long sounds like he has done his homework.

You make reference to the referendum and you refer to the percentage of the voters who have opposed the parallel bridge in the area. How large an area did the referendum cover?

Mr. LONG. The entire State.

Mr. SNYDER. What was the return on the entire State?

Mr. LONG. The entire State, the total vote against was 289,000 for 241,000. It was defeated statewide by 38,000 votes, roughly.

Mr. SNYDER. Then am I correct in my assumption that in the Baltimore metropolitan area, these are the people who would be nearest to this bridge and most likely to get the most use out of it if it were built?

Mr. LONG. If it were built in a northern area, that is right. That is why generally the Baltimore people feel so strongly about a parallel bridge. They see quite clearly if a parallel bridge is built, it will use up money for decades to come for a bridge that could be built in the Baltimore area. We are about the only big city fronting on water without such a bridge.

Mr. SNYDER. Is this anticipated bridge in your district?

Mr. LONG. No, that would be in Mr. Morton's district, in the First Congressional District.

Mr. SNYDER. And does your bill, H.R. 3135, incorporate all the other bridges that are in 11627 except the one that you are opposed to?

Mr. LONG. This bill covers one harbor tunnel, a duplicate of the harbor tunnel, and three bridges.

Mr. SNYDER. Are they all included in your bill?

Mr. LONG. My bill would only cover two bridges. In other words, my bill makes no reference to the harbor tunnel and no reference to the parallel bridge, but only a northern and southern bridge. In other words, my bill deals with only bridges in areas where there are no crossings now; whereas, the bill introduced here, which we are considering today, deals with what I regard as two basically duplicative facilities: One, a bridge alongside of a bridge, and two, a tunnel alongside of a tunnel.

Mr. SNYDER. Are you also opposed to a tunnel in 3135?

Mr. LONG. I am not taking a stand against the tunnel. I think a tunnel is needed. There is a great deal of congestion.

I will point out there will be an east-west expressway, freeway, through the city, which I believe is set. That will be built by the Fed-

eral Government. That will be completed several years after a second harbor tunnel is completed, and then I think you are going to have a real problem getting people to pay 50 cents to go 7 miles around a city, when they can go through the city free.

I think you are going to have the same situation you had on the Calumet Skyway, where people could go down the Indianapolis Boulevard and go off to shop, and so on; whereas, if they got on the Calumet Skyway, they had to go right on through and pay besides. Competing with a freeway which offers all sorts of additional freedoms made it very difficult to get people to go on the skyway.

Even taking the State Roads Commission's own projections, I might point out the two harbor tunnels would, I believe, by 1980 be carrying only slightly more traffic than the one harbor tunnel does right now, once the east-west freeway is opened up. I mean, even taking the State Roads Commission figures. But I do not believe that you can necessarily take them as the gospel truth, because, as I pointed out, these experts have been wrong on so many of these predictions.

Mr. SNYDER. I was going to ask you in your investigation of Coverdale and Colpitts, did you find any successes?

Mr. LONG. There have been some successes. I think it is impossible to avoid.

I might point out in reference to the point that was made a little earlier about the ability of Congress to pass on a project such as this, now this does require congressional authorization. If Congress does not authorize this, of course, the bridge could not be built even if the State had the capacity to build it.

Now, I believe the controlling thing in question whether Congress has authorization is not whether a bridge moves from one State to another, but whether it crosses navigable waters. And the Chesapeake Bay is a navigable stream. I believe also that this does raise real Federal matters, such as the question of whether navigable streams will be interfered with.

I wish we had some of the pilots in here to testify, because I believe when you have two bridges—

Mr. FALLON. Will the gentleman yield?

Mr. LONG. Yes.

Mr. FALLON. I want to point out to the gentleman, under the General Bridge Act of 1946, that Congress had given the right for States to build over navigable streams with only permission of, I think, the Corps of Army Engineers. So that Congress no longer has that authority over the States. They have given that authority to the States and the Army Corps of Engineers.

Mr. SNYDER. I have another question. What is the legal effect of the referendum in regard to this bridge? Why was it put on the ballot and in compliance with what State laws? And does the defeat preclude the State from doing it, even though Congress authorizes it? Just what is the legal position we are in with that referendum?

Mr. LONG. Unfortunately, it does not. It was petitioned to referendum only under a petition procedure which we have in Maryland. That is to say, if you get 3 percent of the voters in the previous gubernatorial election to sign a petition, then it could be put on the ballot in November. That was done. And then in November the voters voted it down.

Now, unfortunately, under the Maryland constitution, it is possible for the Governor to simply put through another bill several months later, at the new opening of the legislature, and that was done. So the wishes of the voters were frustrated.

Legally the Governor and the State legislature had a right to do this. I think there was widespread feeling in the State, however, from a moral point of view. This completely frustrated the expressed wishes of the people, and there is widespread puzzlement how this could be done after the voters voted it down.

Mr. CLEVELAND. Would the gentleman yield at that point?

Mr. LONG. Granted.

Mr. CLEVELAND. This referendum procedure would still be available, however, if this new bill that is in the legislature passes?

Mr. FALLON. The legislature has already passed it?

Mr. LONG. The legislature has passed it.

Mr. FALLON. That is why we are here today. Had the legislature not passed the bill, we would not be here.

Mr. CLEVELAND. Let me ask you this one question of fact. Even if we passed this bill that is before us now, do not the voters still have the right—

Mr. LONG. No, the time for taking it to referendum again has passed.

I had the very harsh decision to make as to whether I should petition the referendum again. I will tell you quite frankly why I did not. I did not because the Governor and the State legislature could have simply put through another bill the following year.

It is very expensive. It costs about \$25,000 to do this. They could put through another bill. The thing would not come up for a vote until 1968 anyway. Under the emergency procedures, they could have gone ahead with it in the meanwhile, and I would have been in the position possibly of petitioning the same thing twice to referendum on the same ballot.

It is also possible, I think very likely, in the new constitutional convention, there were very strong pressures to get rid of the whole referendum system. I might have been in the position of having spent a great deal of money and that of my followers to petition something and find the whole petitioning mechanism was wiped out.

Mr. CLEVELAND. If the gentleman will continue to yield, I would like to say this one point, do I understand your testimony, there was a referendum on the so-called duplicate bridge, parallel bridge?

Mr. LONG. That is right.

Mr. CLEVELAND. That 70 percent of the voters said "No"?

Mr. LONG. I would say 55 percent of the voters statewide said "No"; 70 percent in the Baltimore area.

Mr. CLEVELAND. You are telling the committee then that if we include the parallel bridge in this bill, we do so against the expression of public opinion?

Mr. LONG. I think that is fair to say, yes.

Mr. FALLON. What we are actually doing, Mr. Cleveland, is we are giving the legislature, the Governor, and the State of Maryland the right that the legislature wants to build these projects. They passed this bill at a better than two-thirds majority of the general assembly. This bill has already passed the house at one time but went over to the senate.

This committee reported it out unanimously. It passed the house by unanimous consent, the same parallel bridge that we are talking about.

Mr. CLEVELAND. Yes, but, Mr. Chairman, my observation was that what Congressman Long is telling us, regardless of what the legislature says or what the legislature has done, if we pass this bill with provision for a parallel bridge in it, we are, in effect, frustrating the public opinion in the referendum and there is no procedure now by which they can go back to referendum on it.

Am I correct?

Mr. LONG. I might point out, Mr. Cleveland, the State roads commission has indicated publicly that if this bill is passed, this parallel bridge will be the first bridge they build.

This is basically a parallel bridge and tunnel bill, because if this bill is passed, those are about the only two facilities they will ever have money to build. This bill bond up to about the year 2000.

Mr. SNYDER. I have one additional question, Mr. Chairman.

Do you have a copy of 11627 before you?

Mr. LONG. Yes, I do now.

Mr. SNYDER. Just so I can be certain, at the bottom of the first page, it says: "(3) a bridge parallel to the existing Chesapeake Bay Bridge," et cetera. That is the bridge you are opposing?

Mr. LONG. That is the one we are referring to, yes.

Thank you very much.

Mr. CRAMER. May I ask a question?

The last thing I want to do is to inject myself in the difference of opinion in the Maryland delegation, as I am sure the gentleman realizes, but as I understand it, is it true that the ballots of the Maryland delegation support the bill before us by Mr. Fallon? To your knowledge do you know?

Mr. LONG. I believe that that is so, yes. That is so, indicated by the people who have signed this.

Mr. CRAMER. Secondly, do I understand that the legislature did act as you stated subsequent to the referendum?

Mr. LONG. That is right, just several months after the referendum.

Mr. CRAMER. And did in fact pass a bill authorizing the consolidation of—

Mr. LONG. That is right.

Mr. CRAMER (continuing). The bridge now built and to be built in the future? Action 387 of the General Assembly of Maryland, 1967? Is that correct?

Mr. LONG. Yes.

Mr. CRAMER. I understand further that was passed by a rather overwhelming majority, was it not?

Mr. LONG. That is right, it was.

Mr. CRAMER. Is it true that your legislature ran for election between that referendum and this new bill?

Mr. LONG. That is right.

Mr. CRAMER. So that those who voted—

Mr. LONG. No. Excuse me. No, they did not.

Mr. CRAMER. They did not?

Mr. LONG. They ran for election at the same time the referendum was for ballot in the general election.

Mr. CRAMER. So that those who voted on the new bill were fully cognizant of the expression of the will of the people expressed at the same time as they themselves were elected?

Mr. LONG. They were certainly cognizant of the will of the people, and I think they have deliberately acted to flout the will of the people.

I might point out in my opinion the construction of bridges and tunnels in Maryland is operated under conditions which I think do not really reflect the will of the people and have not for a long time, but I do not really want to get into that.

Mr. CRAMER. Despite the voice of the people?

Mr. LONG. That is what the referendum procedures are for, Mr. Cramer. As you know, they were instituted because it was felt you should have some appeal from actions of the legislature and this appeal was exercised.

Legally, of course, you are quite right.

Mr. CRAMER. I am asking a question, not stating a position.

I understand further that despite an expression of opinion on the part of the people, at the same time these legislators were elected, they themselves saw fit to pass a bill overwhelmingly?

Mr. LONG. That is right.

Mr. CRAMER. It having passed is the reason why this bill is before us now, to effectuate it so far as the Federal responsibility is concerned.

It is true, is it not, that so far as Federal responsibility is concerned, really, the only bridge that requires or necessitates this action is the Potomac River Bridge. Is that correct?

Mr. LONG. From what Mr. Fallon says. I must say I was not aware.

Mr. CRAMER. We will defer to the experts on that.

Mr. LONG. It was my opinion the controlling feature was navigable waters, but I would not want to argue with the chairman of the Public Works Committee.

Mr. CRAMER. Do I understand you are not in opposition, however, to building a bridge across the Chesapeake Bay at some other location than the Chesapeake Bay Bridge parallel?

Mr. LONG. Exactly. I feel that any bridge across the Chesapeake in any other location would be a great asset to the State of Maryland, and I would support the rest of this bill, but I do feel——

Mr. CRAMER. And the rest of this bill does provide for those other two locations?

Mr. LONG. That is right. So I proposed here in my statement that the bill be amended to delete the parallel bridge.

Mr. CRAMER. In other words, you are asking this committee to take away the discretion of the State as it relates to whether a bridge should be built as a parallel to the Chesapeake Bay Bridge?

Mr. LONG. Well, of course, it was not——

Mr. CRAMER. As compared to the other two locations?

Mr. LONG. Well, of course, I had nothing to do with Congress being given the decision over the authorization of the bridges. It might very well have been sound for Congress never to have asserted authority over these bridges. But since Congress does have this power, I am here to plead my case.

Mr. CRAMER. I believe we have been over that bridge, have we not?

Mr. LONG. I am here to plead my case.

Mr. CRAMER. So you are suggesting that rather than making it discretionary with the State by passing the Fallon bill, making it pos-

sible to build a bridge at any one of the three locations, two of which you favor, that they be required designations?

Mr. LONG. The reason I ask you this is I simply do not trust the State leadership's—either the Governor or the State roads commission—discretion at this time.

Mr. FALLON. Will the gentleman yield?

Mr. CRAMER. That is not a matter I care to get into. I yield.

Mr. FALLON. I might say this committee is not with this legislation, telling the State of Maryland where to build or how many to build. This is permissive legislation to allow them to judge for themselves where they want to build and when they want to build. That is all this legislation does.

Mr. LONG. If you are right in that, Mr. Chairman, then I would suggest that you introduce legislation to remove all congressional authority over the location of bridges and tunnels, so that these matters should not even be brought before Congress.

Mr. FALLON. We have done that as much as we could. If the Morgantown Bridge was not in this compact, this legislation would not be here. It would be the decision of the State of Maryland, the General Assembly of the State of Maryland, where the bridge would be built and when it would be built.

Mr. CRAMER. As I understand it, the State legislature provided for all three locations, did it not?

Mr. LONG. Harbor Tunnel and four locations really, the tunnel and three bridges.

Mr. CRAMER. Yes.

Mr. LONG. I think this was done, if I might interject, for political reasons. It was done in the hope of winning the city people into voting for a parallel bridge. It was believed and said, I think even said quite frankly, they could put three bridges in here; they would have something for everybody. And a lot of the people voted for this, the whole package, believing that there was enough money to build a bridge in Baltimore. But I assure you that there is not enough money to build a bridge in Baltimore if a parallel bridge and a harbor tunnel, which are the two announced top priorities in the State roads commission, are carried out. This will bond the toll taxpayers up to the year 2000.

I even have some question of whether you are going to be able to get the bond holders to buy enough bonds to provide both of these, so I think even the Harbor Tunnel itself may be in some jeopardy. But if those two projects are built, you are not going to get a Baltimore bridge; you are not going to get a southern Maryland bridge. But those were put in there as bait to get the city to vote for this.

All of you gentleman have had some experience with politics in the past and know some of the political facts of life.

Mr. FALLON. Well, thank you very much.

Mr. McEWEN. Mr. Chairman.

Mr. FALLON. Mr. McEwan.

Mr. McEWEN. Mr. Chairman, I have a question of either you or Mr. Long.

Mention was made, there was a bill identical or similar to H.R. 11627. It was reported out of the committee previously.

Mr. FALLON. That is right. It just contained the parallel bridge.

Mr. McEWEN. That portion was similar to what is provided in this bill. Was that prior to or subsequent to the referendum that has been referred to?

Mr. FALLON. Prior to I think.

Mr. LONG. Prior to.

Mr. McEWEN. It was prior to the referendum?

Mr. LONG. Yes.

Mr. McEWEN. That is what I thought.

Mr. CRAMER. Mr. Chairman, as I understand it, it would not be necessary for Congress to act at all under the previous bridge act. Of course, we will have an authority on that subject shortly. What you are suggesting, as I see it—we will get authority to substantiate it one way or the other—you are asking us to inject ourselves into, in effect, vetoing a possible location the State could do without congressional action. They can build a parallel Chesapeake Bay bridge without asking any authority from Congress.

Mr. LONG. No, they could not under the present situation.

Mr. CRAMER. As far as constructing it is concerned?

Mr. LONG. No.

Mr. CRAMER. Well, we will get authority.

Mr. LONG. I think you ought to get authority on that.

I believe under the present situation there must be congressional authority before they can do it. That is why, of course, the parallel bill was introduced into Congress last year or the year before.

Mr. FALLON. What we are asking for is the authority to have these other projects in the already constituted authority. That is what we are asking.

Mr. LONG. And I am humbly suggesting to the committee you grant this authority except to delete that part which has to do with the parallel bridge.

Mr. CHAIRMAN. Delete "parallel" and put one in the upper area where you are? That is what you are suggesting.

You have a lot of reasons for it, but that is actually what you are asking us to do.

Mr. LONG. All I am asking here today, Mr. Chairman, is for the committee to delete the "parallel bridge," and then I would be willing to leave up to the State roads commission, to its discretion, where to put the next facility, whether it built a harbor tunnel, a northern bridge, or a southern bridge.

I think even a southern bridge makes a lot more sense. It is not in my district. It makes a lot more sense, because it would build up a new area and do things for southern Maryland and the lower shore. It makes a lot more sense than to put a bridge alongside of another bridge.

Mr. HOWARD. Mr. Chairman, a question was asked a few minutes ago—I am not sure why it was—"In whose congressional district is this bridge, or will it be?" and the answer is it is in Congressman Morton's district, I believe.

Has Congressman Morton stated publicly his feelings and his wishes?

Mr. LONG. Congressman Morton is supporting this bill.

Mr. CRAMER. If the gentleman will yield, he advised me that he said he is in support of this legislation.

Mr. LONG. I think it would be a little surprising if he did not support a bridge to be built in his district.

Mr. HOWARD. That is why I was wondering why the question was asked without following up with how he feels about it.

Mr. FALLON. Thank you again, Mr. Long.

Mr. LONG. Thank you, Mr. Chairman.

Mr. FALLON. Our next witness is the Honorable Jerome B. Wolff, chairman of the State Roads Commission of Maryland. With Mr. Wolff is the Honorable Joseph D. Buscher, special assistant to the Attorney General of Maryland.

Will you gentlemen be seated.

At this point, I would like to ask that unanimous consent be given to insert in the record at this point a letter from the Honorable Spiro T. Agnew, Governor of Maryland, in support of this legislation.

(The letter of the Honorable Spiro T. Agnew follows:)

EXECUTIVE DEPARTMENT,
Annapolis, Md., September 18, 1967.

HON. GEORGE H. FALLON,
Rayburn House Office Building
Washington, D.C.

DEAR CONGRESSMAN FALLON: I am writing to wholeheartedly endorse and urge passage of H.R. 11627 which was introduced by you and also sponsored by Congressmen Friedel, Garmatz, Gude, Machen, Mathias and Morton of Maryland. The purpose of this Bill is to obtain the assent of the Congress to the construction by the State Roads Commission of Maryland of a second Baltimore Harbor crossing, a parallel Chesapeake Bay Bridge, a Northern Crossing of the Bay between Baltimore County and Kent County, and a Southern Crossing of the Bay between Calvert County and Dorchester County. All of these proposed crossings are within the State of Maryland.

The 1967 session of the General Assembly enacted House Bill 348 which, when I signed it into law, became Chapter 387 of the Acts of the 1967 session of the General Assembly. Under the provisions of this Act the State Roads Commission is authorized to construct an additional tunnel under the Baltimore Harbor and the three additional above-mentioned crossings of the Bay. All of these proposed crossings will be financed from toll revenues.

Under the provisions of House Bill 348 the State Roads Commission is authorized to establish priority of construction of the above described facilities. The Commission is currently planning on the immediate construction of a parallel Chesapeake Bay Bridge adjacent to the existing bridge, and in addition it will construct a second Baltimore Harbor Tunnel, or alternatively a Northern Crossing on the Chesapeake Bay. Selection of the two facilities to be constructed will be made immediately prior to the sale of bonds early in 1968.

The need for the Second Baltimore Harbor Tunnel and a new bridge parallel to the existing Chesapeake Bay Bridge is immediate and urgent. Traffic using the Baltimore Harbor Tunnel queues up for miles on practically every Friday, Saturday and Sunday during the year in both directions. Traffic using the Chesapeake Bay Bridge backs up every weekend between May and October. During the last five years it has been necessary to stop traffic in one direction so as to convert the bridge to single-direction operation a number of times each weekend. This causes delays of from 30 minutes to 1½ hours while the bridge is in one-way operation and backups have been as long as 10 miles during this current summer.

The construction of the second Baltimore Harbor Tunnel will substantially relieve congestion to traffic using Baltimore-Washington Expressway-Harbor Tunnel-I-95 corridor. The construction of the parallel bridge will completely relieve the congestion to traffic on the present Chesapeake Bay Bridge which is using both the U.S. 50 and U.S. 301 corridors. It might be pointed out that traffic analyses reveal a substantial amount of interstate traffic going from the North to the South—uses Maryland Route 301 and the Chesapeake Bay Bridge as an alternate North-South route.

The State Roads Commission of Maryland has planned and is constructing an expressway system for the eastern end of Baltimore County. Upon completion of this system, a Northern Crossing will be required as a component part thereof as well as to serve the industrial growth and harbor developments which are currently proceeding at a rapid pace.

In its twenty-year plan for the development of the highway system in the State of Maryland, the State Roads Commission feels that a crossing of the southern portion of the Chesapeake Bay will be necessary to consolidate and enhance the economies of the lower Eastern and Western Shores of Maryland. Particularly is this true when you consider that Montgomery and Prince George's Counties immediately north of Washington and Arlington County in Virginia to the south of Washington are three of the fastest-growing counties in the country. Ultimate growth and commercial and industrial development of these areas will increase the necessity for the lower crossing. And, furthermore, there is now in the planning stage the development of a deep water port in the Patuxent River in Southern Maryland, which is further indication of the commercial and industrial growth of that part of the State.

