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**Y4 ADDITIONAL TOLL BRIDGES ACROSS
THE DELAWARE RIVER**

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(No. 87-26)

GOVERNMENT
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HEARING
BEFORE THE
COMMITTEE ON RIVERS AND HARBORS
OF THE
COMMITTEE ON PUBLIC WORKS
HOUSE OF REPRESENTATIVES
EIGHTY-SEVENTH CONGRESS
SECOND SESSION

ON

H.R. 5604

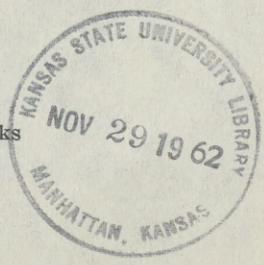
TO AMEND THE ACTS OF MAY 21, 1926, AND JANUARY 25, 1927,
RELATING TO THE CONSTRUCTION OF CERTAIN BRIDGES
ACROSS THE DELAWARE RIVER, SO AS TO AUTHORIZE THE
USE OF CERTAIN FUNDS ACQUIRED BY THE OWNERS OF SUCH
BRIDGES FOR PURPOSES NOT DIRECTLY RELATED TO THE
MAINTENANCE AND OPERATION OF SUCH BRIDGES AND
THEIR APPROACHES

H.R. 9376 AND H.R. 9379

TO AMEND THE ACT OF JULY 13, 1946, TO AUTHORIZE THE
CONSTRUCTION, MAINTENANCE, AND OPERATION OF CERTAIN
ADDITIONAL TOLL BRIDGES OVER OR ACROSS THE DELAWARE
RIVER AND BAY

JULY 25, 1962

Printed for the use of the Committee on Public Works



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ADDITIONAL TOLL BRIDGES ACROSS THE DELAWARE RIVER

WEDNESDAY, JULY 25, 1962

HOUSE OF REPRESENTATIVES,
COMMITTEE ON PUBLIC WORKS,
SUBCOMMITTEE ON RIVERS AND HARBORS,
Washington, D.C.

The subcommittee met, pursuant to call, at 10:10 a.m., in room 1302, New House Office Building, Hon. George H. Fallon presiding. Mr. FALLON. Gentlemen, the Subcommittee on Rivers and Harbors of the Public Works Committee is meeting this morning for the consideration of several bills.

The first item on the agenda this morning is H.R. 5604, introduced by Representative Thompson of New Jersey.
(H.R. 5604 follows:)

[H.R. 5604, 87th Cong., 1st Sess.]

A BILL To amend the Acts of May 21, 1926, and January 25, 1927, relating to the construction of certain bridges across the Delaware River, so as to authorize the use of certain funds acquired by the owners of such bridges for purposes not directly related to the maintenance and operation of such bridges and their approaches

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act granting the consent of Congress for the construction of a bridge across the Delaware River at or near Burlington, New Jersey", approved May 21, 1926 (44 Stat. 588), is amended by adding at the end thereof the following new section:

"SEC. 9. Nothing contained in this Act shall be construed to prohibit, or shall prohibit any public agency, which now or hereafter may own such bridge and its approaches, and which has paid the principal and interest on all its outstanding indebtedness and has on hand capital funds derived from sources other than toll revenues in excess of the amount determined by said public agencies, to be required for the maintenance, repair, operation, reconstruction, replacement and modernization and improvement of such bridge and its approaches, from paying such surplus, or any part thereof, to the county of Burlington, in the State of New Jersey, for its use in the acquisition, construction, improvement, or enlargement of said county's facilities, buildings, and roads."

SEC. 2. The Act entitled "An Act granting the consent of Congress to Tacony-Palmyra Bridge Company to construct, maintain, and operate a bridge across the Delaware River at Palmyra, New Jersey", approved January 25, 1927 (44 Stat. 1024), is amended by adding at the end thereof the following new section:

"SEC. 9. Nothing contained in this Act shall be construed to prohibit, or shall prohibit any public agency, which now or hereafter may own such bridge and its approaches, and which has paid the principal and interest on all its outstanding indebtedness and has on hand capital funds derived from sources other than toll revenues in excess of the amount determined by said public agencies, to be required for the maintenance, repair, operation, reconstruction, replacement and modernization and improvement of such bridge and its approaches, from paying such surplus, or any part thereof, to the county of Burlington, in the State of New Jersey, for its use in the acquisition, construction, improvement, or enlargement of said county's facilities, buildings, and roads."