The need for the two structures which are currently being planned for immediate construction by the State Roads Commission is urgent and critical. The other two structures, while not as urgent at the present time, will become necessary with the expected growth in the areas they will serve. It is therefore respectfully urged that H.R. 11627 be given favorable action by your Committee and the Congress during its present session.

Sincerely,

SPIRO T. AGNEW.

Mr. FALLON. Mr. Wolff, on behalf of the committee, I welcome you this morning.

We are waiting for some testimony that might unravel things we have sort of been wound up here this morning.

I think probably any questions that the members might have pertaining to this legislation, either you or Mr. Buscher might have the answers.

So if you have a statement, Mr. Wolff, you may make the statement.

STATEMENT OF JEROME B. WOLFF, CHAIRMAN, STATE ROADS COMMISSION OF MARYLAND, ACCOMPANIED BY JOSEPH D. BUSCHER, SPECIAL ASSISTANT TO THE ATTORNEY GENERAL OF MARYLAND

Mr. WOLFF. Mr. Chairman and distinguished members of the committee, I am happy to have the opportunity to explain the background of the proposed H.R. 11627, and I hope that we can help to clarify the position of the State and State roads commission in this connection.

We, of course, are urging adoption and passage by the Congress of the bill, which was jointly sponsored, as you know, by Messrs. Fallon, Garmatz, Friedel, Mathias, Machen, Morton, and Gude, which was introduced by Mr. Fallon.

This bill was prepared to help us effectuate the will of the State legislature and the Governor in passing the House bill 348 by the State. This bill is a rather interesting one in that what it does is authorizes construction of an additional tunnel under the Baltimore Harbor and three crossings of the Chesapeake Bay. The locations are generally stipulated in your bill. All of these crossings are proposed to be financed by toll revenues.

Under the provisions of this legislation, the State roads commission is authorized to establish priorities of construction of these facilities. The commission is currently planning on the immediate construction of a parallel Chesapeake Bay Bridge adjacent to the existing bridge, and in addition, it proposes to construct either a second Baltimore Harbor tunnel or, alternatively, a northern crossing of the Bay. In

any event, we are proposing to acquire rights-of-way for all three facilities.

Selection of the two that are going to be constructed of the three that we are going to acquire rights-of-way on, and actually do the preliminary designs for, will be settled, we hope, immediately prior to the time we sell the bonds. We have established a time table and we hope that we will be able to market bonds for the sale of these structures early in 1968, probably by March of 1968.

Now, the needs for the second Baltimore Harbor tunnel and a new bridge parallel to the existing bay bridge we feel is both immediate and urgent. The traffic using the Harbor Tunnel queues up for miles every weekend during the year in both directions and we have determined we have about 1,200 hours of congestion in that tunnel during a typical year.

I might say, too, that the traffic of the present tunnel is about at a level with the Lincoln Tunnel as it was at its ultimate capacity when it was a four-lane facility; that is, about 19½ million vehicles a year. We feel that if we cannot do something to relieve that tunnel, we will be in very serious difficulty. Naturally traffic will find other paths to travel, but the difficulty is that it will create more congestion through the city.

There is a complication, however, in the construction of that tunnel, that was alluded to here before that I think is worthy of mention.

Now traffic using the existing Chesapeake Bay Bridge is badly congested every weekend between May and October. During the past 5 years we have devised a system to stop traffic in one direction in order to permit a single direction operation over the bridge that varies from once or twice to several times each weekend.

The congestion that is experienced on the present bridge has caused actual stopping delays of from half an hour to an hour and a half while we have one-way operation in effect. During the present summer, the backups have approached nearly 10 miles in length.

The complication I referred to regarding the Baltimore Harbor Tunnel is that although we recognize it will help to relieve congestion in the Baltimore-Washington corridor, we have to consider an alternative construction schedule as between the second harbor tunnel and the northern crossing, because of the proposed timing of the interstate construction through the city.

It is presently estimated that the interstate construction, which in some measure will definitely parallel and compete with the proposed new tunnel, will require something in the order of 8 years to construct.

During that time, the existing tunnel—and we hope the proposed second tunnel—will carry the traffic. But when the interstate is completed, we estimate that from 30 to 40 percent of the traffic will be diverted back to the free facility.

It is, therefore, possible, based on certain studies we are making on the estimated time of completion of the east-west expressway, we may be in a position where we might substitute the non-Chesapeake Bay crossing for the second harbor tunnel if we can find a way of projecting a very rapid acceleration of the construction schedule. We now have studies underway.

We feel that construction of the proposed parallel bay bridge will completely relieve traffic congestion on the present bridge. It is presently utilizing the U.S. 50 and U.S. 301 corridors.

With respect to the northern crossing, which is also in the bill, the State roads commission is proceeding with the planning and construction of an expressway system in the eastern end of Baltimore County. When this system is completed, the northern crossing will be required as a component part of the system and will be admirably placed to serve the industrial growth and harbor development, which is rapidly expanding on the western shore.

Finally, the State roads commission believes that a crossing of the southern portion of the Chesapeake Bay will become necessary to serve the lower eastern and western shores of Maryland. The growing needs of Washington and Arlington Counties in Virginia and Montgomery and Prince Georges Counties in Maryland will undoubtedly create such pressures for further expansion that ultimate growth of industrial development into the Eastern Shore of Maryland appears inevitable. Only a new crossing of the Chesapeake Bay in this area will answer the need for reinforcement of the existing highway network.

The immediate need for two of the three structures being planned for construction by the State roads commission is both urgent and critical. The remaining two structures will become necessary as population and traffic growth continues in the areas which they are to serve.

It is for that reason that we respectfully urge that H.R. 11627 be given favorable action by your committee.

I am ready for any questions you might have.

MR. FALLON. Very well, Mr. Wolff.

MR. WOLFF. I might further say, Mr. Fallon, that these questions relating to the legality or concerning the legal aspects of the bill certainly Mr. Buscher is well prepared to answer.

MR. FALLON. Are there any questions about the legality of the bill on my right?

Are there any questions about the legality of this bill before us on my left?

MR. CRAMER. I have a question, not necessarily in that context relating to the legal aspects.

As I understand it, the State could probably proceed with its desired plan of construction under the General Bridge Act of 1946 without the Federal legislation except for the Potomac River Bridge. Is that correct?

MR. WOLFF. That is correct.

MR. BUSCHER. That is correct, Congressman Cramer.

I might point out, Mr. Chairman and members of the committee, the original act under which our Potomac River, and the Susquehanna River Bridge was built was originally authorized by the Congress in 1936. That included also the permissive construction of the existing Chesapeake Bay Bridge. That was prior to the adoption by the Congress of the General Bridge Act of 1946.

It became necessary, because of the 3-year limitation in the Maryland bill passed in 1936, to come back to the Congress in 1948 for an extension of that bill to construct the existing bridge across Chesapeake Bay.

MR. CRAMER. That was 1938.

MR. BUSCHER. 1938, I beg your pardon. Yes, sir. We came back for an extension.

Now, the reason we need this bill at this time—and I think as your chairman has pointed out—is that under the original parent act, the assent act passed by the Congress, and under Maryland legislation, the revenues from all of the structures are pooled under one financial umbrella. All the revenues from all of the structures are used first for maintenance and operation of the structures, and then to pay the bonds as they retire.

Mr. CRAMER. Now, that revenue is used solely for that purpose, is that right?

Mr. BUSCHER. Yes, sir. It is limited.

Mr. CRAMER. Not used for other purposes?

Mr. BUSCHER. It is limited to that purpose. It cannot be used for any other purpose. That limit is under Maryland law and also under the trust agreements under which the bonds were sold back at the time.

Mr. CRAMER. Yes. Then as I understand it, if we acceded to the wishes of Congressman Long, we, in effect, would be putting a limitation on the State of Maryland which is not only contrary to the legislation the State passed, which I understand had to be passed by a three-fifths vote as an emergency matter—

Mr. WOLFF. That is correct.

Mr. BUSCHER. It was passed by a three-fifths vote by both houses.

Mr. CRAMER (continuing). But he would also be suggesting that we eliminate the present authority which the State has relating to the parallel and Chesapeake Bay Bridge. Is that correct?

Mr. BUSCHER. That is correct, sir. We respectfully suggest, sir, that if the Congress would see fit to do so, it would be interfering with Maryland's right to construct a bridge strictly and wholly within the State of Maryland.

Mr. CRAMER. As far as traffic congestion is concerned, the need, as you suggest, is presently that a parallel to the Chesapeake Bay Bridge is one of the top priority items?

Mr. WOLFF. Yes, sir.

Mr. BUSCHER. There can be no question about it, Mr. Cramer.

Mr. WOLFF. That is without any question, Mr. Cramer.

Mr. CRAMER. So even if you were to build a bridge near Baltimore as permitted by this legislation and State legislation, that would not relieve the congestion of the Chesapeake Bay Bridge, would it?

Mr. WOLFF. No, sir.

Mr. BUSCHER. No, sir.

Mr. WOLFF. Let me just mention for a moment precisely why that is.

Mr. CRAMER. The same is true with regard to the southern bridge south of the Chesapeake Bay Bridge, is that correct?

Mr. WOLFF. That is correct.

Mr. CRAMER. Just looking at the map, it looks like it is obvious traffic from Washington going east that has to use the Chesapeake Bay Bridge, and a bridge parallel to the east of Baltimore would not serve that purpose; right?

Mr. WOLFF. That is correct.

Mr. CRAMER. Secondly, a bridge to the south, due to the lack of primary connecting links, would not necessarily serve that purpose either?

Mr. WOLFF. That is also true.

Mr. CLEVELAND. Will the gentleman yield?

Mr. CRAMER. Yes.

Mr. CLEVELAND. Have there been any studies addressed to the question of the bridge to the north, if that would relieve any of the pressure?

Mr. WOLFF. Yes, sir. Yes, sir. I have with me and I would be very happy to make available for the committee a report on priority of need of the proposed northern crossing Chesapeake Bay Bridge and all of the other bridges, together with the tunnel. We had this made specifically in connection with the permissive legislation which granted us the authority to establish these priorities.

To answer your question directly, our consultants, who are considered to be the outstanding consultants in the United States in this regard, when the question was asked of Mr. Long about whether they had any successes, the answer is that they have had 124 unequivocal successes on toll facilities. They have been involved in toll facilities that exceed the value of \$5 billion. And further, they have been eminently successful in connection with all of the other toll facilities in the Maryland area, all of the four facilities that we presently have. So I think you can understand why we have great confidence in their judgment. They probably do more work than the other four firms involved in this work put together.

But the point is that with respect to their study of traffic projections here, we have found that even if a northern bridge were constructed, that because of the nature of the traffic flows, origin, and destination studies which were completed in 1965, that even if the northern were constructed, let's say by 1971, and that we waited for some 5 years later to construct a parallel bridge, parallel to the existing bridge, that the congestion in 1971 would have returned to the Chesapeake Bay Bridge, the present one, precisely at the point it is today. So it would have a very, very limited effect in relieving any congestion on the existing bridge.

We have made those studies and we are convinced that if it is a question as between the parallel and the northern and considering that we are talking about toll facilities, not the development of economy in the area—this is the difficulty. You have a natural competition with varying requirements and motivations when you talk about tolls. Tolls have to pay. You have to put the toll where you expect the traffic to be.

I feel that if Mr. Long is so strong about putting a northern bridge in, then he should attempt to persuade the State legislature and the Governor of our State to put them under special taxes of some sort. But tolls are a different animal. Tolls have to support and are based upon traffic expectations, and this, of course, puts it in a somewhat different light.

There is no question that a bridge generally, and it is known, will induce economic development. We are aware of that.

Mr. CRAMER. When did the study of the toll facilities reveal there might be financed a bridge north of Chesapeake Bay Bridge? A bridge to the north?

Mr. WOLFF. We feel that the toll facility to the north, if the present toll package remains as is, can become a reality in the late 1970's. However, we have a possibility—and I say this, a possibility—of bringing under the present toll umbrella the Kennedy Expressway, which itself

is a toll facility, even though it is marked as an Interstate route. That facility will have been paid off by 1972, some 9 years after it was opened. It is on 40-year bonds, but will have been paid off in 9 years. This, too, was projected by Coverdale and Colpitts.

Mr. CRAMER. I might have a different attitude about that.

Mr. WOLFF. Well, it is the aspect—

Mr. CRAMER. That is on the Interstate and it should become free. Putting that in the package—I am glad it is not in this bill, I will say that.

Mr. WOLFF. I say the possibility does exist, though, sir, that we might be able to bring it in.

Mr. CRAMER. My basic position, as I am sure you know, is to try to get rid of these toll traps on the Interstate System wherever possible. I don't see that issue necessarily involved in this bill, however, unless you start talking about the Kennedy—

Mr. WOLFF. We are not talking about Kennedy here, sir.

Mr. McEWEN. Will the gentleman yield?

If I understood you, Mr. Wolff, you said you might be bringing Kennedy in.

Mr. WOLFF. No, I said the possibility exists if we could bring it in, we could actually accelerate the time at which the northern crossing would be undertaken. I said under normal circumstances, we are saying in the late 1970's. We feel we would have been able to pay off sufficiently on the two projects, which appear at this time to be most prominent; namely, the harbor tunnel crossing and the parallel bay bridge. We feel there would be enough recovery within the bond indenture umbrella to permit opening up, bringing the northern crossing in.

We have not made a final decision as between the northern and the harbor crossing yet. We are studying that situation now. We will know within about 3 months which one it is.

Mr. CRAMER. The State does not have funds available for building any of these facilities, the three facilities; is that correct?

Mr. WOLFF. No, sir. That is quite true.

Mr. CRAMER. As a matter of fact, as it relates to the Chesapeake Bay Bridge, I assume your bond indenture would not permit you to build a parallel free facility?

Mr. WOLFF. No, sir.

Mr. BUSCHER. We have a covenant against competition and could not do it.

Mr. CRAMER. Most do.

Mr. BUSCHER. I might add, Mr. Chairman, if I may, in connection with Mr. Wolff's remarks that if it were possible to bring the Kennedy in under the package, we might do certain things. But I might point out that could not be done without congressional action.

Mr. CRAMER. Well, I serve you notice now that this is one Congressman who will not look with favor to Congress acting in that respect favorably.

The CHAIRMAN. Mr. Kluczynski.

Mr. KLUCZYNSKI. Mr. Chairman, I would like to ask Mr. Wolff, for my own information, how many lanes do you have on your present Chesapeake Bay Bridge?

Mr. WOLFF. Two.

Mr. KLUCZYNSKI. Two lanes?

Mr. WOLFF. Two only.

Mr. KLUCZYNSKI. And you are anticipating building another parallel bridge. How many lanes would that be?

Mr. WOLFF. We are hoping we can afford to put three lanes in.

Mr. KLUCZYNSKI. Three lanes?

Mr. WOLFF. In the adjacent bridge.

Mr. KLUCZYNSKI. We are very fortunate to have a gentleman who is Chairman of the Roads Commission. I am very much impressed with his statement and feel Governor Agnew should be complimented for appointing a gentleman of his caliber, who is an engineer, and a good lawyer—and you have a good lawyer sitting next to you. We are very happy to have you with us before this committee.

Mr. WOLFF. Thank you.

Mr. DENNEY. I would like to address two questions to Mr. Buscher, just for the purpose of clarifying the record, based on Mr. Long's testimony.

No. 1, in your opinion, could the bridges and tunnel, as contained in the bill before this committee, be built by the State of Maryland without congressional action?

Mr. BUSCHER. No, sir; it could not.

Mr. DENNEY. Second, then, in your opinion, we are not giving a stamp of approval to the action of the Governor and the Roads Commission by enacting this law in light of a disagreement by the referendum voters of the State of Maryland?

Mr. BUSCHER. May I comment briefly on that and attempt to answer your question, Mr. Denney?

In 1966, the Legislature of Maryland passed a bill authorizing the parallel bay bridge and other crossings of the bay. It passed a separate bill authorizing a Baltimore Harbor tunnel.

The bill authorizing the parallel bridge and other crossings of the bay was brought to referendum, spearheaded mostly by Mr. Long in association with some elements within Baltimore City.

When it came up for vote, as Mr. Long told you today, the referendum carried. The bill was defeated.

Now, it is interesting to observe, sir, that the great majority of the people, the total people who voted against that bill, lived in the area that Mr. Long represents or in the area of Baltimore City. Taking the State statewide, county by county and area by area, the great preponderance of the areas involved, the great preponderance of the counties that voted, voted in favor of the parallel bridge built.

In spite of that and with all of that knowledge, the general assembly, which was elected at the same time the bridge bill was on the ballot and was operating under Maryland's new reapportionment law, was elected that way, voted by at least a three-fifths majority in both houses, to reenact or to pass new legislation authorizing the three bridges, which would include the parallel bridge and the Baltimore Harbor tunnel. That legislation Mr. Long and others did not see fit to bring to referendum.

Mr. DENNEY. That answers my question.

Mr. CRAMER. Will the gentleman yield?

Mr. DENNEY. Yes.

Mr. CRAMER. I want to make sure it is understood, as I understand it, Kennedy Expressway goes from Baltimore to Wilmington, does it not?

Mr. WOLFF. That is correct.

Mr. CRAMER. It is a toll facility paid off by 1972?

Mr. WOLFF. That is correct.

Mr. CRAMER. The observation you made was if a northern bridge is to be built, it could be feasible if that was tied into it?

Mr. WOLFF. That is right. It would be feasible. We could do it quicker, more quickly.

Mr. CRAMER. Right. The observation I made was that it has been my objective, at least as one member of this committee, to try to make certain that the toll roads presently on the Interstate System be paid off as soon as possible.

Mr. WOLFF. Yes.

Mr. CRAMER. Rather than keeping tolls on the Interstate System where it is not absolutely essential. That is a different subject matter than the one we are faced with in this bill building bridges.

Mr. BUSCHER. Entirely different, yes, sir.

Mr. CRAMER. I, for one, oppose including the Kennedy Expressway and thus continuing it for many more years as a toll road, when it is part of the Interstate System.

Thank you.

Mr. CLEVELAND. Mr. Chairman, may I inquire?

Mr. FALLON. Mr. Cleveland.

Mr. CLEVELAND. I would like to ask the commissioner of highways about this bridge you already have across the Chesapeake. Was that designed, as some bridges I know were designed, so that you can add two lanes either above or below it?

Mr. WOLFF. No, sir. This is not designed—it is not possible to make that kind of modification.

Mr. CLEVELAND. It is two lanes?

Mr. WOLFF. That is correct.

Mr. CLEVELAND. How long ago was the bridge designed?

Mr. WOLFF. 1946–47.

Mr. CLEVELAND. I am thinking of the George Washington Bridge in New York, as you know, which was designed so you could add a lower level or upper level, whatever it was, and indeed they have done it.

Do you know if this was considered at the time?

Mr. WOLFF. Oh, yes. Oh, yes.

Mr. BUSCHER. I might add, sir, I took an active part in those considerations. I have been around a long time in this business. Former Governor Lane, who recently died, used every method at his command to attempt to get, first, a four-lane structure, then a three-lane structure, and then a substructure which would be convertible into additional lanes. It was not possible within our bonding powers at that time, based upon traffic projections, to come up with enough dollars to do this. It was considered.

Mr. CLEVELAND. In other words, the traffic projections at the time the Chesapeake Bay Bridge was originally designed did not show that it would be necessary to have subsequent lanes?

Mr. BUSCHER. No, it did not show that it would produce enough revenue to sell sufficient bonds to pay for the additional cost.

Mr. CLEVELAND. However, that projection by your experts proved to be a fallacy; is that correct?

Mr. BUSCHER. No, sir; it did not prove to be invalid.

If you go back and study the reports from the time the original bridge was open to traffic, you will find that they were substantially correct.

I point out, sir, if we had been able to spend the additional \$30 to \$40 million necessary to duplicate the structure at that time, that that need, the need for that additional structure, was not present until the last several years. It would have meant that the State of Maryland would have been paying interest on all of that borrowed money from 10 to 15 years, which would have cost just as much if not more than it cost to build it now, even at today's increased costs.

Mr. CLEVELAND. I am not sure I understand you. How much did the Chesapeake Bay Bridge cost?

Mr. BUSCHER. \$43 million, roughly.

Mr. CLEVELAND. How much?

Mr. BUSCHER. \$43 million.

Mr. CLEVELAND. Are you telling me that it would have cost an additional \$30 million just to design that bridge so at a future date it would carry extra lanes?

Mr. BUSCHER. I was advised by not only the consulting engineers, but by the State roads commission's own bridge engineer, it would have cost a total of approximately \$70 million to make the bridge convertible; that is, the substructure, to make it convertible into a four-lane structure.