Mr. FALLON. Mr. Thompson, on behalf of the committee, may I welcome you before this committee this morning? Do you have a

prepared statement, or, if you wish to make an oral statement, go right ahead.

**STATEMENT OF HON. FRANK THOMPSON, JR., A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF NEW JERSEY**

Mr. THOMPSON. Thank you very much, Mr. Chairman and members of the committee, for this opportunity. I would like to express my sincere appreciation.

The bill, H.R. 5604, would amend the acts of 1926 and 1927 relating to the construction of certain bridges across the Delaware River, so as to authorize the use of certain funds acquired by the owners of such bridges for purposes not directly related to the maintenance and operation of such bridges and their approaches.

I wish, Mr. Chairman, there was time to describe in full detail the history of the funds referred to in my bill. They were acquired as the result of court action after the most fascinating and complicated bit of political chicanery in history.

The funds in question here, the sum of \$1,300,000, resulted from a 1952 judgment of the New Jersey Supreme Court entered in the case of *Driscoll v. The Burlington County Bridge Commission*. Driscoll was Republican Governor Alfred E. Driscoll of New Jersey, a two-term Governor of our State. The Burlington County Bridge Commission purchased the two bridges in question from a syndicate in 1948. The purchase was arranged in a very secretive manner, and the members of the syndicate made enormous profits from the sale.

After a lengthy and complicated litigation, a sizable part of the purchase price was required to be returned.

At a time when the State was moving to acquire the two bridges in Burlington and Palmyra under the condemnation procedures set forth in the congressional acts, the syndicate, headed by a former State senator from Burlington, purchased them and shortly thereafter resold them to a hastily formed bridge commission. In a procedure arranged beforehand, the commission paid for the bridges by issuing \$12 million worth of bonds.

Governor Driscoll, through his attorney general, sued to void the transaction. The Supreme Court of New Jersey let it stand, but ordered various members of the syndicate to repay to the commission more than \$3 million in what they called exorbitant profits. The money repaid to the bridge commission is referred to in this bill as "capital funds derived from sources other than toll revenues."

Under the terms of this bill, Burlington County would be freed from any Federal restrictions upon its using these funds for the acquisition, construction, improvement, or enlargement of the county's facilities, buildings, and access roads.

I see that my colleague, Mr. Auchincloss is here, and I am sure he would remember this Burlington Bridge deal. It is important, Mr. Auchincloss, for us to remember that not five cents of this money has ever been derived from toll revenues. It all comes from the judgment which Governor Driscoll, and a great friend, incidentally, of Mr. Auchincloss, Attorney General Parsons, recovered.

The legislation has been approved by the various departments in both this administration and the preceding one.

On September 14, 1959, I introduced the Burlington Bridge bill, which is identical to the measure you are now considering. Eleven

months later the Department of the Army and the Bureau of the Budget cleared the bill for congressional action. Secretary Brucker informed the Honorable Charles A. Buckley, chairman of this committee, "The Department of the Army interposes no objection to the above-mentioned bill. No expenditure of Federal funds would result from the enactment of the bill. The Bureau of the Budget advises there is no objection to the submission of this report."

Departmental clearance came so late, however, that it was not possible to obtain enactment in the 86th Congress. The bill now under consideration, H.R. 5604, was approved last August by the Department of the Army and the Department of Commerce and the Bureau of the Budget. Secretary of the Army Stahr and the Under Secretary of Commerce for Transportation, Clarence D. Martin, Jr., stated in letters to the honorable chairman of the Committee on Public Works that their respective Departments interposed no objection to H.R. 5604, and pointed out that no Federal-aid highway funds were involved in the construction of these bridges, and no expenditure of Federal funds would result from the enactment of this bill.

I understand, Mr. Chairman, that the Honorable Richard J. Hughes, Governor of the State of New Jersey, also indicated his support of this bill in a letter to Chairman Buckley. It is supported by former Governors Driscoll and Meyner.

In short, what this bill seeks to accomplish is the removal of any restriction in the acts of 1926 and 1927 to the release of funds raised through the sale of bonds by Burlington County. These funds are now held by the bridge commission and are of no use to them, and they could be put to beneficial use by the county.

In conclusion, it might occur to the members of the committee these bridges are still toll bridges. The Supreme Court of New Jersey decided in the *Driscoll* case that the State no longer has the right to condemn these bridges, so that they will continue in existence for an indefinite period of time under the bridge commission.

The tolls, which are really not involved here, have been reduced to 5 cents now on each of the bridges, so that they are operating on an absolute minimum budget. The authorities in the county of Burlington on both sides of the political aisle have for a number of years very much desired to have these funds released for urgently needed public purposes.

I thank you very much, Mr. Chairman.

Mr. FALLON. Thank you, Mr. Thompson.

Are there any questions on my left?

Mr. AUCHINCLOSS. Yes. I would like to ask Mr. Thompson a question. Off the record first.

(Discussion off the record.)

Mr. AUCHINCLOSS. Mr. Thompson, this bill, as I understand it, states the proceeds from the tolls would be used for construction of highways and maintenance of highways. Is that correct?

Mr. THOMPSON. No, sir.

Mr. AUCHINCLOSS. I am wrong on that?

Mr. THOMPSON. Yes, sir. The tolls, Mr. Auchincloss, are in no way affected. They are currently being used, and will continue to be used, for the operation and maintenance of the bridges and their access facilities. This \$1,300,000 represents our old friend, Cliff Powell's and others' net profit, which Governor Driscoll and the

Attorney General, Mr. Parsons, had returned to the County of Burlington, and which have just been sitting since.

Mr. AUCHINCLOSS. Thank you. That is all I have.

Mr. FALLON. What do they want to use these funds for now?

Mr. THOMPSON. They want to use them to enlarge the access roads, and since they are not actually bridge revenues in any sense, for some other road purposes and for a county jail.

You see, Mr. Chairman, this is a highly unusual thing. One might think these are toll revenues, but they are not. The transaction under which this money came about was briefly this: On October 22, 1948, following a series of extremely complicated financial arrangements and engineering arrangements, the Burlington County Board of Freeholders established the Bridge Commission. The commission then voted to acquire these bridges from the syndicate that owned them. Twelve million dollars worth of revenue bonds were issued and sold through large investment houses to bond purchasers throughout the United States. It was determined there was a net profit to the syndicate, as a result of this chicanery, in excess of \$3,700,000, and some odd dollars, plus another \$500,000 net profit which was recovered by a quick legal action.

But as the *Driscoll* case sets forth, the government of New Jersey and the U.S. Government then became powerless because of the validity of certain parts of this action, to condemn the bridges. So the commission now owns them.

The State succeeded, however, as a result of this litigation, in recovering for the Bridge Commission from the syndicate \$1,300,000. This money is reposing in banks in Burlington County. It belongs to the people of the county. It has never been derived from any of the tolls—just from the theoretical paper value of the bridges. So this in no way involves any Federal expenditure, nor does it involve 5 cents of toll revenues.

Mr. FALLON. Are there any questions to my right? Any questions to my left?

Mr. HARSHA. I would like to ask him one question, Mr. Chairman.

Mr. FALLON. Mr. Harsha.

Mr. HARSHA. Mr. Thompson, why is it necessary to have Congress enact legislation to transfer these funds if they involve the county?

Mr. THOMPSON. After the *Driscoll* case, Governor Meyner vetoed State legislation that would have allowed the county to use these funds. His reason for doing so was that Federal law restricted the use of the funds to bridge purposes. They are not needed for bridge purposes, and my bill would remove any uncertainty as to whether Federal law actually does impose a restriction.