Mr. WOLFF. This is an exceedingly long bridge. We are talking about something in the area of a 4½-mile suspension span. I am sure you are familiar with it.

Mr. CLEVELAND. I have been over the bridge.

Mr. WOLFF. Very long trestles at both ends.

Mr. FALLON. Mr. Snyder.

Mr. SNYDER. Mr. Chairman, I think there are several points that Congressman Long mentioned that need to be responded to. I do not know whether you have the statement in front of you or not.

Mr. BUSCHER. No, sir; we do not.

Mr. SNYDER. He made reference to the fact the existing Chesapeake Bay Bridge is carrying 4.3 million vehicles a year or one-half of its capacity of 8½ million vehicles—in addition Congressman Long says traffic declined in 1964 and the 1965 traffic level was below the 1963 level.

Mr. WOLFF. Yes, I can clarify that question. What was failed to be referred to was the fact that the advent of the Kennedy Expressway removed traffic from the existing Chesapeake Bay Bridge, and there was a decline in traffic on the Chesapeake Bay Bridge as a result of the completion of the Interstate, you see again a toll facility, which extends, as mentioned, between here and Wilmington, between Baltimore and Wilmington.

Now the traffic has begun to reflect the growth once again.

Mr. SNYDER. He did not mention 1966. I do not know whether it was convenient or not.

Mr. BUSCHER. No, it was not convenient.

Mr. WOLFF. Of course, it has been growing at the rate of about 5 percent a year, 4.5 percent a year, since Kennedy; but there was a very definite and perceptible decline in traffic at that time.

I might say that projections we presently have, although he gave a yearly amount, a yearly traffic, because of the very heavily seasonal characteristic, it actually is tremendously congested during the warm seasons and it is unable to carry the traffic. Not only that, the projections themselves, show a very healthy growth.

Our own people, our own financial people have made a determination that the parallel Bay Bridge, in combination either with the northern crossing or the tunnel, would afford us an additional net revenue of about \$1 million a year. So we have great hopes for the continuing growth of traffic through this corridor.

Mr. SNYDER. Now, you mentioned the delays of 30 minutes to—what was it—an hour and a half I believe?

Mr. WOLFF. An hour and a half.

Mr. SNYDER. Congressman Long, I would say, infers that some of these delays might be brought about by other matters—referring to his statement—some toll booths being closed during peak seasons, stop-light bottlenecks which now exist several miles west of the bridge, and the opening of the Kent Narrows Bridge 50 times a day to let boat traffic through.

Would you comment on those?

Mr. WOLFF. I would be glad to.

With respect to the effect of traffic signals on both sides of the bridge, there is no question but that we should improve the situation relating to—oh, I would say, half a dozen traffic signals around the bridge. But they do not create the magnitude of delay that the bridge does, nor does the Kent Narrows opened.

Now, in this present bond indenture, we are proposing that the western approach to the bridge be made a freeway extending to Ritchie Highway. That is a distance of about 6 miles. We would improve that so that it would have no obstructions whatsoever on the western shore.

On the Eastern Shore, we are preparing to design an interchange which will improve conditions on the eastern side.

In addition, the Kent Narrows proposition we feel we are first going to attack by submitting to the Corps of Engineers sufficient studies to request them to change the timing on opening, so that we can utilize that.

I think they are doing the same thing on Wilson Bridge here locally. And there is no question that improvements have to be made along the approaches of the river.

Mr. SNYDER. Do you have any indication what the delay situation might be if these improvements were made without the construction of the parallel bridge?

Mr. WOLFF. I think if you are saying quantitatively, I do not think I can answer that. But I can say that the problem of delay is minuscule compared to the effect of the bridge.

We are talking about trying to bring these heavy volumes through a constriction as against the fact that we have 1- or 2-minute delays at the light. That is an entirely different matter and makes an entirely different effect on the traffic.

Both of the sides of the bridge are served by four-lane facilities now, do you not see. So, in essence, the delays he refers to are extremely short in duration.

Mr. SNYDER. Do you have any prognosis as to marketability of your bonds which Congressman Long referred to?

Mr. WOLFF. We have full confidence, having discussed this with people in the bond field at length—myself, the Governor, and Mr. Buscher—we are confident that we can market these bonds easily and at a very respectable rate.

Mr. SNYDER. I take it you do not anticipate tying up all the revenues to the year 2000 because you are having this bridge built.

Mr. WOLFF. No, sir, we have no expectation that that will happen.

Mr. SNYDER. Just one other observation I would like for you to make. Do you consider the work of Coverdale & Colpitts on the Potomac River Bridge and Susquehanna River Bridge as being adequate?

Mr. WOLFF. Yes, I do. The effects of subsequent developments on any toll facility, as you know, are quite extreme. What has happened on the Susquehanna Bridge is that Kennedy is competing with it. What happened on the Potomac is that I-95 South is competing with it. These were built long after the projections were made and I think it is a fortunate thing we have the package, very frankly.

Mr. SNYDER. I just thought these observations ought to be made.

Mr. BUSCHER. I might point out, Mr. Chairman, if I may, in that line of questioning, Congressman Long cited those two bridges, traffic on them, as examples of failure of Coverdale & Colpitts. He did not cite before the committee those estimates were made prior to the construction of the Kennedy, which took one-half of the Susquehanna traffic, or I-95, which took one-half of the Potomac River traffic. The Congressman did not advise this committee each year the Coverdale & Colpitts firm gives the State roads commission an estimate of projected traffic and that of the yearly estimate made when those other two free facilities were in the offing reflected those declines.

Mr. SNYDER. I would not want you to misunderstand my questioning. I do not have a fixed opinion about it one way or the other. The statement was made and I thought there ought to be some observation from you on this.

Mr. CRAMER. Will the gentleman yield?

One other statement was made suggesting or implying decision would be made on a political basis.

The legislature is in Democratic control, is it not?

Mr. WOLFF. Yes, sir; and we have a Republican Governor.

Mr. CRAMER. Previously there was a Democratic Governor and he, too, supported this proposal, did he not?

Mr. WOLFF. Yes, sir; that is correct.

I vehemently protest that allegation. I am a new chairman-director. In March of this year I was appointed. I knew only from reputation the controversy that then centered about the parallel Bay Bridge.

I have studied it. I was a member of the same school that Dr. Long was a member of. I have held the position of research associate at Johns Hopkins University for some 8 years. I think that I can say without any fear of contradiction that what I learned from the record and from the data that I had an opportunity to review made it quite clear to me that these were sound engineering reasons. There was not any political involvement at all. And one of the things I did learn was that the bridge location should be taken out of the political arena and left in the hands of those who have the judgment, understanding, and background, and savvy to handle the problem. And that is basically the argument I made when the bill was drafted and I went down to the House and Senate and argued for the bill.

That was the very purpose we asked for this kind of legislation.

Mr. FALLON. Will the gentleman yield?

I mentioned earlier the 1956 Interstate Act clearly states in there location must originate with the local authorities, Governor and State roads commission. Congress did not want any part in decisions concerning the Interstate System, even though we are putting up 90 percent of the money, and wisely so, I think.

Mr. WOLFF. Sir, I think there are good rational and sound reasons for selection of bridge locations and the State of Maryland deserves the right to make its position.

Thank you very much.

Mr. FALLON. Are there any questions?

Thank you very much, Mr. Wolff.

Mr. BUSCHER. One further observation. The attorney general of Maryland approved this bill as to form and legal sufficiency before the Governor signed it, and the attorney general of Maryland, and, as far as I know, his entire staff is 100 percent behind the legislation now pending before your committee.

Mr. FALLON. Thank you very much, Mr. Buscher.

Thank you again, Mr. Wolff.

Mr. WOLFF. Thank you very much.

Mr. BUSCHER. Thank you.

(Statement of the Honorable Jerome B. Wolff, chairman-director of the State roads commission follows:)

STATE OF MARYLAND,
STATE ROAD COMMISSION,
Baltimore, Md., September 19, 1967.

HON. GEORGE H. FALLON,
*Chairman, Committee on Public Works,
Rayburn House Office Building, Washington, D.C.*

DEAR CONGRESSMAN FALLON AND MEMBERS OF THE COMMITTEE: I would like to endorse and urge adoption of H.R. 11627 which was introduced by you and jointly sponsored by Congressmen Garmatz, Friedel, Mathias, Maben, Morton and Gude. This bill was prepared for the purpose of obtaining Congressional approval for the construction by the Maryland State Roads Commission of (1) a Second Baltimore Harbor Crossing; (2) a Parallel Chesapeake Bay Bridge; (3) a Northern Crossing of Chesapeake Bay between Baltimore County and Kent County; and (4) a Southern Chesapeake Bay Crossing between Calvert County and Dorchester County.

Under the provisions of House Bill 348 enacted by the Maryland General Assembly during the 1967 Session, the Maryland State Roads Commission has authorization to construct an additional tunnel under Baltimore Harbor and three crossings of the Chesapeake Bay as described above. It is proposed that all of these crossings will be financed from toll revenues.

Under the provisions of this Legislature the State Roads Commission is authorized to establish the priority of construction of the above described facilities. The Commission is currently planning on the immediate construction of a Parallel Chesapeake Bay Bridge adjacent to the existing bridge, and in addition will construct either a Second Baltimore Harbor Tunnel or, alternatively, a Northern Crossing of the Chesapeake Bay. In any event, the acquisition of rights of ways for these three facilities will proceed immediately. Selection of the two facilities to be constructed will be made immediately prior to the time that bonds will be sold early in 1968 to finance the construction of these facilities.

The need for the Second Baltimore Harbor Tunnel and a new bridge parallel to the existing Bay Bridge is immediate and urgent. Traffic using the Baltimore Harbor Tunnel queues up for miles every weekend during the year in both directions. It is estimated that congestion occurs in excess of nearly 1200 hours a year.

Traffic using the existing Chesapeake Bay Bridge is badly congested every weekend between May and October. During the past five years a system has been devised to stop traffic in one direction in order to permit single direction opera-

tion over the bridge several times each weekend. This has caused delays which extend from 30 minutes to 1½ hours while the one-way operation is in effect. During the present summer the backups have approached 10 miles in length.

Construction of the Second Baltimore Harbor Tunnel will greatly relieve congestion to traffic using the Baltimore-Washington Expressway and the Baltimore Harbor Tunnel-I-95 corridor. The need for considering alternative construction scheduling between the Northern Crossing and the Second Harbor Tunnel stems from the problem of timing the I-70 and I-95 corridor construction through Baltimore City as part of the Interstate System. It is presently estimated that it will require approximately 8-9 years to complete the Interstate construction through Baltimore City. During this period, the existing tunnel as well as the proposed Second Harbor Tunnel will carry this traffic. When I-70 and I-95 through the City are completed traffic in the tunnel will be reduced from 30 to 40 percent. It is possible that the Northern Chesapeake Bay Crossing may be substituted for the Second Harbor Tunnel if the City Expressway System construction is greatly accelerated. Studies are now in progress to evaluate this possibility. It is hoped that they will be available by December, 1967 or January, 1968. In the interim, preliminary engineering and surveys will be carried on for all three facilities.

The construction of the proposed Parallel Bay Bridge will completely relieve traffic congestion on the present bridge. This traffic is presently utilizing both the U.S. 50 and U.S. 301 corridors. Our traffic analyses indicates that a substantial amount of northbound and southbound interstate traffic uses Maryland 301 and the Chesapeake Bay Bridge as an alternate North-South route.

With respect to the Northern Crossing of the Chesapeake Bay, the State Roads Commission is proceeding with the planning and construction of an expressway system in the eastern end of Baltimore County. When this system is completed, the Northern Crossing will be required as a component part of the system and will be admirably placed to serve the industrial growth and Harbor development which is rapidly expanding on the western shore. As indicated above, the possibility presently exists that this bridge will be substituted for the Second Harbor Tunnel crossing if studies indicate that it is appropriate to make such a substitution.

Finally, the State Roads Commission believes that a crossing of the southern portion of the Chesapeake Bay will become necessary to serve the lower Eastern and Western shores of Maryland. The growing needs of Washington and Arlington Counties in Virginia and Montgomery and Prince Georges Counties in Maryland will undoubtedly create such pressures for further expansion that ultimate growth of industrial development into the eastern shore of Maryland appears inevitable. Only a new crossing of the Chesapeake Bay in this area will answer the need for reinforcement of the existing highway network. Further indication of the commercial and industrial growth in this part of the State can be seen in the proposed development of a deep water port near the mouth of the Patuxent River in Maryland.

The immediate need for two of the three structures being planned for construction by the State Roads Commission is both urgent and critical. The remaining two structures will become necessary as population and traffic growth continues in the areas which they are to serve.

It is respectfully urged that H.R. 11627 be given favorable action by your Committee and Congress during its present session.

Respectfully submitted.

JEROME B. WOLFF,
Chairman-Director.

Mr. FALLON. The Honorable Frank J. McCourt, State senator from Maryland.

I happen to be one of Senator McCourt's constituents.

STATEMENT OF FRANK J. McCOURT, STATE SENATOR, MARYLAND GENERAL ASSEMBLY

Senator McCOURT. And you mine, sir.

Mr. FALLON. Welcome to the committee.

Senator McCOURT. Thank you.

Gentleman, my name is Frank McCourt. As the chairman pointed out, I am the State senator from the Second Legislative District of Baltimore City, which is located in the Fourth Congressional District.

I have been closely associated with the bridge problem since a member of our lower house in Annapolis. I am appearing before this committee at the request of many of my constituents. I received calls and letter from people who simply do not understand how Maryland Congressmen can ignore the wishes of those that they represent by introducing this bill which calls for a parallel bridge.

The question of a parallel bridge was petitioned in the referendum in 1966. This was a long and difficult task, but it was done because the people of Maryland felt strongly that the decision to build a parallel crossing was based on the whims of the administration and not based on the unbiased and impartial study of whether a northern or southern crossing may be more advantageous for the future economic development of the State and for the overall highway development of the State. Several of you Congressmen asked about the history of the legislation. It was first introduced in 1965. It was defeated in the legislature. In 1966, we heard mention of political pressure. There was considerable pressure. At that time I was still a member of the house of delegates, and there were pressures put by the Governor. There was a bridge built in Ocean City for several million dollars. There were legislators who were told by the State roads commission that they would not get the programs in western Maryland if they did not vote for the parallel bridge. It finally was passed by a very slim majority. It was not an emergency measure then.

In answer to one of the Congressmen, I think Mr. Cramer, I think the voters did then at the same time go along with people they were electing. It was a 65 percent turnover. That did pass by one vote again after being petitioned. But each time the package grew. First we heard about a parallel bridge, then it was a tunnel, then it was a northern crossing, and then it was a southern crossing.

For you gentlemen that are concerned about a southern crossing, I do not think we will ever see one over the Chesapeake Bay.

No one would argue that a parallel bridge would be nice. Certainly the traffic does back up. It backs up about 70 hours a year.

The State roads commissioner tells you it is from May to October. It is from Memorial Day, it slacks off again and picks up in the hot summer until Labor Day, and then you have no more.

We would be spending approximately a million dollars an hour to alleviate congestion. I think you have heard testimony from Congressman Long, there are other things and methods that, although may be questioned, have never been tried.

The voters of Maryland again overwhelmingly rejected this parallel bridge in Baltimore City. You have heard of the ratio of 2½ to 1 against the parallel crossing.

Now, the people find their efforts to speak out on this issue were completely in vain. In spite of the vote, the bill is now being introduced by your committee which they feel is a disregard for the democratic process.

You and I, as elected officials, know that we seldom have a chance to learn by recorded vote precisely how the majority of our constituents feel on any given issue or bill. This is one of those rare times that there is no doubt how the people stand.

I might say that many of my constituents have told me that they feel—and several of them are elderly people in my district who told me that they are not going to vote again. They went to the polls in November past and recorded a vote, and it won, or at least was defeated, it went the way they wanted, and now it is being reintroduced by the present administration.

We have heard testimony of need, and you can look at the map, and I am sure you gentlemen will, for a harbor tunnel.

Now, you have heard mention of I-95. When I-95 goes through Baltimore as a free facility, we are going to be sitting there with two tunnels skirting around the lower part of Baltimore through the harbor, and I doubt whether maybe either one of these at that time will pay for themselves.

Coverdale and Colpitts we have heard mention of opposed the tunnel. They have since then changed their position.

I feel to report this bill favorably would say to the people of Maryland, and perhaps to every State, you have a constitutional right to petition a question of referendum, but that you all have decided you have no obligation to honor this decision. Conversely, an unfavorable report, or withdrawing the parallel bridge provision, would restore the voter's faith in Maryland to have his right heard and also to have his opinion considered and respected.

If you gentlemen have any questions, I would be happy to try and answer them.

Mr. FALLON. Well, Senator, thank you very much.

Are there any questions on my right?

Mr. McCARTHY. Senator, I do not understand this. If this was turned down, why is it being so vigorously pushed?

Senator McCOURT. Why is it needed so or pushed so?

Mr. McCARTHY. Yes.

Senator McCOURT. Originally at the time the parallel bridge was pushed, they had the plans and they were ready to do. I am not questioning any fees involved with consultant engineers, bond sales, or any of the things that have been mentioned previously in the State legislature and in our local news media. It would take several hours. But it is being pushed now as a package, a subterfuge, to build the harbor tunnel and parallel bridge. The State roads tell us that these are the two projects they want, and they do it in a circumvent way, going around the proposing the package. Even in the referendum petition, I might say, there was authorization to build a northern and southern crossing, but it fell back on a parallel bridge and that was the issue.

We have fine summer resort areas on the Eastern Shore and the congestion comes about as a result of people going to Ocean City and other parts of the shore. We hear about traffic and toll. I think you have to take into consideration the overall economic picture of the State of Maryland.

This Eastern Shore deals with other areas where they could move into Baltimore. Now, if there were a northern crossing—and this is what many of the citizens, at least in the Baltimore area, feel. We have a large State; there are people who feel the southern crossing should be built.

Now, the question of why they are pushing a harbor tunnel, I think we want to get the harbor tunnel built before I-95 comes in. Why

they are pushing the parallel bridge, they have all the plans, consultant engineering fees are over \$5 million for duplicate plans—it is an exact bridge except for one little expansion. It has become a political issue in our State.

I think everyone has an answer.

Mr. FALLON. I might tell you it is 15 minutes before the House goes into session and we have two more witnesses, Senator, if you can sum up.

Senator McCURT. Actually I am through, Congressman, unless there are any further questions.

Mr. FALLON. Are there any questions?

(Discussion off the record.)

Mr. FALLON. Thank you very much, Senator.

Is Mr. Fornos here?

Mr. Fornos, I said earlier that sometime during the hearing I was going to have to limit the time. Could you in 5 minutes give us what you would like the committee to hear?

STATEMENT OF WERNER H. FORNOS, MEMBER, HOUSE OF DELEGATES, MARYLAND GENERAL ASSEMBLY

Mr. FORNOS. I would attempt to do so, Mr. Chairman.

Mr. FALLON. We would appreciate that.

Mr. FORNOS. Mr. Chairman and members of the committee, I appreciate the opportunity to appear before you here this morning on a matter of great significance not only to the citizens of Maryland, but also for those who traverse our State and use it as a gateway to the Atlantic Ocean.

Federal permission for the construction of additional bridges and tunnels for the State of Maryland, as authorized in H.R. 11627, would benefit the millions of Americans who come to our State each year. It would also help insure the fiscal stability of Maryland in the face of growing financial burdens.

Equally as important in my mind, H.R. 11627 would, once and for all, clear away the unfortunate and often unfounded controversy that surrounds the construction of bridges across the Chesapeake Bay.

In this vein, the legislation before you, and you have here this morning, resembles House bill 348 passed by the last session of the Maryland General Assembly, where I am a member of the house of delegates.

Like H.R. 11627, it calls for the construction of three bridges and a tunnel, among them a span parallel to the existing Bay Bridge.

There are those who would have you believe that the parallel bridge is being pushed by the State roads commission. In reality the parallel bridge has the overwhelming support of the State legislature.

It is significant that the State legislature's vote in favor of this bridge came on the heels of a referendum site clouded by parochialism, innuendoes of land deals, and character assassination, all leading to massive voter confusion.

A total of 919,750 Marylanders voted in the general election last year, but 318,400 of these—more than a third of the voters—failed to cast a ballot on the bridge question. The measure lost by only some 40,000 votes.

The fact that so many voters neglected to cast ballots on the bridge question is clear evidence of the lack of understanding on the issue.

One fact that escaped many voters, and, apparently, one of the witnesses here this morning, was that without some type of bridge authorization bill, no bridge—neither northern, southern, nor parallel—could be built.

In considering this matter, the committee should be aware that the confusion and ultimate defeat of that proposal traces to a drive led by the Congressman from Baltimore County, who now opposes the inclusion of the parallel span in the bill before you. In the Congressman's home county, 102,093 votes were cast against the referred law, with only 28,000 in that county voting for it. This single county's vote defeated the proposal, despite the fact that residents of 15 other counties voted in favor of the parallel bridge.