Mr. HARSHA. Do you have any objection to these amendments proposed by the Secretary of Commerce?

Mr. THOMPSON. Well, those amendments, Mr. Harsha, relate to another matter, a bill of which I am a cosponsor with Mr. McDowell, of which you will hear next. If I may take the time to say so, we do not oppose them. We support those amendments, and I am very strongly in favor of Mr. McDowell's bill.

Mr. FALLON. Mr. Thompson, you say the commission manages those bridges at the present time?

Mr. THOMPSON. It does, sir.

Mr. FALLON. How was this Commission formed or appointed?

Mr. THOMPSON. Originally the Board of Chosen Freeholders of Burlington County appointed it. It in turn bought the bridges from the syndicate. As a result of this litigation, the New Jersey Supreme Court held that the Commission does exist legally and must continue to do so, but they ruled in the course of the litigation that the syndicate would have to return all of its net profit, which was a million and some hundred thousand dollars, and that the title to the bridges would remain in the commission. It is a bipartisan commission of three members, appointed by the Board of Chosen Freeholders.

Mr. JONES. Is that part of the decree of the court appointing the commissioners to function as a corporation, or as an organized activity in behalf of the freeholders?

Mr. THOMPSON. Yes.

Mr. BALDWIN. Will the gentleman yield?

Mr. JONES. Yes.

Mr. BALDWIN. Mr. Thompson, when you mentioned that the court decree required that the title be retained in the bridge commission, were all of these people you mentioned, throughout the United States, that had bought bonds, were all of those people then paid off, or do they still have some kind of interest?

Mr. THOMPSON. No. The bonds that were used to finance the purchase have all been paid off, Mr. Baldwin.

Mr. FALLON. If the Congress does not take action, that \$1,300,000 will remain in the bank?

Mr. THOMPSON. It will, sir, as it has since 1952.

Mr. FALLON. Are there any other questions?

(No response.)

Mr. FALLON. Thank you, Mr. Thompson.

Mr. THOMPSON. I thank the committee very much.

Mr. FALLON. We have a representative of the Chief of Engineers and also a representative of the Bureau of Public Roads testifying on the two bills that are before us this morning. So I think it might be well if we hear Mr. McDowell on the bill that is introduced jointly by him and Mr. Thompson, H.R. 9376 and H.R. 9379.

(H.R. 9376 follows:)

[H.R. 9376, 87th Cong., 1st sess.]

[With amendments proposed by Secretary of Commerce]

A BILL To amend the Act of July 13, 1946, to authorize the construction, maintenance, and operation of certain additional toll bridges over or across the Delaware River and Bay

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That sections 3, 4, and 5 of the Act entitled "An Act to authorize the State of Delaware, by and through its State highway department, to construct, maintain, and operate a toll bridge across the Delaware River near Wilmington, Delaware", approved July 13, 1946 (60 Stat. 533), are hereby amended to read as follows:

"SEC. 3. The Delaware River and Bay Authority or its successor is hereby authorized to fix and charge tolls for transit over such bridge, and the rates of toll so fixed shall be the legal rates until changed by the Secretary of the Army under the authority of the General Bridge Act of 1946.

"SEC. 4. The Delaware River and Bay Authority or its successor in fixing the rates of toll to be charged for the use of such bridge and in fixing the rates of toll to be charged for the use of each additional bridge over or across the Delaware River and Bay operated under the authority conferred in section 5 of this Act, shall from time to time adjust them, together with the rates of tolls and other charges made for the use of any other toll crossings ~~transportation or~~

terminal facility, facilities, or projects under, over, along, or across the Delaware River and Bay between the States of Delaware and New Jersey, which it may be operating so as to provide a fund sufficient—

"(1) to pay the reasonable cost of maintaining, repairing, improving, and operating said bridge and such other toll crossings ~~terminal or transportation facility, facilities, and projects~~ and the approaches thereto under economical management;