The parallel bridge might have died there if the Maryland General Assembly had not recognized the voters' confusion and the seriousness of the traffic problem at the existing two-lane bridge.

That problem, no doubt, was vividly brought home to the members of this committee this summer when the congestion and delay at the Bay Bridge became more acute than ever. I am sure the motorists who were delayed for hours on both sides of the bridge would give an individual testimony here this morning on the needs for a parallel span. They would find little merit in the baseless allegations being espoused by the opponents of the parallel bridge.

In Congress last week, and here today, questions were raised about the need for a new design of a "duplicate" bridge. We have heard it over and over again. The use of terms as "duplicate" is excellent for confusing the public, but it is a far cry from the truth.

Due to the different horizontal curvature, the new bridge requires a new geometric layout, and thus a new set of plans. And those of you who have been over it realize the length of the bridge and the curve that it has to take, and you also realize from construction plans you cannot just dust off a set of plans, as was suggested in the record last week, and build a second bridge out of them.

Much continues to be said about land deals involving public figures in our State. This is ridiculous since no additional land acquisition is necessary for the parallel crossing. The State already owns all of the access roads to the bridge.

What about the claim that a northern or southern crossing would make a parallel bridge unnecessary? We have heard it here this morning.

Mr. FALLON. Mr. Fornos, if you could sum up in 1 minute and complete your statement, we would give you permission to put the complete statement in the record.

Mr. FORNOS. Yes, sir. I think I have about 35 seconds.

Origin and destination studies for transbay traffic reveals that if all three crossings were in operation, 74 percent of the traffic would still choose the Sandy Point location. If either a northern or southern crossing were in operation together with the existing bridge, that 85 percent or more would still select the Sandy Point area. From these figures it can be seen that either the northern crossing or the southern crossing, or even both, would only offer temporary relief to the congestion on the existing two-lane bridge.

In the long run, Maryland needs a northern and southern crossing as well as a parallel span. This bill in no way establishes priorities or

sets a time limit on construction. Passage of this legislation would leave technical questions to be answered by engineers and would leave the systems of priorities to the State roads commission. It is permissive legislation only that we are asking for.

Delay in this authority will put additional burdens on our State's financial picture. If the bridge had been approved in 1966, it would have cost \$73 million. If we approve it now, it is going to cost \$90 million. We have already wasted \$17 million and are undergoing a very long wait to the bridge.

Thank you, Mr. Chairman.

Mr. FALLON. Thank you very much, Mr. Fornos.

Thes rest of the statement you want to go into the record?

Mr. FORNOS. Yes, sir.

I also have a breakdown on the votes I would like to submit.

Mr. FALLON. All right, you may put that in the record.

(The prepared statement and breakdown on votes follow:)

STATEMENT BY DELEGATE WERNER H. FORNOS, HOUSE OF DELEGATES,
ANNAPOLIS, MD.

Mr. Chairman, members of the committee, I appreciate the opportunity to discuss with you a matter of great significance not only to the citizens of Maryland, but to those for whom our state represents the gateway to the Atlantic Ocean.

Federal permission for the construction of additional bridges and tunnels for the State of Maryland, as authorized by H.R. 11627, would benefit the millions of Americans who traverse the state each year. It would also help insure the fiscal stability of Maryland in the face of growing financial burdens.

Equally as important in my mind H.R. 11627 would, once and for all, clear away the unfortunate and often unfounded controversy that surrounds construction of bridges across the Chesapeake Bay.

In this vein, the legislation before you resembles a bill—House Bill 348—passed by the Maryland General Assembly in its history making 1967 session.

Like H.R. 11627 it calls for construction of three bridges and a tunnel, among them a span parallel to the existing Bay Bridge.

There are those who would have you believe that the parallel bridge is being pushed by the State Roads Commission. In reality the parallel bridge has the overwhelming support of the state legislature.

It is significant that the state legislature's vote in favor of this bridge came on the heels of a referendum fight clouded by parochialism, innuendoes of land deals, and character assassination, all leading to massive voter confusion.

A total of 919,750 Marylanders voted in the general election last year, but 318,400 of these—more than one-third of the voters—failed to cast a ballot on the bridge question. The measure lost by only some 40,000 votes.

The fact that so many voters neglected to cast ballots on the bridge questions is clear evidence of the lack of understanding on the issue.

One fact that escaped many voters was that without some type of bridge authorization bill, no bridge—neither northern, southern, nor parallel—could be built.

In considering this matter, the Committee should be aware that the confusion and ultimate defeat of that proposal traces to a drive led by the Congressman from Baltimore County, who now opposes the bill before you. In the Congressman's home county 102,093 votes were cast against the referred law. This single county's vote defeated the proposal despite the fact that residents of 15 other counties voted in favor of the parallel bridge.

The parallel bridge might have died there if the Maryland General Assembly had not recognized the voters confusion and the seriousness of the traffic problem at the existing two-lane bridge.

That problem, no doubt, was vividly brought home to the members of this Committee, this summer when the congestion and delay at the Bay Bridge became more acute than ever. I'm sure the motorists delayed for hours on both sides of the bridge would give avid testimony on the need for a parallel span, they would find little merit in the baseless allegations being espoused by the opponents of the parallel bridge.

In Congress last week, questions were raised about the need for a new design of a "duplicate" bridge. The use of terms as "duplicate" is excellent for confusing the public but is a far cry from the truth.

Due to the different horizontal curvature, the new bridge requires a new geometric layout and thus a new set of plans.

Much continues to be said about land deals involving public figures. This is ridiculous since no additional land acquisition is necessary for the parallel crossing. The approach roadways are already four-lane divided highways.

What about the claim that a Northern or Southern crossing would make a parallel bridge unnecessary?

Origin and destination studies for trans-bay traffic reveal that, if all three crossings were in operation, 74 percent of the traffic would still choose the Sandy Point location. If either a Northern or Southern crossing were in operation together with the existing bridge, 85 percent or more would select the Sandy Point location.

From these figures, it can be seen that either the Northern crossing or Southern crossing, or even both, would offer only temporary relief to the congestion on the existing two-lane bridge.

In the long run, Maryland needs a Northern and Southern crossing, as well as a parallel span. This bill in no way establishes priorities or sets a time limit on construction. Passage of this legislation would leave technical questions to be answered by engineers and would leave the systems of priorities to the State Roads Commission, as was done by the 1938 Act authorizing the Potomac and Susquehanna River Bridges, the present Harbor Tunnel and the Bay Bridge.

Mr. Chairman, members of the Committee, Maryland is attempting to provide the kinds of services the people of the state need. The financial and technical needs of the state are constantly being increased and our state is meeting its responsibilities to the point where it is rapidly being recognized throughout the Nation as a viable force for constructive change and progress.

As other states, we are confronted with rapidly increasing costs of health, education and welfare programs, coupled with dynamic expansion of our population. Despite a massive tax increase this year, we are confronted with financial burdens beyond the capacity of traditional tax resources.

Delay in this authority will put additional burdens on our state. If the bridge had been approved in 1966 it was estimated that it would have cost \$73 million. Today we hear that it will cost \$90 million. The controversy has already cost us \$17 million. Further delay could mean additional millions, not to mention the long wait bridge users will continue to experience.

Thank you.

STATE-WIDE REFERENDUMS (CH. 517, 1966)

QUESTION NO. 17.—TO AUTHORIZE THE CONSTRUCTION OF A TOLL BRIDGE ACROSS THE CHESAPEAKE BAY GENERALLY PARALLEL TO THE EXISTING CHESAPEAKE BAY BRIDGE, AND OTHER CROSSINGS OF THE BAY

Counties and Baltimore City	For the referred law	Against the referred law
Allegany.....	7,686	2,907
Anne Arundel.....	28,102	15,593
Baltimore.....	28,817	102,093
Calvert.....	1,361	1,388
Caroline.....	2,820	690
Carroll.....	3,367	6,887
Cecil.....	2,544	3,968
Charles.....	2,049	1,578
Dorchester.....	1,711	3,425
Frederick.....	3,173	3,406
Garrett.....	1,136	970
Harford.....	2,428	15,632
Howard.....	4,111	5,364
Kent.....	1,873	1,804
Montgomery.....	56,706	23,681
Prince Georges.....	40,490	19,354
Queen Annes.....	3,722	518
St. Marys.....	1,961	1,180
Somerset.....	1,771	626
Talbot.....	4,567	959
Washington.....	8,824	3,119
Wicomico.....	6,757	1,985
Worcester.....	2,685	659
Total counties.....	218,661	217,786
Baltimore City.....	30,281	71,632
Grand totals.....	248,942	289,418
Did not vote.....		381,400

Mr. FALLON. Thank you very much, Mr. Fornos.

Mr. Dewberry.

Mr. Dewberry, on behalf of the committee, we want to welcome you here this morning.

I understand that you are going to make a statement on behalf of Mr. Dale Anderson, the county executive of Baltimore County.

STATEMENT OF FRED DEWBERRY, BALTIMORE COUNTY DEVELOPMENT COORDINATOR, ON BEHALF OF DALE ANDERSON, COUNTY EXECUTIVE OF BALTIMORE COUNTY, MD.

Mr. DEWBERRY. Mr. Anderson regrets, because of conflicts in schedule, he could not be with you gentlemen this morning. He has asked me to present his statement.

I sincerely appreciate the opportunity to express my thoughts on a matter that is very close to and of extreme importance to not only the citizens of Baltimore County but all who live, work, or do business in the greater Baltimore metropolitan area. My remarks will be brief and to the point, and in the main reiterate what I have said in a public statement released earlier this month.

The legislation under discussion today proposes to authorize the State of Maryland to build three more bridges across the Chesapeake Bay as well as another tunnel under the Baltimore Harbor. Such a bill satisfies, at least for the moment, everyone in Maryland no matter what opinion he may have on the controversial subject of bay or harbor crossings. However, as they must, priority decisions ultimately will fall on the shoulders of State officials. And it is for this reason I come before this committee, in order that the record may show the deep concern of a great majority of Marylanders over continuing efforts to misplace priority emphasis on one or more of these projects.

When a second bay bridge is built, and certainly we realize this is inevitable in the not-too-distant future, it should be an upper bay crossing connecting the Baltimore metropolitan area with the Eastern Shore of Maryland. But I do not intend to address myself to the merits of the proposal at this time. More important, I contend, are existing conditions recurring daily throughout 52 weeks of the year that demand our consideration above all others in any plans to relieve traffic congestion and to improve traffic flow and safety on Maryland State highways. I refer, of course, to the unbearable, daily overcrowding of the present tunnel under the Baltimore Harbor caused by an ever-increasing volume of traffic. Friday backups of 3 to 5 miles are not uncommon—and Mr. Wolff, director of the Maryland State Roads Commission, testified to those conditions earlier.

Even the consideration of additional bridges across the Chesapeake Bay, which would compete for summer traffic on a maximum of only 14 weekends, is incredible at this time. Such a venture would cost over \$200 million. Certainly I, too, would like to breeze across a traffic-free span on my several trips to and from the Eastern Shore of Maryland each summer. But, not at that price.

The citizens of Maryland recognized the economic inadvisability of this project and rejected a proposed parallel bridge by referendum last November, as has been discussed here quite frequently this morn-

ing. In face of this mandate, and the facts supporting it, I simply cannot understand how even one such bridge can possibly be termed a key priority project. In my opinion, it is impossible to rationalize that the present Chesapeake Bay Bridge—operating at about half its yearly projected capacity—despite summer peaks on selected weekends—can with any amount of reason or justification be considered a priority over a second harbor tunnel.

A second tunnel will be a closing link in the present Baltimore beltway. It is a need desperately felt by hundreds of thousands of people suffering unnecessary daily inconveniences because of bureaucratic procrastination over a decision to begin this project. The great majority of tunnel traffic users are those traveling to and from work, particularly in the heavily industrialized eastern Baltimore County complex which is so vital to the economic health of the entire Baltimore metropolitan area.

Engineering studies and reports establish the fact that traffic through the present tunnel is increasing by over 1 million vehicles per year. Currently the tunnel is being used by 19 million vehicles annually, and this means, unquestionably, that it will be operating far beyond its projected 21 million vehicle capacity per year before 1970. These underestimates of traffic figures for the present tunnel give the error in volume on the present Bay Bridge.

This fact takes on added significance when you consider that even a decision to begin work on a second harbor tunnel today would place completion of this facility somewhere in the year 1971. It will take that long to build. Additionally, the current tunnel capacity is exceeded every single day during morning and evening rush hours as well as during peak Friday traffic crushes.

As county executive of the county in which virtually the entire beltway is located, and in which much of the heavy regionally important industry is situated, and where many thousands of noncounty workers live, sleep, and send their children to school, an area which is being taxed severely under the new Maryland tax reform program to assist the city of Baltimore in its many pressing fiscal problems, I sound this warning with the fervent hope that the shocking realization of a pending traffic catastrophe will help shape the proper solution and spur the necessary proper action.

Continual delays will not only bring about and compound unbearable traffic congestion I have described, but will also drive business away from Metropolitan Baltimore and cause drastic inconveniences and delays to the general motoring public. What we need is an accelerated "crash" construction program unlike any undertaken by any State or local government anywhere at any time. We need speed and we need quality. And, we need them now.

The most extensive 2-year traffic study ever made for the metropolitan area, costing over \$800,000, is contained in a report by Wilbur Smith Associates. It confirms the absolute immediate traffic need for a second harbor tunnel. Further, this report not only recommends and justifies a two-lane tunnel, but a four-lane tunnel.

It is simply a matter of first things first, gentlemen, directing our plans and energies to the needs of greatest magnitude. Constituents expect this of their elected officials.

Mr. Chairman, you, as one of the sponsors of this required legislation, as we understand it, and as one of our four Congressmen in Balti-

more County, are urged, along with your colleagues in the Maryland delegation, in all your wisdom and judgment to exert every influence of your high office to see that top priority, no less than first priority, is given a second harbor tunnel.

Thank you very much, Mr. Chairman and members of the committee.

Mr. FALLON. Thank you very much, Mr. Dewberry.

Mr. Howard.

Mr. HOWARD. Mr. Dewberry.

Mr. DEWBERRY. Yes, sir.

Mr. HOWARD. This legislation before us now is, in a sense, permissive legislation, is it not?

Mr. DEWBERRY. Correct.

Mr. HOWARD. If the bill is passed as it is, then it would still be possible for the State authorities and the administration of the State to not construct this bridge?

Mr. DEWBERRY. Absolutely.

Mr. HOWARD. However, if this were eliminated from the authorization, then the Congress here would be dictating to the State, because then they would not—even if a future referendum or something should determine the people of Maryland do want this bridge, they would not be permitted to do so. So we would, in a sense, by deleting any part of this bill, be dictating to the State of Maryland what they may do or may not do.

It has been said many, many times, the idea even with the Interstate System is for the Federal Government to provide money, but that the local agencies, the States themselves, and their bureaus, the administrations, the house of delegates or the State senate, would be the ones that would determine where the need is. And we would take this away from the State if we were to eliminate some part of the bill. So there would not be irreparable harm done by including everything in the bill and letting the State make its decision; is that correct?

Mr. DEWBERRY. That is correct and Mr. Anderson is not asking the committee to delete any part of the bill. He simply wants to be on record as the county executive of the largest county of the State of Maryland as to his feelings where the emphasis should be placed and the priorities placed among the four projects that will be authorized by this bill that is before us now. He is not asking that any parts of it be deleted, but simply wants to be on record as to the priorities.

Mr. HOWARD. More or less speaking, then, to the State officials, rather than to the Congress?

Mr. DEWBERRY. Exactly, to the State officials, and as he said in his statement, to ask our congressional delegation to exert all the influence of their high office to see that the top priority is directed toward a tunnel.

Mr. HOWARD. But this reference to prior discussions by other representatives of the State, who have come before the committee for the deletion of the parallel bridge, that by passing the bill as is would still leave it up to the State to make a determination?

Mr. DEWBERRY. Yes, we recognize that, and this is what Mr. Anderson has said in his statement.

Mr. HOWARD. Thank you.

Mr. FALLON. Are there any question on my left?

Thank you very much, Mr. Dewberry, for coming this morning.

Mr. DEWBERRY. Thank you, Mr. Chairman.

Mr. FALLON. We have one more witness here this morning, our colleague from the First District of Maryland. Previously we talked about the proposed parallel bridge being in his district. So I am sure that Mr. Morton would like to give us his opinion on this.

STATEMENT OF ROGERS C. B. MORTON, MEMBER OF THE HOUSE OF REPRESENTATIVES FROM THE STATE OF MARYLAND

Mr. MORTON. Mr. Chairman and members of the committee, I am Rogers Morton and I am a Member of Congress representing the First District of Maryland.

Mr. Chairman, in order to save some time, I would like to include a very short statement, which is simply a *précis*, or *résumé* of this bill, in the record and would be glad to answer any questions that the chairman or any member of the committee might have.

Mr. FALLON. With no objections, it will be made a part of the record. (The prepared statement by the Honorable Rogers C. B. Morton of Maryland follows:)

STATEMENT BY ROGERS C. B. MORTON, OF MARYLAND

Mr. Chairman, I appreciate having the opportunity to testify on H.R. 11627, which authorizes the construction of additional bridges and tunnels in Maryland, and the grouping of these facilities with the existing Chesapeake Bay Bridge, Baltimore Harbor Tunnel, Susquehanna River Bridge, and Potomac River Bridge for the financing of construction.

The crossings authorized by H.R. 11627 are as follows: (1) a bridge parallel to the existing Chesapeake Bay Bridge; (2) a northern crossing of the Chesapeake Bay; (3) a southern crossing of the Bay; and (4) an additional crossing of the Patapsco River.

The need for additional facilities is evidenced by the traffic congestion which occurs both at the Chesapeake Bay Bridge and the Baltimore Harbor Tunnel. Both facilities serve north- and southbound traffic—the Bay Bridge for U. S. Routes 50 and 301, and the Harbor Tunnel for Interstate 95. The mass exodus of Washington and Baltimore metropolitan area residents to the popular recreational attractions of the Delmarva Peninsula creates havoc on the two-lane span across the Chesapeake Bay, especially on weekends.

Mr. Chairman, the construction of these facilities not only will eliminate the bottlenecks of traffic, but also will contribute in large degree to the development of the Eastern Shore and other parts of Maryland. As is proper, H.R. 11627 leaves to the Maryland State Roads Commission the authority to set priorities for the construction of these crossings.

Mr. Chairman, I urge the Committee to give favorable consideration to this legislation.

Mr. FALLON. Are there any questions on my right?

Mr. KLUCZYNSKI. Mr. Chairman, may I say Mr. Morton is a big man with a short statement. That is how he gets things done.

Mr. FALLON. Mr. Howard.

Mr. HOWARD. Mr. Morton, you feel the parallel bridge is necessary?

Mr. MORTON. Yes, I do. I think that is the system of the dual highway between the Eastern Shore and the metropolitan areas of Baltimore and Washington, Annapolis, and the rest is a necessary part of developing the total transportation system.

The question of priorities that has been brought up and raised here is one not to be decided in this forum. It is not to be decided by the Congress of the United States, but by the State legislature and the powers that be in the State. This is a prerogative. It is an autonomy

that the State has personally, and I think the evidence is overwhelming, the parallel Bay Bridge should be the first of the crossings and first of the facilities authorized by this bill.

I understand the need for the other facilities and I hope they will come in proper order, but let us not try here in the Congress to tell the State of Maryland what to do first but let us provide the permissive legislation that this is, so that the State can properly make up its own mind.

Mr. HOWARD. Thank you.

Mr. FALLON. Any questions on my left?

Mr. SNYDER. I would comment, Congressman Morton was raised in Glenview, Ky., which is within the confines of the Fourth Congressional District. I am glad he moved to Maryland, because he would probably be here and I would be back home. [Laughter.]

Mr. FALLON. Thoroughbreds come from that part of the country.

Thank you very much, Congressman Morton.

Ladies and gentlemen, that is all of the witnesses we have here this morning.

The member sponsors of the bill will be able to insert their remarks at this point in the record.

The committee stands adjourned until the call of the Chair.

(Whereupon, at 12:15 p.m., the committee adjourned until call of the Chair.)

(The following was furnished for insertion :)

REMARKS OF HON. SAMUEL N. FRIEDEL, A REPRESENTATIVE IN CONGRESS FROM THE
STATE OF MARYLAND

Mr. Chairman, an Executive Session scheduled by my own Committee makes it impossible for me to personally appear before you this morning to speak in Support of H.R. 11627. However, I would appreciate your making my statement a part of the record.

H.R. 11627 is designed to permit the Maryland State Roads Commission to proceed with the construction, maintenance and operation of a bridge parallel to the existing Chesapeake Bay Bridge from Sandy Point to Kent Island; a bridge across or tunnel under the Chesapeake Bay in Maryland from Baltimore County to Kent County or a combination bridge and tunnel; a bridge across or a tunnel under the Chesapeake Bay from Calvert County to Dorchester County or a combination bridge and tunnel; and an additional tunnel under or bridge across the Patapsco River from Hawkins Point in Baltimore City to Sparrows Point in Baltimore County, and approaches to all structures, including connecting highways. In order to accomplish these objectives, the bill amends Public Law 80-654.

The State Roads Commission of Maryland under the authority of Federal and State legislation has constructed and is presently operating three toll bridges—the Susquehanna River Bridge, the Potomac River Bridge, and the Chesapeake Bay Bridge as well as the Baltimore Harbor Tunnel—all very successfully, I might add. The Susquehanna River Bridge and the Potomac River Bridge were built with the aid of federal grants and the sale of revenue bonds. The Chesapeake Bay Bridge and the Baltimore Harbor Tunnel were built solely with money derived from the sale of revenue bonds. The tolls pay for the operation and maintenance of these projects and are also used to redeem outstanding bonds which were sold by the State Roads Commission to finance them.

Mr. Chairman, I submit that the growth in Maryland in the past ten years has been such that traffic patterns and the public safety demand that these additional structures be built.

Capital investment in commercial and industrial development by private corporations and construction projects by the Federal government in the last eight years exceeds \$410 million. The payroll for private business and government installations in Maryland exceeds \$724 million annually. In the past

three and a half years, there have been 164,604 new housing starts in our State. This growth means people. People who must get to work over already congested traffic arteries, people who seek rest and recreation on our Eastern shore, as well as a relatively new factor for Maryland, tourists. The first records kept on this new industry were for the years 1962-63 when sales tax receipts from motels and hotels throughout the State increased by 56.9%. State house visits to Annapolis are up 40% from 1962. Fort McHenry visits are up 36% from the same year.

In 1963, the National Transportation Survey conducted by the Bureau of the Census estimated that 2½ million people made Maryland their vacation destination. In 1963, \$145 million was spent by tourists and others passing through our State. Today, the State Economic Development Commission believes that a *conservative* figure of \$300 million is spent each year by tourists in Maryland.

Our crossing facilities are taxed beyond their capacities and certainly far beyond any factor of safety. How many times have we heard over summer holiday weekends that the Bay Bridge traffic was backed up for ten miles and open only one way for four and five hours at a time to accommodate returning vacationers from the Eastern shore? How many times at Thanksgiving and Christmas holidays have we heard of four to six hour delays at the Baltimore Harbor Tunnel for those using the Washington-New York turnpikes? The need is *real*. The need is *now*!

The Maryland Legislature has already taken the appropriate action to have the State Roads Commission construct these four new toll crossings. H.R. 11627 is designed to implement the state legislation and give the State Roads Commission authority to proceed with its construction plans based on priorities already established.

H.R. 11627 amends Public Law 80-654 only to the extent of permitting the construction of these sorely needed facilities. All other terms and conditions of the Act remain in full force and effect.

It was my pleasure to co-sponsor this legislation with my esteemed colleague from Maryland and the distinguished Chairman of this Committee. I strongly urge the Members to take early and favorable action on H.R. 11627.

STATEMENT BY HON. GILBERT GUDE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MARYLAND

Mr. Chairman, I appreciate having the opportunity to testify on H.R. 11627, authorizing the construction of additional bridges and tunnels in Maryland, and the grouping of these facilities with the existing Chesapeake Bay Bridge, Baltimore Harbor Tunnel, Susquehanna River Bridge and Potomac River Bridge for the financing of construction.

The crossings authorized by H.R. 11627 are: (1) a bridge parallel to the existing Chesapeake Bay Bridge; (2) a northern crossing of the Chesapeake Bay; (3) a southern crossing of the Bay; and (4) an additional crossing of the Patapsco River.

I have long been interested in developing solutions to problems of traffic congestion on the Chesapeake Bay Bridge. Thousands of residents of Montgomery County, Maryland, as well as great numbers from other points in metropolitan Washington and Baltimore using the Bay Bridge to reach the recreational facilities offered by the Delmarva Peninsula, has put an increasing burden on the existing two-lane span across the Chesapeake Bay during seasons of peak travel. In addition, growing commerce using highway U.S. 50 and 301, and the Harbor Tunnel for Interstate 95 through the Baltimore Harbor Tunnel has created the need for additional lanes.

Construction of the additional facilities authorized by H.R. 11627 according to priorities determined by the Maryland State Roads Commission will reduce congestion in this area of high traffic volume.

Mr. Chairman, I recommend favorable consideration of this legislation.

RESOLUTION ON SECOND CHESAPEAKE BAY BRIDGE

The Delmarva Advisory Council has reviewed feasibility studies and has unanimously voted to urge the State of Maryland to start building as quickly as possible a second motor vehicle crossing of the Chesapeake Bay between the Western Shore and the Eastern Shore of that State.

Council members are of the opinion, as unanimously expressed at a regularly constituted Council meeting held at Dover, Delaware, on September 27, 1965, that any further postponement for the purposes of making additional traffic surveys or economic studies at this time, will, in the years subsequent to 1967, impede the orderly development of the industrial and tourist economies of the entire Delmarva Peninsula.

The Council directs that copies of this request for immediate action be transmitted to the Honorable J. Millard Tawes, Governor of Maryland, to each member of the Maryland Senate and to each member of the Maryland House of Delegates and to the Chairman-Director and to each member of the Maryland State Roads Commission.

(S) WORTHINGTON J. THOMPSON,
Executive Director,
Delmarva Advisory Council.

AMERICAN AUTOMOBILE ASSOCIATION,
Washington, D.C., September 21, 1967.

HON. GEORGE H. FALLON,
Chairman, House Committee on Public Works,
House of Representatives, Washington, D.C.

MY DEAR CONGRESSMAN FALLON: Our appearance before the Blatnik Subcommittee on Toll Roads last year and the recently released report of those hearings prompts us to comment on H.R. 11627 to amend the Act of June 16, 1948, to authorize the State of Maryland, by and through its State Road Commission or the successors of said Commission, to construct, maintain, and operate certain additional bridges and tunnels in the State of Maryland.

First permit me to point out that while many consider this bill local in nature since it is restricted to the State of Maryland, we at the National Headquarters of the American Automobile Association feel that it has national implications because it will be cited by other states for similar Congressional requests as we will point out in this letter.

The AAA suggests that if H.R. 11627 is to be passed by the Congress that it be amended to prohibit the pooling of toll funds among the several projects involved and to delete the reference to "connecting highways" in Section 1.

1. As presently written, this bill would permit the pooling of revenues from one toll structure to support other structures. Such pooling inevitably leads to the maintenance of tolls in perpetuity. In this connection we suggest the Committee review the testimony presented to the Blatnik Subcommittee on Toll Roads last year involving the five bridge crossing across the lower Hudson River between New Jersey and New York.

Under H.R. 11627, the State of Maryland would be permitted to continue pooling tolls not only among the existing four structures, namely:

- (a) Baltimore Harbor Tunnel,
- (b) Chesapeake Bay Bridge at Annapolis,
- (c) Morgantown Bridge,
- (d) Susquehanna Bridge at Havre de Grace,

but also the four authorized structures enumerated in the bill, namely:

- (a) Parallel Chesapeake Bay Bridge at Annapolis,
- (b) Additional Baltimore Harbor Tunnel,
- (c) Upper Chesapeake Bay Crossing, and
- (d) Lower Chesapeake Bay Bridge.

Thus, the pooling of tolls would be permitted on the eight crossings for 40 years after the completion of the last of the above enumerated authorized four items as contained in H.R. 11627. No one, at this point, has any idea when some of these authorized crossings will be completed. The ultimate effect will be perpetual tolls on the existing four structures and those of the four which might be built.

Recommendation

Rather than permit the pooling of tolls, we suggest the bill be amended so as to condition Congressional approval upon an agreement being reached by the State of Maryland that each new crossing be financed with 50-50 or 90-10 Federal matching funds, depending on the Federal-aid system involved. What we are suggesting is that each such authorized bridge or tunnel be financed under existing Federal highway law as provided for in Title 23 U.S. Code, Section 129(a).

Such a Congressional requirement would reduce the amount a state would have to borrow to finance each crossing and would assure that the facility become toll free when paid for. At the same time, this procedure would afford the Congress an opportunity to maintain some degree of control over the proliferation of toll facilities while considering the findings of the Blatnik Subcommittee as contained in House Report 597.

2. H.R. 11627 considerably broadens the original 1948 Act by permitting construction, and by imposition of tolls, not only on "approaches" to the crossings involved but also on "connecting highways." The language raises the question as to whether or not the Congress might not be giving its approval in advance to the construction of toll roads servicing such facilities under the guise of legislation which purports to be local in nature.

Recommendation

Therefore, we suggest the deletion of the reference to "connecting highways" as contained in Section 1 of the bill.

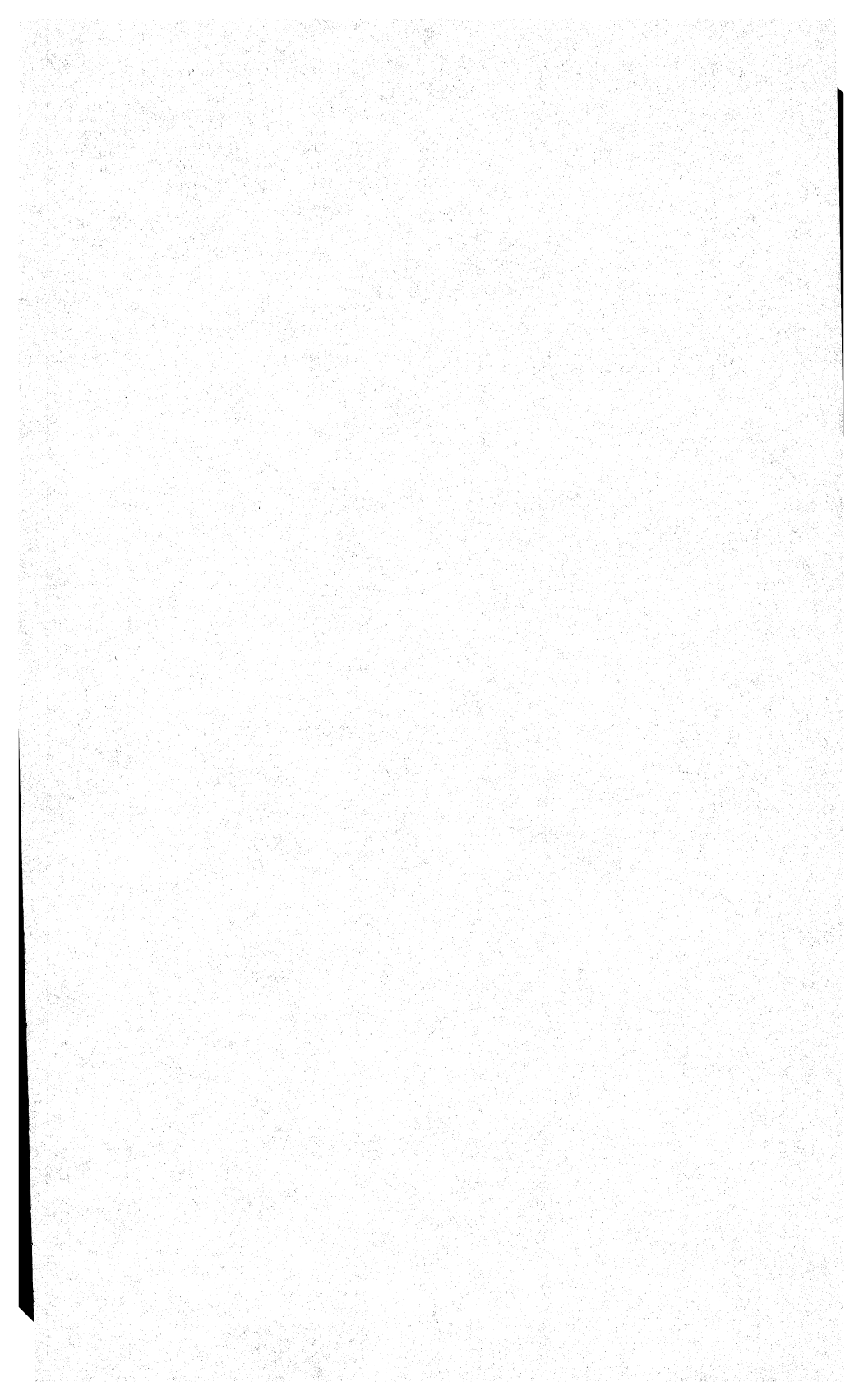
Unless H.R. 11627 is amended to prohibit the pooling of toll funds, it will encourage other states to seek similar legislation. For example, just two days ago, on September 19, Representative Fred Schwengel (R-Iowa) introduced H.R. 13007 which if passed by the Congress would grant Congressional authority for Iowa to pool tolls on interstate bridges within ten miles of each other. No doubt there will be others.

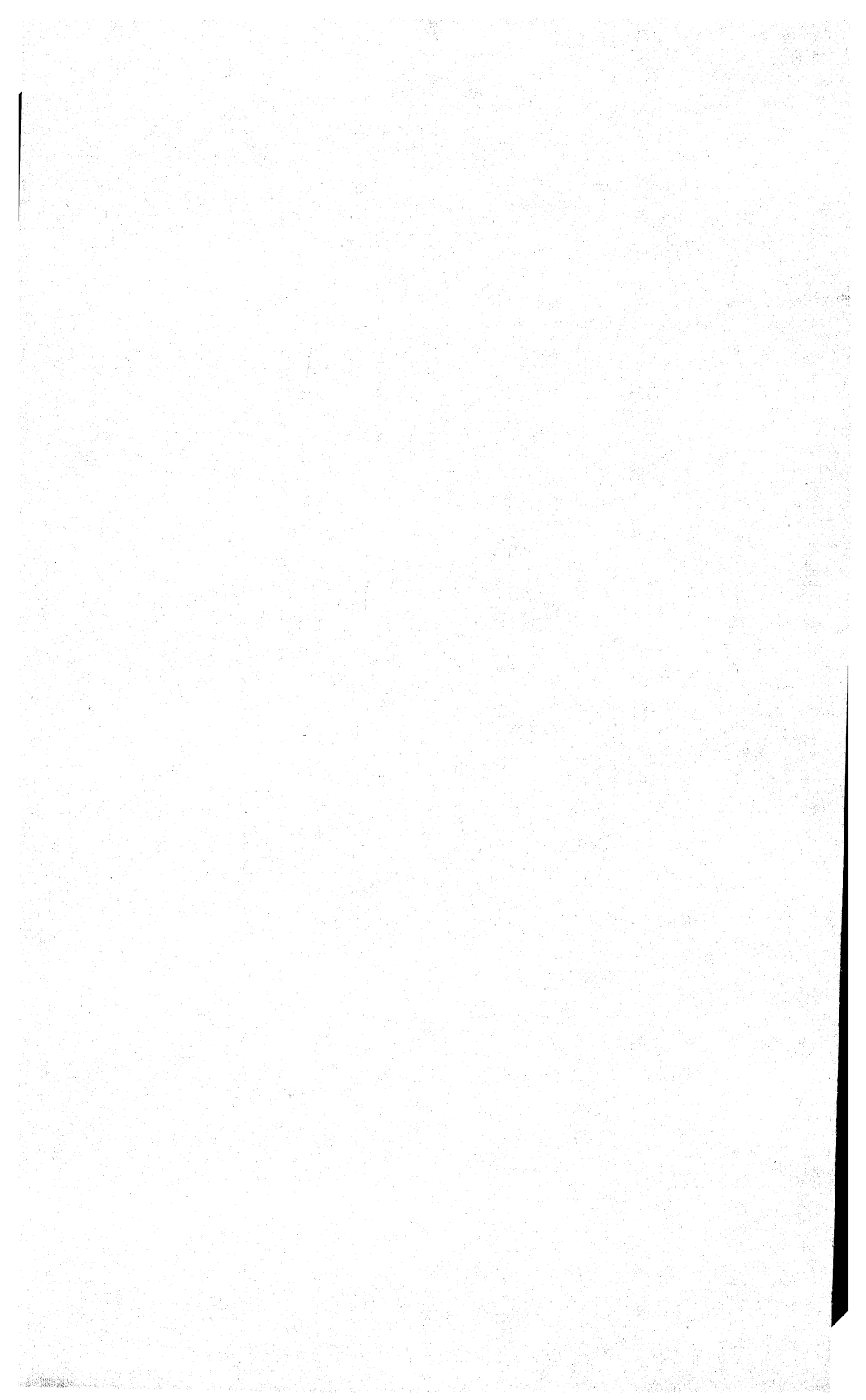
We respectfully request that this letter be made a part of the hearing record on H.R. 11627.

Sincerely,

GEORGE F. KACHLEIN, Jr.,
Executive Vice-President.

○





SAFETY OF CAPITOL BUILDINGS AND GROUNDS

(90-13)

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HEARING BEFORE THE COMMITTEE ON PUBLIC WORKS HOUSE OF REPRESENTATIVES NINETIETH CONGRESS

FIRST SESSION

ON

H.R. 13178

SEPTEMBER 28, 1967

Printed for the use of the Committee on Public Works

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SAFETY OF CAPITOL BUILDINGS AND GROUNDS

THURSDAY, SEPTEMBER 28, 1967

HOUSE OF REPRESENTATIVES,
COMMITTEE ON PUBLIC WORKS,
Washington, D.C.

The committee met at 10 a.m., pursuant to notice, room 2167, Rayburn House Office Building, Hon. George H. Fallon (chairman) presiding.

Mr. FALLON. Ladies and gentlemen, the Committee on Public Works convenes this morning for the consideration of H.R. 13178, a bill to provide more effectively for the regulation of the use of, and for the preservation of safety and order within, the U.S. Capitol Buildings and the U.S. Capitol Grounds, and for other purposes.

(The bill follows:)

[H.R. 13178, 90th Cong., first sess.]

A BILL To provide more effectively for the regulation of the use of, and for the preservation of safety and order within, the United States Capitol Buildings and the United States Capitol Grounds, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the first section of the Act entitled "An Act to define the area of the United States Capitol Grounds, to regulate the use thereof, and for other purposes", approved July 31, 1946 (60 Stat. 718; 40 U.S.C. 193a; D.C. Code 9-118), is amended by—

(1) inserting therein, immediately after the words "book 127, page 8", the words "including all additions added thereto by law subsequent to June 25, 1946,"; and

(2) striking out the words "as defined on the aforementioned map".

(b) Section 6 of that Act (40 U.S.C. 193f; D.C. Code 9-123) is amended to read as follows:

"Sec. 6. (a) It shall be unlawful for any person or group of persons—

"(1) Except as authorized by regulations which shall be promulgated by the Capitol Police Board:

"(A) to carry on or have readily accessible to the person of any individual upon the United States Capitol Grounds or within any of the Capitol Buildings any firearm, dangerous weapon, explosive, or incendiary device; or

"(B) to discharge any firearm or explosive, to use any dangerous weapon, or to ignite any incendiary device, upon the United States Capitol Grounds or within any of the Capitol Buildings; or

"(C) to transport by any means upon the United States Capitol Grounds or within any of the Capitol Buildings any explosive or incendiary device; or

"(2) Knowingly, with force and violence, to enter or to remain upon the floor of either House of the Congress.

"(b) It shall be unlawful for any person or group of persons willfully—

"(1) to enter or to remain upon the floor of either House of the Congress, to enter or to remain in any cloakroom or lobby adjacent to such floor, or to enter or to remain in the Rayburn Room of the House or the Marble Room of the Senate, unless such person is authorized, pursuant to rules adopted by that House or pursuant to authorization given by that House, to enter or to remain upon such floor or in such cloakroom, lobby, or room;

"(2) to enter or to remain in the gallery of either House of the Congress in violation of rules governing admission to such gallery adopted by that House or pursuant to authorization given by that House;

"(3) to enter or to remain in any room within any of the Capitol Buildings set aside or designated for the use of either House of the Congress or any Member, committee, subcommittee, officer, or employee of the Congress or either House thereof with intent to disrupt the orderly conduct of official business;

"(4) to utter loud, threatening, or abusive language, or to engage in any disorderly or disruptive conduct, at any place upon the United States Capitol Grounds or within any of the Capitol Buildings with intent to impede, disrupt, or disturb the orderly conduct of any session of the Congress or either House thereof, or the orderly conduct within any such building of any hearing before, or any deliberations of, any committee or subcommittee of the Congress or either House thereof;

"(5) to obstruct, or to impede passage through or within the United States Capitol Grounds or any of the Capitol Buildings; or

"(6) to engage in any act of physical violence upon the United States Capitol Grounds or within any of the Capitol Buildings; or

"(7) to parade, demonstrate, or picket within any of the Capitol Buildings."