"(2) to pay the cost of constructing, reconstructing, or improving all toll crossings ~~terminal or transportation facility, facilities, and projects~~ operated by the Delaware River and Bay Authority;

"(3) to pay the principal of and the interest upon bonds issued for the cost of said bridge and toll crossings, ~~terminal or transportation facility, facilities, and projects~~, including bonds issued to refund such bonds at or prior to maturity and financing costs; and

"(4) to provide constructing, operating, improving, repairing, maintenance, and debt service reserve funds of such character and amount as the Delaware River and Bay Authority or its successors shall determine to be necessary to insure the proper construction, operation, maintenance, repair, and improvement of the bridge and other toll crossings, ~~terminal or transportation facility, facilities, and projects~~, and to protect the holders of bonds issued to finance the cost of said bridge and other toll crossings, ~~terminal or transportation facility, facilities, and projects~~.

"Sec. 5. The Delaware River and Bay Authority, or its successor, is hereby authorized to construct, maintain, and operate additional toll bridges over or across the Delaware River and Bay between the States of Delaware and New Jersey in accordance with the provisions of the General Bridge Act of 1946, except that the fixing, changing, and adjusting of rates of toll and the duration of toll charges for use of said additional bridges shall not be subject to the provisions of said General Bridge Act of 1946. In addition to the powers granted to the Delaware River and Bay Authority by the laws of the States of Delaware and New Jersey there is hereby conferred upon said authority, or its successor, all such rights and powers to enter upon land and acquire, condemn, occupy, possess, and use real estate and other property needed for the location, construction, improvement, maintenance, and operation of additional bridges over or across the Delaware River and Bay as are possessed by railroad corporations for railroad purposes in the State in which such real estate or other property is situate, upon making just compensation therefor, to be ascertained and paid according to the laws of such State, and the proceedings therefor shall be the same as in the condemnation or expropriation of property for public purposes of such State."

Sec. 2. The right to alter, amend, or repeal this Act is hereby expressly reserved.

Mr. FALLON. Mr. McDowell, on behalf of the committee I would like to welcome you here this morning.

Do you have a prepared statement you would like to read, or do you want to give us a résumé and put your full statement in the record? Either way, you may go right ahead.

STATEMENT OF HON. HARRIS B. McDOWELL, Jr., A REPRESENTATIVE IN CONGRESS AT LARGE FROM THE STATE OF DELAWARE

Mr. McDOWELL. Thank you very much, Mr. Chairman. I appreciate this opportunity to appear before the committee on behalf of my bill, H.R. 9376, and the companion bill introduced by my colleague, Mr. Thompson of New Jersey.

I have a prepared statement here which I will submit to the committee, and I will just briefly outline the background of this legislation, and then I will be glad to answer any questions.

I believe there are little complications involved here. This legislation was originally presented to this subcommittee at the 84th Congress, July 12, 1956. The situation then was that the States of New Jersey and Delaware were in disagreement on the future operations of the Delaware Memorial Bridge, which had originally been constructed by an authority created within the Delaware State Highway

Department, and which had been duly authorized by the Congress, and had been operated up until that time, and up until the present time, solely by a commission created by the Delaware Legislature.

There is now pending on the Union Calendar a companion resolution to this bill, and the two are interlocked, which has come into being as a result of this committee's recommendation in 1956 that they would not attempt to pass on a dispute between the two States at that time until there had been at least an effort on the part of the two States to get together and agree on a joint commission for the operation of the Delaware Memorial Bridge.

That has since taken place. At the present time both States have ratified a joint compact for the operation of the bridge. Governor Hughes of New Jersey, and Gov. J. Caleb Boggs of Delaware, have signed this legislation. The resolution referred to is the Third Party Ratification of the Interstate Compact which is pending on the Union Calendar.

This legislation is necessary because of the original authorization by the Congress for the construction of this bridge to enable the new joint commission of the two States to continue to collect tolls to pay the cost of maintenance on the bridge in the future. It is contemplated that the bonds will be paid off in the next 3 years. It has been a most successful operation. The bonds when they were sold were not expected to be paid off in less than 30 years. They will have been paid off in approximately 15 years.