"(c) Nothing contained in this section shall forbid any act of any Member of the Congress, or any employee of a Member of the Congress, any officer or employee of the Congress or any committee or subcommittee thereof, or any officer or employee of either House of the Congress or any committee or subcommittee thereof, which is performed in the lawful discharge of his official duties."

(c) Section 8 of that Act (40 U.S.C. 193h; D.C. Code 9-125) is amended to read as follows:

"SEC. 8 (a) Any violation of section 6(a) of this Act, and any attempt to commit any such violation, shall be a felony punishable by a fine not exceeding \$5,000, or imprisonment not exceeding five years, or both.

"(b) Any violation of section 2, 3, 4, 5, 6(b), or (7) of this Act, and any attempt to commit any such violation, shall be a misdemeanor punishable by a fine not exceeding \$500, or imprisonment not exceeding six months, or both.

"(c) Violations of this Act, including attempts or conspiracies to commit such violations, shall be prosecuted by the United States attorney or his assistants in the name of the United States. None of the general laws of the United States and none of the laws of the District of Columbia shall be superseded by any provision of this Act. Where the conduct violating this Act also violates the general laws of the United States or the laws of the District of Columbia, both violations may be joined in a single prosecution. Prosecution for any violation of section 6(a) or for conduct which constitutes a felony under the general laws of the United States or the laws of the District of Columbia shall be in the United States District Court for the District of Columbia. All other prosecutions for violations of this Act shall be in the District of Columbia Court of General Sessions. Whenever any person is convicted of a violation of this Act and of the general laws of the United States or the laws of the District of Columbia, in a prosecution under this subsection, the penalty which may be imposed for such violation is the highest penalty authorized by any of the laws for violation of which the defendant is convicted."

(d) The proviso contained in section 12 of that Act (40 U.S.C. 193k) is repealed.

(e) Section 16(a) of that Act (40 U.S.C. 193m; D.C. Code 9-132) is amended to read as follows:

"SEC. 16. (a) As used in this Act—

"(1) The term 'Capitol Buildings' shall be construed to include all buildings situated upon the United States Capitol Grounds and all subways and enclosed passages connecting two or more of those buildings.

"(2) The term 'firearm' shall have the same meaning as when used in section 1(3) of the Federal Firearms Act (52 Stat. 1252, as amended; 15 U.S.C. 901(3)).

"(3) The term 'dangerous weapon' includes all articles enumerated in section 14(a) of the Act of July 8, 1932 (47 Stat. 654, as amended; D.C. Code 22-3214(a)) and also daggers, dirks, stilettos, and knives having blades over three inches in length.

"(4) The term 'explosive' shall have the same meaning as when used in section 1(1) of the Act of October 6, 1917 (40 Stat. 385, as amended; 50 U.S.C. 121).

"(5) The term 'act of physical violence' means any act involving (1) an assault or any other infliction or threat of infliction of death or bodily harm upon any individual, or (2) damage to or destruction of any real property or personal property."

SEC. 2. Section 15 of the Act of July 29, 1892 (27 Stat. 325; 40 U.S.C. 101; D.C. Code 4-120, 22-3111), is amended by deleting "shall, upon conviction thereof, be fined not more than \$50.", and inserting in lieu thereof: "shall be fined not more than \$500, or imprisoned not more than six months, or both."

SEC. 3. Prosecutions for violations of the Act of July 31, 1946 (60 Stat. 718; 40 U.S.C. 193a et seq.; D.C. Code 9-118 et seq.) and of section 15 of the Act of July 29, 1892 (27 Stat. 325; D.C. Code 4-120, 22-3111), occurring prior to the enactment of these amendments shall not be affected by these amendments or abated by reason thereof. The provisions of this Act shall be applicable to violations occurring after its enactment.

MR. FALLON. Our witness this morning is the Honorable David G. Bress, U.S. Attorney for the District of Columbia.

STATEMENT OF HON. DAVID G. BRESS, U.S. ATTORNEY, DISTRICT OF COLUMBIA, ACCOMPANIED BY MARY C. LAWTON, ATTORNEY ADVISER, OFFICE OF LEGAL COUNSEL, DEPARTMENT OF JUSTICE, AND W. CAREY PARKER, SPECIAL ASSISTANT TO THE ASSISTANT ATTORNEY GENERAL, CRIMINAL DIVISION, DEPARTMENT OF JUSTICE

MR. FALLON. Mr. Bress, do you have a copy of the bill introduced by Mr. Cramer and myself and Mr. Boggs yesterday?

MR. BRESS. Yes, Mr. Chairman.

MR. FALLON. Does that bill cover everything that their conference intended to cover and, in addition, is it compatible with the Senate bill that was reported from the committee?

MR. BRESS. It is, from my limited examination of it, consistent with the Senate bill. I do not believe that it is any different from the final print, print No. 3, of the Senate bill as I have seen it.

MR. FALLON. As I understand it, the only change that was made, we added the Rayburn Room to one section of the bill. The fact was that the Marble Room was in the Senate bill and we included the Rayburn Room in the House bill in 6(b)(1).

MR. BRESS. I note that has been added to paragraph (6)(b)(1).

MR. CRAMER. Mr. Chairman?

MR. FALLON. Yes.

MR. CRAMER. We will discuss the necessity of enacting this bill later, so I would like to address specific questions to the witness now.

I think there was discussion in our preliminary conference yesterday that, as I understand it, the Justice Department supports this bill?

MR. BRESS. Yes, sir.

MR. CRAMER. I base this question on remarks that appeared in the Congressional Record of August 22, 1967, referring to H.R. 10957 by Congressman Poff. Are you familiar with those remarks in which he analyzed the present law in the District and on Capitol Hill relating to this subject matter, pointing out prosecution problems, such as who prosecutes under the present law where you have both fine and prison-term penalties; particularly when you have inconsistencies in the amount of money penalty?

MR. BRESS. I have read Mr. Poff's address in the House.

MR. CRAMER. Is it your opinion that this legislation is needed to clarify that much-confused situation?

Mr. BRESS. Yes; I think this legislation is much needed and I think it goes beyond the point as I remember raised in the Poff discussion.

Mr. CRAMER. It spells out new forms of crimes but it does not at the same time solve that problem, does it? Specifically I am referring to who prosecutes, on page 5, at Section 8(c). That begins on line 11, where conduct in violation of "the general laws of the United States or the laws of the District," both violations may be joined in a single prosecution. Prosecution for any violation of section 6(a) or for conduct which constitutes a felony under the general laws of the United States or laws of the District of Columbia shall be in the United States District Court for the District of Columbia.

"All other prosecutions for violations of this act shall be in the District of Columbia Court of General Sessions."

Section 6(a), of course, is a heavy penalty: \$5,000 or 5 years?

Mr. BRESS. Yes, sir.

Mr. CRAMER. Right?

Mr. BRESS. Yes, sir.

Mr. CRAMER. The balance will be prosecuted by the District of Columbia?

Mr. BRESS. Yes, sir.

No. All violations of this act are required to be prosecuted by the United States Attorney, not by the District of Columbia, as in the very sentences on page 5 that you have just read.

Mr. CRAMER. What language so provides? "All other prosecutions and violations of this act shall be in the District of Columbia Court of General Sessions."

Mr. BRESS. The U.S. Attorney prosecutes misdemeanors in the District of Columbia court of general sessions.

Mr. CRAMER. The U.S. attorney would be prosecuting in all instances; is that correct?

Mr. BRESS. Mr. Cramer, if I might call your attention to lines 5 to 8 of paragraph (c), it expressly provides that all violations under this act are prosecuted by the U.S. attorney.

Mr. CRAMER. That clarifies the problem pointed out in the Poff memorandum in the Congressional Record I mentioned; right?

Mr. BRESS. Yes.

Mr. CRAMER. As it relates to prosecution under this act?

Mr. BRESS. Yes, sir.

May I, sir, since you have just read line 18, note the word "shall" is included there. I think that was also in the Senate bill. I believe that there is good reason to change that word "shall" to "may." That is on page 5, section 8(c), line 18.

Mr. CRAMER. Why?

Mr. BRESS. This sentence would seem to make it mandatory that all misdemeanors be prosecuted in the court of general sessions. The District of Columbia has concurrent jurisdiction for misdemeanors in the district court.

Earlier there, this same paragraph, there is a provision for joinder of offenses. There is very likely to be a joinder of a felony and a misdemeanor offense. I would think that I would encounter difficulties if the felony was to be prosecuted in the district court and the statute said that the misdemeanor shall be prosecuted in the general sessions

court. I would therefore recommend that that word "shall" be changed to "may."

Mr. CRAMER. Both could be prosecuted in other than the general sessions court?

Mr. BRESS. In the district court. Yes, sir.

Mr. CRAMER. Felony and misdemeanor?

Mr. BRESS. That is correct.

Mr. ROBERTS. Would the gentleman yield?

Mr. CRAMER. Yes.

Mr. ROBERTS. As you know, I have been out of town and out of the committee and this is the first time I have seen this. My first reaction is, why is this going to deter anybody from committing a felony? If he is going to throw a hand grenade in the House, why a \$500 or \$5,000 fine? The next thing, there are at least 10 Members of Congress that I know of that are licensed gun collectors. I happen to be one of them. There is a gun in my office or my automobile practically all the time.

I noticed when I was gone there were two or three appraisals going on. Under this law I would be guilty and so would all the other gun collectors on the Hill.

Mr. BRESS. That is not correct.

Mr. ROBERTS. Why is it not correct?

It says, ". . . have accessible to any person, any individual upon the U.S. Capitol Grounds."

Mr. BRESS. Page 4, paragraph 7(c), beginning at line 14, provides that:

Nothing contained in this section shall forbid any act of any Member of the Congress * * *

Mr. ROBERTS. These were delivered by the post office. He delivers a gun to me. I saw a whole case of guns there this morning for appraisal. They delivered them here because they are not handed out in the county. A postman violated the law.

Mr. BRESS. I would have some doubt about that, sir, in view of the lack of any scienter on his part, any knowledge on his part that he was transporting them.

Mr. ROBERTS. If anybody was going to shoot any member of this committee or anybody else, throw a hand grenade over the balcony, why is it going to deter him to have a fine? Why do you think he would do something he knows he is going to get the hot seat for, if it is going to stop him to have a fine placed against him?

This is almost as bad as some of the other legislation proposed by the Justice Department.

Mr. BRESS. As far as providing remedies against improper conduct, the most the law can do is to provide for punishment. This does provide the deterrent which I believe is reasonably adequate for imprisonment and fine.

Mr. SNYDER. If the gentleman would yield for a second, I do not think section 6(c), despite what the counsel says, protects the gentleman. It says, "* * * performed in the discharge of his official duties." I do not think gun collecting is a discharge of the official duties. I do not think it would give him protection.

Mr. CRAMER. If the gentleman would yield, I think he raised a good point. It is a point I raised yesterday in initially discussing the bill.

Mr. ROBERTS. There are at least 10 that I know.

Mr. CRAMER. I asked that Mr. Bress come prepared to answer the question: When and under what circumstances, if at all, would a Member of Congress be guilty of any of these crimes himself? Under this exception which you referred to on page 4, beginning on line 14. In other words, not the act of a Member of Congress " * * * which is performed in the lawful discharge of his official duties."

Mr. BRESS. I have considered that suggestion yesterday, Mr. Cramer.

Mr. CRAMER. That is what the gentleman is talking about, is it not?

Mr. BRESS. My answer to it is this: If it is the desire of this committee to make these provisions wholly inapplicable to a Member of Congress as distinguished from an employee of the Congress, the simpler way to do it is to divide paragraph (c) into two sentences. In the second line, line 15, second line of the paragraph, put a period there instead of a comma after the word "Congress." The first section would read,

Nothing contained in this section shall forbid any act of any Member of the Congress * * *.

And then insert to begin the second sentence:

Nor shall anything in this section forbid any act of any employee of a Member of Congress * * * which is performed in the lawful discharge of his official duties.

Mr. WALDIE. Would the gentleman yield?

Mr. CRAMER. Yes.

Mr. WALDIE. It seems to me that on page 2, line 7, which says, "It shall be unlawful for any person or group of persons except as authorized by regulations which shall be promulgated * * *"—it would occur to me that that gives you all the avenue you need to exempt these people. They ought to be exempted but I personally would think it would be a grave mistake to exempt Members of Congress or their staffs from the provisions of this law which is designed to prevent violence and disturbance from any source.

Certainly the gun-collection situation could be handled very readily under the regulations that might be promulgated by the Capitol Police.

Mr. BRESS. I quite agree with that. That was the second alternative.

Mr. CRAMER. Is that the second alternative, through rules and regulations relating to guns?

Mr. BRESS. That is correct.

Mr. CRAMER. The Capitol Police Board is made up of whom?

Mr. BRESS. I think—

Mr. CRAMER. Sergeant at Arms of the House and Senate?

Mr. BRESS. And the Chief of the Capitol Police.

Mr. CRAMER. The Capitol Architect?

Mr. BRESS. Architect of the Capitol and the two Sergeants at Arms.

Mr. CRAMER. The persons making the regulations are those who are employees of the House and Senate?

Mr. BRESS. That is correct.

Mr. CRAMER. The protection available, as the gentleman from Texas suggests, which I too think should be accomplished, could be accomplished through those regulations?

Mr. BRESS. Yes, sir.

Mr. CRAMER. That answers also the question, does it not, as to what an incendiary device might be under that section 6(a)? It is correct you define firearms in present law?

Mr. BRESS. That is correct.

Mr. CRAMER. You define dangerous weapons as defined in the present law plus some additions that appear on page 6; right?

Mr. BRESS. Yes.

Mr. CRAMER (reading):

(3) The term "dangerous weapon" includes all articles enumerated in section 14(a) of the Act of July 8, 1932 (47 Stat. 654, as amended; D.C. Code 22-33214(a)) and also daggers, dirks, stilettos, and knives having blades over three inches in length.

What is a stiletto?

Mr. BRESS. A form of dagger, I think.

Mr. CRAMER. Straight-bladed knife?

Mr. BRESS. I think it is just a very narrow bladed type of dagger. A dirk is substantially the same.

Mr. CRAMER. The incendiary device is not defined; is that correct?

Mr. BRESS. That is correct.

Mr. CRAMER. I think in our discussion yesterday you indicated an incendiary device, if that causes a problem, should be and would be defined by the regulations of the Capitol Police force; is that correct?

Mr. BRESS. It could be.

Mr. CRAMER. Or it could be defined in the bill?

Mr. BRESS. Yes, sir. I had suggested to the Senate Public Works Committee that the bill was deficient in failing to have a definition, a recommendation. I recommended that a definition be placed in the bill.

Mr. DUNCAN. Would the gentleman yield?

Mr. CRAMER. Could I have an example of that? Then I will yield.

Mr. BRESS. Yes, sir. I have tried my hand at it last night.

I have come up with several. I am not sure that I am completely satisfied with any of them but one is:

Any device designed for or capable of causing ignition of or fire which is ordinarily not possessed by a person for lawful personal use.

We have a decision in *Benton v. United States* decided in the U.S. court of appeals, which held unconstitutional our dangerous weapons statute in that it described a number of items as dangerous weapons, the possession of which was a crime, when some of those were items that could be innocently used. So, to overcome that, I put in the provision, "* * * not possessed by a person for lawful personal use."

Mr. CRAMER. In other words, you want to cover matches, cigarette lighters, and things such as that?

Mr. BRESS. That is right; "* * * any article ordinarily carried on or readily accessible by a person for his individual or private use * * *."

The third definition I have is language which goes into chemistry and engineering to describe what is incendiary in capability and then excludes at the end but does not include ordinary matches, flint and steel lighters, or gas lighters intended primarily for personal or household use. All three definitions, I think, a combination of them might be satisfactory.

Mr. HARSHA. Would you yield? I have here a pipe tool that you tamp a pipe with. It has a reamer and this thin blade. I submit that I can do as much damage with this as I can with a 3-inch knife.

Mr. BRESS. That pointer on your pipe cleaner is about the length of an ordinary pocketknife. I would say that would not be prohibited, forbidden.

Mr. HARSHA. You could do an awful lot of damage with that.

Mr. BRESS. If you had an ice pick carried around, my position might be a little different.

Mr. CRAMER. If any such instrument is actually used, however, it is covered in the next section, physical violence, is it not?

Mr. BRESS. Yes, sir.

Mr. CRAMER. This is an all-inclusive definition?

Mr. BRESS. No.

Mr. CRAMER. It is to get at the more reprehensible weapon, the more dangerous weapon?

Mr. BRESS. Yes. The use by Congressman Harsha of that pipe cleaner as a weapon for the purpose of attack would constitute a felony in the District, assault with a dangerous weapon. The manner in which he used that would convert it into a dangerous weapon.

Mr. CRAMER. Physical violence would cover any weapon used for that purpose, whether defined in section 6(a) or not?

Mr. BRESS. Right.

Mr. CRAMER. In your opinion, will this definition of a dangerous weapon include a Molotov cocktail? It could be by definition under incendiary?

Mr. BRESS. I believe so.

Mr. CRAMER. I read it carefully two or three times, and I think it is, too. I wanted your concurring opinion.

Mr. BRESS. I think it could be not only explosive but I think it would constitute a dangerous weapon. Our courts have held that a shod foot when used for purposes of assault is a dangerous weapon.

Mr. CRAMER. There is in the present law nothing to protect us from Joe Blow, if he is a nut or a revolutionary, coming into the House and tossing a Molotov cocktail any time he wants to. This bill or bills of this nature are essential to prevent this or to provide a deterrent at least in the future; is that your opinion?

Mr. BRESS. That is correct, sir. It would not prevent it.

Mr. CRAMER. We have had marchers on the Capitol and we probably will have more. It seems to me the Congress has a duty to set the moral climate and to provide a deterrent so that those who might be inclined will be doing so at their own great peril.

We must, as Members of Congress, protect the people's government and see it continues to operate. That is the thought behind this bill, is it not?

Mr. BRESS. Yes, sir.

Mr. CRAMER. They could clog up the workings of the Capitol so we could not function.

Mr. BRESS. This corrects a long needed bit of legislation.

Mr. CRAMER. There has been some discussion with regard to other buildings outside the Capitol needing protection. As I understand this, this bill provides for an increase in the penalties in section 2, on page 7, line 3, for all public buildings, from \$50 to \$500 and to 6 months in jail.

Mr. BRESS. In the District of Columbia for disorderly conduct. Yes, sir.

Mr. CRAMER. All other public buildings are covered as it relates to increased penalties under present law?

Mr. BRESS. Yes, sir.

Mr. CRAMER. What is the situation with regard to the Pentagon; what law covers the Pentagon?

Mr. BRESS. The Virginia law, which is assimilated into that Federal area so that—

Mr. CRAMER. What penalty is that? If there are similar statutes, what is the penalty?

Mr. BRESS. The penalty is 1 year in jail. I have forgotten the dollar fine involved.

Mr. CRAMER. If there is a disruption of the business in the Pentagon, disorderly conduct in the Pentagon or affecting the operations of it, it would be subject to penalty under Virginia statute?

Mr. BRESS. As a Federal offense by assimilation.

Mr. CRAMER. Who would prosecute that?

Mr. BRESS. The U.S. Attorney for the eastern district of Virginia.

Mr. CLARK. Would the gentleman yield?

Mr. CRAMER. Not all the time. Just the technicalities. Yes, I yield.

Mr. CLARK. I would like to ask the gentleman a question.

If and when this becomes law, would this be treated similar to the District of Columbia laws of today where the order has come down from the top to go easy and not use force against those who are turning their backs on the law?

Mr. BRESS. I am not aware of that.

Mr. CLARK. I am talking about the police. We have had a number of people who have had 10 to 20 years of service that have quit the District of Columbia Police force because today they cannot get help from the judges or those involved. They are to go easy on these people; don't use force; don't use your club or your gun.

I am for this bill 100 percent but I would want to know that you people downtown in the Justice Department are going to put the finger on these people and treat them as criminals, not just as ordinary citizens that might be getting a parking ticket.

Mr. BRESS. I am not aware, sir, that there is any instruction from the top down to go easy on anybody.

Secondly, the enforcement of the criminal laws of the District of Columbia are not handled directly by the Department of Justice but indirectly. They are handled by my office. I can assure you, sir, that they are being enforced in the best way I know how equitably and, I believe, effectively.

Mr. DUNCAN. Would the gentleman yield?

Mr. CRAMER. Yes; I yield to my colleague from Tennessee.

Mr. DUNCAN. I would like your knowledge concerning the operation of Federal buildings outside the District of Columbia. It occurs to me that this problem is of greater magnitude to some of those people than it is to the District of Columbia.

Do you consider it wise having this legislation applicable to all Federal buildings outside the District? It seems we are singling out protection for the District of Columbia but not other public buildings throughout the country.

Mr. CRAMER. There are other laws on the books relating to Federal buildings, disruption and protection of property, are there not?

Mr. BRESS. Yes, sir.

Mr. DUNCAN. Not part of this bill?

Mr. BRESS. Not part of this bill. We have as far as damage to Government buildings.

Mr. DUNCAN. It does not include everything that this bill does; other legislation does?

Mr. BRESS. Other legislation does not relate to the disorderly type of offense committed in a Federal building in San Francisco, for example, but the U.S. Criminal Code, title 18, does provide for damage to Government buildings, no matter where they are located.

Mr. DUNCAN. This is going further and giving more protection to buildings on Capitol Hill and the District than it does for Federal building in some other city.

Mr. BRESS. This does not give any more protection insofar as the penalty is concerned for property damage, but insofar as it relates to individual conduct of the disorderly type, crimes of personal violence against a person, this does go beyond what we provide federally for other areas.

Mr. CRAMER. I suggest that could well be the subject matter of additional legislation which would not come to this committee, but probably would go to the Committee on the Judiciary. This is before this committee because it relates to the Capitol itself principally. This is the legislative fountainhead of America. Its business cannot be disrupted by anybody if the people are to continue to be served by their representatives. This is the legislative headquarters of America. It is a different situation from the administrative buildings. They too obviously need protection, but this is my thought, this is an emergency type legislation that action must be taken upon.

We have been served notice by what happened in the other body, the Senate, not too long ago. I was on the House floor when the Nazi came in a year and a half ago and threw a Nazi flag on the floor. I was sitting right there. It could have been a Molotov cocktail.

I think it is a specific, special necessity for this type of legislation relating to the Capitol, and that is what this bill does.

Mr. HARSHA. I can understand the necessity for this legislation and the position of the Justice Department in supporting it, but I cannot understand why the Justice Department is supporting this type of legislation in regard to the Federal buildings, the Capitol, when it apparently is not supporting similar legislation in the antiriot bill. That covers many things this bill is supposed to do, does it not, also in the District?

Mr. CRAMER. That subject is close to my heart. I would be glad to hear your reaction as to why the Justice Department is not supporting the antiriot bill which passed the House by a vote of 5 to 1.

Mr. BRESS. I think the only answer I can give on that, sir, is that I have not personally been in discussion with the Department of Justice in determining its official position on any of the various antiriot bills.

I know with respect to the pending riot bill in the District of Columbia, it is my recollection that the Attorney General did support that legislation and I believe that—I do not know whether it has passed out of the House yet or not.

Mr. HARSHA. We are going to provide in that bill a certain mantle of protection for public officials and public property which we, if we do not pass the antiriot bill, are denying to private citizens. I think we are going to be subject to some criticism.

Mr. CRAMER. I will say to the gentleman, the antiriot bill passed the House and was amended on the floor of the House purposely to make certain it covers the District of Columbia as a local District criminal law by using the definition in title 18, Interstate Commerce, meaning it applies to the District.

The gentleman is familiar with this procedure, is he not?

Mr. BRESS. Yes.

Mr. CRAMER. Other statutes apply to the District of Columbia, and so does the antiriot bill now in the Senate.

What the Justice Department is doing is duplicating, by sending up a separate bill for the District of Columbia, what the House has already passed. It has passed a bill covering the District of Columbia.

The bill sent up to the House District of Columbia Committee is of a similar nature to the one the House already passed.

Mr. BRESS. I am not prepared to discuss the antiriot bill insofar as it affects the rest of the country. I am familiar with the antiriot bill for the District of Columbia and it is my understanding that the Department of Justice has supported that.

Mr. CRAMER. I hope eventually it will support similar protection for the people throughout the Nation.

Mr. WALDIE. I want to ask a question about the bill, but there was another subject brought up, why this bill should not have equal application throughout the Nation for public Federal buildings.

I might say, representing California, when San Francisco was mentioned as a particular instance where such controls might be desirable, my own personal view as a representative of that State is that this bill is designed not to protect property particularly, but to protect people in the performance of their functions within those public buildings. And I am not willing to permit the Federal Government to pass laws governing the people of California in the performance or misperformance of their citizens' duties or obligations.

I am absolutely confident that the State of California is better equipped than is the Federal Congress to make these particular laws, and I hope we do not extend this into the areas in which the States have jurisdiction.

I would hope we would let the States make up their minds as to what conduct they desire to prevent their citizens from participating in, and we in Washington would not intrude in that area.

But the specific question I wanted to ask about the bill, I noted on 6(a) as contrasted with section 6(a)(2)(b), the conduct of the individuals described in section 6 from line 11 down to line 23 as contrasted with all other conduct is not qualified with the necessity of having scienter present. You have "knowingly" qualifying the conduct beginning on line 24, and you have "willingly" qualifying the conduct prohibited on line 2, page 3, but on the conduct described on lines 11 and 23, you have neither knowingly nor willingly nor apparently any scienter there at all.

I am curious why you omitted the necessity of these acts being done either knowingly or willingly.

Mr. BRESS. It was believed that it was unnecessary to spell out any.

Mr. WALDIE. Here we have scienter required for the misdemeanor in section (6). They have to know they are performing a misdemeanor and have to willfully do it, but in terms of performing the far more serious act, we do not require intent expressed.

I know intent must not necessarily be proved in any crime but why do you express it in terms of this misdemeanor and omit it in terms of the felony?

Mr. BRESS. Because of the very nature of the two different offenses. I think the theory was carrying a firearm into the Capitol Building was such a dangerous act that it was not necessary to spell out willfulness.

Mr. WALDIE. Why I am curious is that entering the House or remaining upon the floor of Congress with force and violence seems to me to be rather a serious act, and yet you require them to knowingly do that. It does not matter whether it is knowingly, it seems entering with force and violence and remaining on the floor of Congress ought to be prohibited.

Why do you require knowingly? Qualify that concept. Line 24.

Mr. BRESS. I see the place.

Mr. CRAMER. Could I indicate to the gentleman what my reaction would be to the question, and you can agree or disagree?

There is a statute presently on the books relating to carrying arms in the District of Columbia; is there not?

Mr. BRESS. Yes.

Mr. CRAMER. This says the act itself speaks for itself, and in that instance intent is not required. Is that correct?

Mr. BRESS. Intent is drawn from the act.

Mr. CRAMER. If anyone who carries a gun on the Capitol Grounds or in the buildings, knowing of the existence of this law, the intent is there. The act itself speaks for itself and intent is not required; is that correct?

Mr. WALDIE. It would seem to me the act of entering or remaining upon the floor with force and violence speaks for itself. Why qualify it with "knowingly"?

Mr. CRAMER. I personally do not think it needs to be qualified, do you?

Mr. BRESS. To enter or remain on the floor?

Mr. WALDIE. By force or violence.

Mr. BRESS. Willfully but without force and violence is made a misdemeanor. But if you do it with force and violence, it is made a felony, and that was the judgment—to exclude persons from entering by the use of that kind of means, it would be appropriate to impose a more severe penalty than one who merely entered.

Mr. WALDIE. I agree with that, but why did you add "knowingly"? Why does a person have to "know" he is remaining on the floor with force or violence?

Mr. BRESS. May I make clear, if I have not mentioned it, this bill was not drafted by the Department of Justice or by me. This was drafted by a Senate committee.

Mr. WALDIE. Then let me ask you as an attorney and representative of the Department of Justice, is "knowingly" necessary in there? Does it add anything and, if it does, why is it not included in the other felony?

Mr. BRESS. The only explanation I can give to that is that (a), (b), and (c) of 6(a)(1) are treated as more serious offenses in which intent or scienter would be inferred from the mere bringing in of the dangerous weapon. Whereas, it was felt to use force to enter the floor of the House, if a man made a mistake and had a fight with a

policeman and walked into the door not knowing it was the House floor, thinking it was some other chamber—

Mr. CRAMER. Knowingly applies to the entering and remaining?

Mr. BRESS. Right.

Mr. SNYDER. How could he make a mistake with force and violence?

Mr. WALDIE. The only comment I wanted to make was, it seems to me that a fellow could wander onto the Capitol grounds—I do not even know what constitutes the Capitol grounds—carrying a weapon. And I understand some people carry weapons in Washington at night for good and proper reasons of their own. They might wander on the Capitol grounds not even knowing where they are and yet he is not required to know he is on the Capitol grounds and is thereby guilty of a felony even though his wandering on those grounds was entirely innocent and a mistake.

Mr. CRAMER. It could be limited to protect such a fellow by providing the same limitation of the condition that it was knowingly done by him.

Mr. WALDIE. I would think whenever we are creating a felony, Mr. Chairman and members of the committee, we ought to require the man to know he is committing it, but we ought to exclude any possibility or probability of a fellow mistakenly committing a felony.

Mr. BRESS. I have the first draft of the Senate bill in which "knowingly" was in there, but the Senate committee saw fit to remove the requirement that carrying the weapon be knowingly done.

Mr. WALDIE. I have no further questions.

Mr. HOWARD. Maybe someone can help me with this, not being an attorney.

On page 3 where there is no mention of force and violence, if I were to read from 3 beginning on line 3 without the word "willfully," it would seem any constituent or citizen who might accidentally wander onto the House floor at 9:30 in the morning, and all you would have to do is walk through the doors if one of the guards happened to have his back turned, this person who accidentally wandered on the floor of the House with no violence at all would be subject to arrest and fine.

Is that true according to what I read on page 3 if the word "willfully" were not there?

Mr. BRESS. That is why the word "willfully" is there.

Mr. HOWARD. But there is no necessity for force and violence?

Mr. BRESS. That is correct.

Mr. HOWARD. Or even willfully, not knowing it is against the law, he could walk on the floor of the House at 9:30 in the morning, at which time he could be arrested and fined. It does not seem very fair to me.

Mr. BRESS. It is a way of regulating the privacy of the Chamber to prevent persons from coming in. If you want to change the rules so that persons could wander in at 9:30 in the morning, that can be done.

Mr. HOWARD. It is not necessarily what we want to do, but if a man and his wife and their children are walking through the Capitol in the morning and happen to end up on the House floor, I do not think they should be arrested or fined.

Mr. BRESS. I think the provision in 6(b)(1) is such that the rules of the House could declare that visitors may enter the Chamber at any time when the House is not in session.

Mr. HOWARD. I believe the latest ruling on that came down from the Speaker's office about 2 weeks ago and precluded anyone from being on the House floor when Congress is not in session unless accompanied by a Member of Congress. In fact, an administrative assistant or staff member may not bring people on to the floor during the morning as they could have up until a couple of weeks ago.

Mr. CRAMER. On this same point, the bill says "pursuant to rules adopted by that House," and they are rather restrictive, relating to the present gallery, et cetera. Some are set aside for families and, as I read last night, the balance is by permission of the Members. So that supposedly regulates the galleries.

We are talking here, however, about the floor of the House and "pursuant to authorization by the House" means, as I understand, whatever rules and regulations the Speaker, who has the delegated authority, might wish to promulgate.

Mr. BRESS. Yes.

Mr. CRAMER. Actually, this gives the Speaker the flexibility to promulgate regulations. They have policemen there at all times at the Cloakroom and other doors to see those regulations are carried out. So under those circumstances, I think the Speaker would continue to have the proper surveillance available to make sure of this. If somebody with the policeman there forces his way in contrary to regulations, we cannot help it.

Mr. HOWARD. You said forces his way in. If he does not force his way in and just wanders in, he is still subject to arrest?

Mr. BRESS. Not if he wanders in because it is then not willfully.

Mr. HOWARD. Suppose when he walks in on the House floor, he does not know he is not permitted to go there and the policeman just is not there?

Mr. BRESS. If it is willful and if he does not come under the exception or the proviso in the rule that unless such person is authorized pursuant to rules adopted by the House or pursuant to authorization given by the House, then technically that would be a misdemeanor.

Mr. HOWARD. Mr. Chairman, I would hope with all the lawyers in the House of Representatives and on this committee and downtown and everywhere else, we would be able to write the bill so we would be able to prevent any arrests due to accidental wandering onto the floor.

Mr. CRAMER. That is why "willfully" and "knowingly" are in there. Nobody is going to prosecute anybody if he accidentally walks into the House.

Mr. HOWARD. He just said they could.

Mr. CRAMER. But there would be no prosecution.

Mr. BRESS. I think the Congressman meant that he would like to see the same limitation put in (b)(1) that we have in (b)(3) and (4), that is, with intent to disrupt proceedings. That would certainly do it.

But the Senate preferred to have a ban on entry in violation of rules when that entry was willful and whether or not there was an intent to impede or disrupt proceedings.

Mr. HOWARD. I think you have to realize, too——

Mr. CRAMER. If you do it willfully, you have to know you are doing it against the regulations, right? You have to be aware of the regulations, have to know you are not supposed to be in there and go there anyway. So that takes care of the gentleman's question, I think.

If you go in accidentally, you do not knowingly violate the rules, do you?

Mr. HOWARD. I am not sure the Government would have to prove that the defendant knew the rules of the House. I think the willfulness means the voluntary and affirmative act of going on into the Chamber.

Mr. SULLIVAN. Are you saying that willfully and knowingly are not the same thing here? This section has "knowingly" on line 24 and "willfully" on line 2. Does "willfully" include "knowingly," in your opinion?

Mr. BRESS. I cannot point to any real distinction in those two terms.

Mr. SULLIVAN. In other words, you are saying they are interchangeable, that they are still the same thing, actually?

Mr. BRESS. I believe so.

Mr. SULLIVAN. Thank you.

Mr. CRAMER. We wrote "willfully" into the Civil Rights Act, title 2, on the floor of the House; and we wrote "knowingly" in the antiriot bill, and it was the same thing.

Mr. BRESS. I do not see any real difference.

Mr. WALDIE. Mr. Chairman, why could not that section (b)(1) read that—

Anyone who enters knowingly and willfully in violation of the rules of the House and/or with intent to disrupt the orderly conduct of official business.

How would that weaken the present wording?

Mr. BRESS. The entering or remaining with intent to disrupt is covered separately in subparagraph 3. But you see that relates to any room within any of the Capitol buildings and it was felt by the drafters of the bill that if there is an intention to impede or disrupt, that should be an offense even though it was not on the floor of the House, but the floor of the House was so much more important than an ordinary waiting room in the Capitol that it was unnecessary to show there was an intention to disrupt or impede if there was this improper entry on the floor. So there is no requirement for an intent to disrupt in (b)(1) or (b)(2), but there is in (3) and (4).

Mr. CRAMER. As U.S. attorney for the District, would you bring a suit against somebody under this language who accidentally goes in on the floor contrary to the rules?

Mr. BRESS. I would think the discretion I have would certainly be exercised against any such.

Mr. HOWARD. Could you?

Mr. BRESS. The answer is that there is a technical violation and a prosecution could be brought, but the area of prosecutor's discretion is such it is highly unlikely or inconceivable one would be brought.

Mr. WALDIE. But they have committed a crime?

Mr. BRESS. Yes.

Mr. HOWARD. Is there any way you could write it so they would not commit a crime under those circumstances?

Mr. BRESS. Yes, you could.

Mr. HOWARD. I think we should write it.

Mr. ROBERTS. I want to say to start with, I do not think there should be the possibility of the committee passing out any legislation where discretion is left to anybody. He may not be here very long.

To start with, I do not know whether the present prosecutor would or not, but the guy that follows him might. We are in this position: If you send your administrative assistants over to clip something out

of the newspaper from the Speaker's lobby, he knows it is a violation of the law. If you want him to go over and get a newspaper from your district and clip something out of it, he is in violation. Of course it is ridiculous.

I would like to ask one other question.

Mr. BRESS, what is the position of a member of the Armed Forces coming over here and bringing under arms a letter, a communication, to the Armed Services Committee or Appropriations Committee or something else when he walks in that door? Unless he has specific permission from the Clerk of the House or somebody else, he is in violation, is he not?

As a member of the Armed Services, he is armed and bringing something over here, but there is no provision for it.

Mr. BRESS. I think the regulations would take care of it.

Mr. ROBERTS. But it is not our responsibility to let somebody else do the legislating; Congress has to do it. This is why we are going to pass a law, not somebody else writing something. We do not know what he is going to write. It is our responsibility to take care of it.

You can send a squad of Marines over here under arms to transport something to the chairman of the Armed Services Committee, and they are in violation.

This is just another attempt, in my estimation, of somebody to try to deprive the law-abiding citizen of having a gun around or anything else to protect himself.

Would you advise us as to what the situation would be with reference to the member of the Armed Services who comes over here under orders with a gun on him?

Mr. HARSHA. I think section 1, page 2, takes care of that.

Mr. ROBERTS. I do not believe so. So far the distinguished prosecutor has not seen fit to agree.

Mr. BRESS. I have not had a chance to answer you yet.

Mr. CRAMER. The military under the basic law has the authority to carry weapons?

Mr. ROBERTS. They will not have under this.

Mr. CRAMER. We are not repealing that, are we?

Mr. ROBERTS. It does not make any distinction.

Mr. CRAMER. I will ask the witness. Does it?

Mr. BRESS. I think this would supersede any right of the military to carry weapons.

Mr. CRAMER. The Capitol Police Force, as drafted in the legislation, should include it in its regulations.

Mr. BRESS. I think it would be the most direct way to do it.

Mr. ROBERTS. But we should put it in the law.

I have no objection to the bill if we rewrite it to say what we mean. As far as giving the discretion to some employee, I do not agree at all.

Mr. SNYDER. That may come under page 5, line 8:

None of the general laws of the United States and none of the laws of the District of Columbia shall be superseded by any provision of this Act.

I am not saying that does. I am inquiring as to whether or not that might be the answer.

Mr. ROBERTS. I think it would be real simple to write it in.

Mr. DENNEY. Mr. Chairman, I am concerned. We are passing upon a criminal law here and yet section 6, page 2, line 7, says "It shall be

unlawful" and specifies what the acts are, "except as authorized by regulations promulgated by the Capitol Police Board."

I do not think you can pass a criminal law that leaves it up to a group of people to enact exceptions to the criminal law.

Mr. ROBERTS. I was coming to that.

Mr. CRAMER. Will you answer that question for the members?

Mr. BRESS. It is my opinion that this can be properly done, that the Capitol Police Board can be authorized by the regulations to carry guns on the Capitol Grounds.

Mr. DENNEY. That is not what it says. It says they shall set the exceptions to the criminal acts specified in (a), (b), and (c).

Mr. CRAMER. They can except the military and Capitol Police. The present law under the Capitol Police Board does it.

Mr. DENNEY. How can a legislative body delegate to an appointive body the right to make exceptions under a criminal act?

Mr. CRAMER. Is that not the present law?

Mr. BRESS. Yes; and that is done frequently.

Mr. DENNEY. I know it is done, but has it ever been tested out in the courtroom?

Mr. BRESS. I cannot cite a case on it, but it is my impression.

Mr. DENNEY. I know in my State we have had that specific problem and they say the legislative body cannot delegate authority to the administrative body or appointive body to make exceptions to the criminal law.

I think we are getting into real trouble.

Over here on page 3, I think the legislative body can delegate to the Speaker, who is a Member of that body.

Mr. CRAMER. We have a police board that is made up of the Sergeant at Arms of the House, elected by the House; the Sergeant at Arms of the Senate, elected by the Senate; and the Capitol Architect, appointed by the Speaker, and the Public Buildings Commission, which is made up in the House of the senior Democratic Member, which is Mr. Celler, and on our side Mr. Goodell. So they are Members of Congress who appoint the Architect and that is the Board that makes the decisions of what the exceptions would be.

Mr. DENNEY. Would it be just as good law "except as authorized by regulations which shall be promulgated by the Congress" and pass it by resolution? Why designate a group of appointees?

Mr. CRAMER. That is the present law under title 40:

The Capitol Police shall police the U.S. Capitol Buildings and Grounds under the direction of the Capitol Police Board consisting of the Sergeant at Arms of the U.S. Senate, the Sergeant at Arms of the House of Representatives, and the Architect of the Capitol.

So this follows the pattern of present law.

Mr. WALDIE. If you were to add on page 3(b)(1), on the problem that has troubled me and others, where the family might accidentally walk in, the sentence the Senate took out, or phrase, "with intent to disrupt the orderly conduct of official business", you remove all doubts that anybody could accidentally commit a crime. Is that right?

Mr. BRESS. Yes, sir.

Mr. WALDIE. So there would be no problem if you added that?

Mr. BRESS. But suppose a person enters and did not intend to disrupt at all, he just wanted to sit and observe from the floor instead of from the gallery?