That, briefly, is the background of this bill, and the legislation that is before you.

I might say that the new bridge commission will go into effect if the contract ratifies the compact composed of five members from each State appointed by the Governors and confirmed by the senates of the two States, and is a bipartisan commission. Their purpose is to continue to operate the Delaware Memorial Bridge as it now exists, and with authority to construct other crossings, crossing the Delaware River Bay.

I do want to call attention of the committee at this time to the exceptions of the Department of Commerce's recommendations for changes in this act which would have the effect on page 2, line 12, of eliminating, after the word "crossings," the words "transportation or terminal facility, facilities, or projects"; and similar language would be eliminated on page 3, line 3; on page 3, lines 12 and 13; and page 3, lines 15 and 16, to follow specifically the recommendations of the Department of Commerce in this respect.

All other Departments have concurred in the legislation.

I would like to present my prepared statement at this point.

Mr. FALLON. Without objection, the prepared statement of Mr. McDowell will be made a part of the record at this point. Also, the letter of the Governor of Delaware.

(The statement referred to and the letter of the Governor of Delaware are as follows:)

STATEMENT OF REPRESENTATIVE HARRIS B. MCDOWELL, JR. OF DELAWARE

Mr. Chairman and members of the committee, I appreciate the opportunity to come before you today to testify on my bill, H.R. 9376, to amend the act of July 13, 1946, to authorize the construction, maintenance, and operation of certain additional toll bridges over or across the Delaware River and Bay.

The act of July 13, 1946, authorizes the State of Delaware, by and through its State Highway Department, to construct, maintain and operate a toll bridge across the Delaware River near Wilmington, Del., the tolls to be used to pay the cost of maintenance, repair and operation of the bridge and its approaches and to provide a sinking fund sufficient to amortize the cost of the bridge within a period not to exceed 30 years from completion.

H.R. 9376 would amend the act of July 13, 1946, by substituting the Delaware River and Bay Authority for the State Highway Department of Delaware, and would authorize the authority to construct, operate and maintain additional toll bridges over or across the Delaware River and Bay between Delaware and New Jersey.

In addition, H.R. 9376 would authorize the authority to fix and charge tolls for use of the bridges and to use the tolls to pay for the cost of maintaining, repairing, improving and operating the bridges and other toll crossings, terminal or transportation facilities and projects operated by the Delaware River and Bay Authority.

The States of Delaware and New Jersey have recently enacted legislation to provide for an interstate compact between them to establish the Delaware River and Bay Authority.

Delaware has also enacted legislation to implement the transfer of the Delaware Memorial Bridge to the proposed new Delaware River and Bay Authority.

While the Congress has not yet granted its consent to the proposed compact between Delaware and New Jersey the House Committee on the Judiciary has favorably reported H.J. Res. 783 which provides for such a compact.

In this connection, it should be noted that section 1723 of title 17 of the Delaware Code (The Delaware Act, approved July 21, 1961, relating to the proposed compact) provides that such legislation "shall take effect and become binding upon the State of Delaware upon the completion of the last of the following three events: (1) upon the enactment by the State of New Jersey of legislation agreeing to the exact terms of the Delaware-New Jersey Compact; (2) upon the granting of the consent of Congress thereto; and (3) upon the enactment by Congress of an amendment to 60 Stat. 553 to eliminate the present requirement for the cessation of tolls for the use of the Delaware Memorial Bridge upon payment of the outstanding revenue bonds, but in no event prior to July 1, 1962."

In the 84th Congress I introduced H.R. 10235, to amend the act entitled "An act authorizing the State of Delaware by and through its State Highway Department to construct, maintain, and operate a toll bridge across the Delaware River near Wilmington, Del.," approved July 13, 1946.

This bill was referred to the Committee on Public Works, and hearings were held on it by the Subcommittee on Rivers and Harbors on July 12, 1956.