Mr. WALDIE. With the qualification, unless such a person is authorized pursuant to the rules, that person would not be authorized and you could evict him.

What is the case under the present law in this hypothetical situation you pose?

Mr. BRESS. Under the present law his entry would constitute a misdemeanor for which the maximum penalty would be \$50 as was recently exemplified by those who threw leaflets over the gallery of the Senate.

Mr. WALDIE. You mean if he just entered? Does the present law have the qualification with intent to disrupt the orderly conduct of business?

Mr. BRESS. There is no present law—by law, you mean statute. I do not know about any rule within the House itself but there is no law that deals with anything within the Capitol.

Mr. WALDIE. Those fellows who threw the leaflets onto the Senate floor, did they not break the law?

Mr. BRESS. Only the District of Columbia disorderly conduct statute.

Mr. WALDIE. Does that not require their conduct be disorderly?

Mr. BRESS. Yes. But it was felt in the Senate whether or not it was disorderly or disruptive, there had to be a rule from the point of view of the Senate committee that would prohibit persons from coming in willfully on to the floor of the House or Senate without permission, and making it a misdemeanor was the solution.

Mr. WALDIE. If they come in without permission, is it not thereby assumed they have disrupted the orderly conduct of business?

Mr. CRAMER. Suppose it is not in session.

Mr. WALDIE. I do not presume the "orderly conduct" requires actual business, I presume it is not defined as a session of Congress or committee, is it?

Mr. BRESS. No, sir.

Mr. WALDIE. It is just the operation of the facility of the U.S. Capitol?

Mr. BRESS. This (b)(1) does not relate to the offense being limited only to situations when the House is in session. The House may be out of session and the offense may still be committed.

Mr. WALDIE. If the House is out of session and a fellow comes in there and sits down, should he be subject to arrest and fined \$500?

Mr. BRESS. The Senate felt there ought to be areas in the Capitol—

Mr. WALDIE. Even though not committing any disorderly conduct, the person is just tired and wants to rest.

Mr. BRESS. The converse would be that every person could with impunity walk into the Chamber of the House or Senate at any time when it is not in session and congregate there.

Mr. WALDIE. Yes, I suppose that would be the converse, but it does not desperately offend me as long as they behave themselves. The Capitol belongs to them—it is not the exclusive property of the members of Congress.

Mr. BRESS. I can visualize situations where it could become a club-room and might be inconvenient for Members of Congress the following day or when the session resumed.

Mr. FALLON. Mr. Bress, back on March 1, 1954, we had some Cuban nationals demonstrate in the gallery. At that time they shot five

Members, wounded five Members. I happened to be present on the occasion. They were prosecuted and were given 40 years apiece. Under what law were they prosecuted?

Mr. BRESS. Under the District of Columbia statute relating to assault with a dangerous weapon and assault with intent to kill. And those statutes are not in any way affected by this legislation. On the contrary, this legislation expressly declares it does not supersede the continuing effect of other laws of the United States or the District of Columbia.

Mr. FALLON. I certainly would not want to see anything we are doing here today repeal any law that was used in the punishment given those people, if it happened in the future.

Mr. BRESS. Mr. Chairman, I can state from a review of the current bill, which I began yesterday afternoon, that there is nothing in it which treats more lightly anything that exists today. The only change is the more thorough treatment and the more severe treatment.

But there is one—and I think Congressman Cramer would be concerned with this—there is one conclusion in this bill which is a carryover from the Senate bill which is erroneous, and which ought to be deleted. That is at the top of page 6, paragraph (d), new 8(d), that says that "the proviso contained in section 12 of that act is repealed."

That proviso relates to permitting parades down Louisiana Avenue, and it got into the Senate bill because the Senate was in its earlier draft lifting the ban on parades. Therefore, they gave permission in the proviso to parade down Louisiana Avenue.

Now, since section 7, 193(k) of title 40, United States Code, continues in effect, the ban on parades and demonstrations on the Capitol Grounds, it would be inappropriate to repeal the proviso of 193(k). I therefore suggest that paragraph (d) at the top of page 6 be stricken.

Mr. CRAMER. Section 193(g) authorizes the Capitol Police Board to grant permission to the District of Columbia authorities to permit the use of Louisiana Avenue for any purpose prohibited by section 193(g), which is parades and assemblies.

In other words, the present law permits no parades except on Louisiana Avenue when they are permitted by the Commissioners?

Mr. BRESS. Yes, and this would repeal that.

Mr. FALLON. Does it mean they could parade without a permit or not at all?

Mr. BRESS. They could not parade at all.

Mr. CRAMER. You understand the other body does not intend to carry this proviso forward?

Mr. BRESS. I am satisfied it is inadvertent, although I have no communication officially to that effect.

Mr. SCHADEBERG. Does the Capitol Buildings include the House Office Buildings?

Mr. BRESS. It does now under this definition of Capitol Buildings.

Mr. SCHADEBERG. It does not affect me because I do not carry firearms or do not have any in my office, but page 22, section 6(a)(1)(a) says:

It shall be unlawful for any person or group of persons to carry on or have readily accessible to the person of any individual upon the United States Capitol grounds or within any of the Capitol Buildings any firearm, dangerous weapon, explosive, or incendiary device.

Does this apply also to Congressmen in their offices?

Mr. BRESS. Under the exclusion on page 4 in paragraph 7(c) it does not apply except when they are in the performance of their official duties. It would apply otherwise unless excluded by the regulations.

Mr. SCHADEBERG. Thank you. I wanted to be sure there is not any possibility we apply one law to individuals and another one to the Congressmen.

Mr. SNYDER. Mr. Chairman?

Mr. FALLON. Mr. Snyder.

Mr. SNYDER. On section 8(d) which we were discussing earlier, am I correct in my assumption it is the general criminal law of the United States that jurisdiction for prosecution vests within the jurisdiction where the act is committed?

Mr. BRESS. Yes.

Mr. SNYDER. Is it your idea that subsection (c) of section 8 has to do with venue?

Mr. BRESS. I do not see any problem of jurisdiction or venue here.

Mr. SNYDER. Does it include a crime that takes place out of the jurisdiction of the District of Columbia?

Mr. BRESS. Yes.

Mr. SNYDER. The bill does include conspiracies to commit these crimes. You have suggested that the word "shall" with regard to the general sessions court should be changed to "may." I am wondering if we are running into some conflict. "Shall" appears a couple of sentences before that on line 16. If a conspiracy to commit one of these acts occurs in some other jurisdiction, that district court would then have jurisdiction of that crime, would they not?

Mr. BRESS. Jurisdiction where the conspiracies occurred, yes.

Mr. SNYDER. Even though the conspiracy were committed, for instance, in Kentucky, to come to Washington and go upon the Capitol Grounds there and commit some of the acts that are prohibited under this proposed legislation, then jurisdiction for prosecution of that case would fall with the district court either in the eastern or western district of Kentucky, wherever it might occur.

Are we by using the word "shall" in line 16 getting ourselves into a box in regard to the question of jurisdiction, or does this section only apply to venue?

You see the problem I have in my mind. Maybe it is all right.

Can you clear it up?

Mr. BRESS. This does not supersede, I am sure, the Federal conspiracy statute and the conspiracy you are hypothesizing could be prosecuted in Kentucky, but if the conspiracy was to commit an act in violation of this statute in the District of Columbia, that is where the impact of the unlawful agreement was to occur.

Mr. SNYDER. I am not talking about the general Conspiracy Act, I am talking about 8(d), line 5, on page 5, "violations of this act, including attempts and conspiracy." So that this act calls for prosecution of people conspiring to violate this act, they be prosecuted under this particular piece of legislation.

Mr. BRESS. I understand your question.

Mr. SNYDER. Your answer was, we could prosecute them under the general Conspiracy Act and maybe that is sufficient, but we are apparently attempting in this legislation to provide for prosecution of

conspirators who violate this act and to provide for the prosecution under this act, and I am afraid we are with our "shall" down below here getting a jurisdictional problem.

I am not as well versed in this as you are and I wanted to clear it up.

Mr. BRESS. I would say that a conspiracy out of the District of Columbia to permit a violation of this act within the District of Columbia is a conspiracy which could be prosecuted in the District of Columbia, and if that is prosecuted in the District of Columbia this 8(c) provides that the proper and only court that it should be tried in the District is in the U.S. district court.

Mr. SNYDER. For the District of Columbia?

Mr. BRESS. For the District of Columbia.

Mr. SNYDER. And this, according to your opinion, then does not violate the general concept of jurisdiction that we have of the laws of the United States, that is prosecution of claim within the jurisdiction where the crime was committed.

Mr. BRESS. Yes; but in conspiracy the crime is committed both in the jurisdiction where the unlawful agreement was entered into and in the jurisdiction where the overt act pursuant to the conspiracy was committed, or where it was to take place.

Mr. SNYDER. In other words, the overt act does not have to take place in the District in order to give the district court where it would have taken place jurisdiction to try that conspiracy. Is that correct?

Mr. BRESS. I believe so but I am not certain.

Mr. SNYDER. I am not certain, either. I must confess you would be more knowledgeable about this than I am. It strikes me that this could constitute a problem where some sort of work on the language should be corrected.

Mr. CRAMER. The gentleman has raised a good question. Would this be covered under title 18, those conspiring to accomplish these acts?

Mr. BRESS. Title 18 conspiracy statute would certainly apply.

Mr. CRAMER. It would apply?

Mr. BRESS. Yes.

Mr. SNYDER. What is the penalty under that section? Do you know offhand?

Mr. BRESS. Section 371. I haven't title 18 here. I think it is 3 years. It varies with a misdemeanor or felony. If the conspiracy is to commit a misdemeanor the maximum penalty is 1 year, but if the conspiracy is to commit a felony my recollection is 3 years.

Mr. SNYDER. I would like to suggest that you give some thought to this problem that I have presented when you study this section and give the committee your advice after study in this regard. I would like to have your opinion.

I know as a prosecutor you are not in a position to make judicial determinations for us, but I would like to know what you normally consider is the lawful discharge of his official duties in reference to the exemption provided for Members of Congress. Is just the presence of a Congressman part of official duties?

Mr. BRESS. No, not mere presence. That is not enough to justify physical combat.

Mr. SNYDER. I am not taking that aspect into account. Again I am presupposing that at some future date there might be a situation occurring in Washington which might be comparable to what we have seen this past summer in some of the major cities.

A Member in his own discretion might feel it advisable for him to perform his official duties and he might need some protection stuck in his pocket, and the question that occurs to me is whether he would be subject to prosecution for carrying a weapon under those circumstances. I refer to the act as it is written.

Mr. BRESS. I think if the carrying of the gun can be stretched to the point of being incident to his protection for the purpose of enabling him to discharge his duties, then I would think that the carrying of the gun would not be a violation under the section as now drawn.

Mr. CRAMER. In any event, subject to regulations by the Board. Is that correct?

Mr. BRESS. I think the question contemplated no regulation that takes care of it but simply on this statute.

Mr. SNYDER. That is correct.

Mr. BRESS. I would say that if a Congressman carried a gun to get through a riot area in order to come to a session of the Congress, and that was done for the purpose of enabling him to get there and to protect himself in the process, I would think this section would give him immunity from prosecution.

Mr. CRAMER. Or if he had the gun in his office and though it was essential, he had reason to think some of these people might invade his office.

Mr. BRESS. If that was the purpose for the gun in the office I think the prosecution would be loath to proceed.

Mr. SNYDER. I would say to the gentleman that I hope you leave your testimony that way. Some of us might want to rely on it in the future.

Mr. BRESS. I have no control over it after I leave.

Mr. CRAMER. I would contemplate that the Capitol Police Board would make proper regulations relating to Members, Armed Services—

Mr. BRESS. District of Columbia Police.

Mr. CRAMER. Witnesses, such as those before the Dodd committee who have to bring in exhibits, marshals, sheriffs, jail wardens, Army and Navy and Marine Corps and National Guard, and so forth.

I assume that this exists at the present time in the code? Such exceptions are made?

Mr. BRESS. Oh, yes.

Mr. CRAMER. I would assume it is difficult to write in every exception. That is the reason I went along with this language even though I recognize the problem the gentleman from Nebraska raises. It is not a constitutional question now, is it, but a matter of discretion of the Congress.

Because of the nature of some hearings, such as the Dodd hearings, it would be difficult to write a law which would be flexible enough in exceptions as compared to a regulation which could be changed and take into consideration what Congress has to do.

Mr. BRESS. Yes, and the same would be true so far as construction work is concerned either on Capitol Hill or nearby where explosives might be necessary for new construction.

Mr. SNYDER. I have no further questions, Mr. Chairman.

Mr. WALDIE. If a fellow came into this room and we were in executive session and he had no intention of interrupting the conduct of official business, would he violate this statute?

Mr. BRESS. No, sir.

Mr. WALDIE. If 40 people came in with no intention to disrupt the orderly conduct of business while we are in executive session and sat in this room, would they violate the statute?

Mr. BRESS. If your question assumes that 40 people together coming in establish the fact that there is no intention to impede, disrupt, or disturb, that would not be a violation.

Mr. WALDIE. It assumes that.

Mr. CRAMER. During executive session we are behind locked doors.

Mr. WALDIE. They were in here before you locked the doors.

If those same 40 people came into the gallery with no intention to disrupt orderly business, that same one person came into the gallery with no intention of disrupting orderly business, he would be subject to prosecution?

Mr. BRESS. Under B-2, yes.

Mr. WALDIE. Or if he came into the Rayburn Room, which is off the hall of the floor, he wandered in there, there are no doors in that room, and sat down.

Mr. BRESS. If wandering is not willful—

Mr. WALDIE. He willfully went in there. He knew it was the Rayburn Room, it was inviting and it has nice chairs. He didn't intend to interfere with orderly business. He would be subject to prosecution under this statute?

Mr. BRESS. That is correct, unless the person arresting him called it to his attention and he said "Oh, I am sorry, I didn't know this was the Rayburn Room." I am sure he would just be ushered out, then.

Mr. WALDIE. Why is it in your view or Mr. Cramer's view, the proponent of the bill, why is it more important to prevent the man from sitting in the gallery of the House of Representatives when we are not even in session, why is that more of an onerous act subject to prosecution than a fellow coming in here in executive session and sitting down? What is the distinction here?

Mr. CRAMER. One to preserve the integrity of the floor of the House.

Mr. WALDIE. Where does the Rayburn Room affect the integrity of the floor of the House? You meet with your staff, guests from out of town, et cetera, there. There is no integrity of the floor involved in the Rayburn Room. Yet that is given high priority to protect its sanctity, whereas this committee room, where there is really official business being conducted, is not extended the same priority.

What is the distinction?

Mr. FALLON. I believe when the committee is here in executive session the only experience we have ever had, for instance today, we announce we are going into executive session, and anybody who does not have business before us leaves the room.

Mr. WALDIE. And they should.

Mr. FALLON. They have done this in the past.

You are talking about one man who refuses to leave after he is told that the committee is in executive session and he has no business in the room.

I would suggest then that in that case we call the police and remove him.

Mr. WALDIE. I think you are right, Mr. Chairman. The point is that this statute demands that he be there with intent to disrupt the orderly conduct of official business, whereas if he is just sitting in the

Rayburn Room off the floor of the House he does not have to be there with that intent and he is violating the law.

Mr. FALLON. The reason for including the Rayburn Room in the bill is because the Senate put their Marble Room into the bill.

If there is that distinction in the Senate side we should have something comparable on the House side.

Mr. SNYDER. Mr. Waldie's point is well taken but we should not ask this witness "why." He didn't draw the bill.

I think he is doing a good job for us in explaining what the bill would do legally. I don't think we should expect him to know the answer to why a word is or is not in this bill.

Mr. WALDIE. I didn't really want an answer. I assumed when I asked the question that there really was no answer to it. I asked the question to point out what I think are some ambiguities.

Mr. SNYDER. Since he did not draw the bill he would not really know why.

Mr. WALDIE. In a criminal statute there should not be ambiguities.

Mr. BRESS. I don't think that is an ambiguity, sir. I think to defend that provision the only justification is that there is the desire on the part of the drafters of the two sections to throw a cloak of greater safety and integrity, if you want to use that word, around the House and gallery than it does around committee rooms.

Mr. WALDIE. One final question and I will ask no more, I assure you.

Why is the gallery language, actions that take place in the gallery, why are they treated differently from actions taking place around the floor and in the Rayburn Room? The qualification in the other areas states "Unless such person is authorized," and so on. Are there different standards for conduct in the gallery from conduct in the Rayburn Room or on the floor?

Mr. BRESS. There appears to be a difference.

Mr. WALDIE. What is the difference?

Mr. BRESS. The difference is that with respect to the floor of the House there is the provision for modification by rules; whereas there is no such provision—

Mr. SCHWENGEL. Mr. Chairman?

I am having trouble hearing, Mr. Chairman.

Would the witness speak up, please?

Mr. BRESS. Paragraph 2, as I understand the question, why is there different treatment given to the floor than to the gallery?

Mr. WALDIE. Is there a different treatment or do you say the same thing in different ways?

Mr. BRESS. I believe so. This talks about the rules to enter or remain in the gallery which may be made by the House, entry or remaining in the gallery in violation of those rules is an offense.

Mr. WALDIE. That is the same thing in the cloakroom.

Mr. BRESS. Yes.

Mr. WALDIE. You could have omitted 2 and added the word "gallery" in 1 and have the same effect.

Mr. BRESS. I think so.

Mr. WALDIE. I have no further questions.

Mr. BRESS. Mr. Chairman, there is one proposed change that I would like to make if you would like me to state it, a change in the proposed bill.

Mr. FALLON. What is the point again?

Mr. BRESS. I want to suggest something concerning the subject of parading, demonstrating, and picketing.

This bill now prohibits one to parade, demonstrate, or picket within any of the Capitol buildings. It says nothing about the Capitol Grounds.

The reason why it is silent is because 40 United States Code 193(g) prohibits parades on the Capitol Grounds.

Since this bill does not amend 193(g) we have 193(g) saying that it is forbidden to parade, stand, or move in processions or assemblages in the Capitol Grounds.

The present statute does not forbid a demonstration or picketing, and since they would therefore call for different language on what can be done on the grounds and what can be done in the buildings some improper inference might be drawn that possibly one is permitted to demonstrate and picket on the grounds and not in the buildings.

Therefore it was my suggestion that the words "demonstrate or picket" be included as an amendment in 193(g), either in addition to or as a substitute for the word "stand" which now appears in that section.

Mr. CRAMER. Cite the section again, please, where you suggest the amendment.

Mr. BRESS. Section 7 of the act of July 31, 1946, section 193(g) 40 United States Code. This is not touched by the pending bill.

Mr. CRAMER. I don't think there is a distinction between what is done in the building and on the grounds. It is obvious doing some of these things in the building has a more onerous effect than doing it on the outside.

Mr. BRESS. That is correct, sir.

My point was that you are now for the first time in the whole Capitol Grounds-Capitol buildings statute bringing in the words "demonstrate or picket" and you are making those words applicable only within the buildings.

Mr. CRAMER. I understand.

Mr. BRESS. There is no express prohibition against demonstrations or picketing outside of the building.

Mr. CRAMER. Depending on how you define "demonstrate."

Mr. BRESS. It has the word "stand" in there, also.

Mr. CRAMER. Stand or move in processions or assemblages. It is a pretty good definition of demonstrating, is it not?

Mr. BRESS. The fact that the two are not parallel may create some problem.

I think it can well be argued that a demonstration might involve a sitdown. If you have 10,000 people sitting down then they are neither parading, nor are they standing or moving in processions, yet they are sitting on the Capitol Grounds in the demonstration.

Mr. CRAMER. They have to have some way to get there. They have to move to get there.

I frankly do not think we should tamper with it because there are some problems related to that present law.

Mr. BRESS. I felt I should call it to your attention.

Mr. CRAMER. If you open that up you will open up Pandora's box in the other body.

Mr. FALLON. Any other questions?

Mr. ROBERTS. Along with your recommendations, I notice the agency mentions filing suit. Do you see where they have filed suit to prohibit large groups from demonstrating in front of the White House? I think they allow 100 to picket at the White House.

Mr. BRESS. They are predicating that on the first amendment grounds. I think the same problem would apply to limitations at the Capitol area.

Mr. FALLON. Any other questions?

Mr. BRESS. This provision for the limitation within the building would probably be free from any constitutional attack.

Mr. OLSEN. Out in the public sidewalk——

Mr. BRESS. Under the provisions of the Constitution it has to be a clearly defined and precise kind of limitation related to a specific purpose of preserving the orderly activities of the institution whose activities are sought to be protected in order to warrant that kind of limitation on first amendment rights.

Mr. FALLON. Thank you very much, Mr. Bress, for your appearance here this morning.

The committee will now sit in executive session for further consideration of the bill.

Mr. BRESS. Thank you, Mr. Chairman.