The need for a second bridge and for new freeways in Delaware leading to the bridge were fully outlined by Delaware's representatives at the 1956 hearing. However, New Jersey's representatives opposed H.R. 10235 and asked that time be given for New Jersey and Delaware to negotiate a workable agreement.

Delaware had obtained, prior to that hearing, approval of the plan contained in H.R. 10235 from the U.S. Commissioner of Public Roads.

Despite such approval, the bill was actively opposed by Gov. Robert Meyner, some members of New Jersey's congressional delegation, and New Jersey highway officials.

Their principal objection was to continuing tolls on the Delaware Memorial Bridge, after the outstanding bonds were paid, and the use of these tolls for other Delaware projects.

The members of the Subcommittee on Rivers and Harbors refused to approve the bill on the ground that it would not resolve the issue between Delaware and New Jersey, and Delaware's representatives were advised to work this matter out with New Jersey and come back with an agreed position which both Delaware and New Jersey supported.

This, of course, was the only position that could be taken in the matter by the Congress, and it fully accorded with the traditional position of Congress in such matters.

The Delaware Memorial Bridge terminates in New Jersey, and any other Delaware bridge must also terminate there. The facilities necessary to establish a ferry at the mouth of the Delaware Bay are expected to be built in Lewes, Del., and Cape May, N.J.

New Jersey insisted that the construction and operation of toll facilities between New Jersey and Delaware be undertaken by an agency in which both States were equally represented.

In October 1958, Gov. J. Caleb Boggs, of Delaware, and Gov. Robert Meyner, of New Jersey, appointed a bipartisan group from their respective States for the purpose of working out a plan which would be fair and reasonable to both States. After a year of work, study, and negotiation, this body issued a joint report to the Governors of Delaware and New Jersey on October 29, 1959, unanimously recommending the adoption of a comprehensive compact between Delaware and New Jersey which would provide for the joint development and operation of transportation facilities between these two sovereign States.

Delaware and New Jersey subsequently ratified legislation to permit the tolls to remain on the Delaware Memorial Bridge, the construction of a second bridge, and authorize the establishment of a ferry across that part of the Delaware Bay which is so wide that the construction of a bridge thereover would not be economically feasible. This legislation also provided that these vital projects could be financed by revenue bonds without the use of either tax money or bonds sustained by the credit of the States of Delaware and New Jersey.

The Delaware-New Jersey Compact, which the legislatures of our States ratified and which House Joint Resolution 783 and its companion measure H.R. 9376, would approve, creates a single bistate agency consisting of 10 members, 5 of whom are residents of each State. No more than 3 of the 5 members from each State may be of the same political party. The members are to be appointed by the Governor of each State with the advice and consent of their State senate for terms of 5 years, except that the first commissioners shall be so appointed that the term of one expires each year. The compact specifically grants authority to the bistate agency to: (a) operate the present Delaware Memorial Bridge; (b) construct a second or additional crossing; (c) establish a Delaware Bay ferry; and (d) plan, develop, and operate related transportation facilities and projects within those areas of Delaware and New Jersey which border on or are adjacent to the Delaware River and Bay, south of the boundary line between Delaware and Pennsylvania as extended across the Delaware River to the New Jersey shore.

In summary then, the compact between Delaware and New Jersey fully recognizes what is so clearly obvious, that neither Delaware or New Jersey can by themselves alone provide for the operation and development of such great and expensive transportation facilities as bridges, ferries, tunnels, or other crossings, and that the planning and operation of such vital facilities cannot be effectively accomplished in a short time.

In passing, I think it important to note that the present Delaware Memorial Bridge is a project originally accomplished through the initiative and responsibility of the State of Delaware, and that it extends Delaware's highway system over that part of the Delaware River which is exclusively within its territorial boundaries. New Jersey's cooperation was essential to its construction to the extent that it consented to anchoring the eastern terminus of the bridge on its shore.

I am very pleased that the several Federal departments and agencies concerned have expressed such general approval of House Joint Resolution 555, which was favorably reported as House Joint Resolution 783.

I urge the committee to give its approval to H.R. 9376 to insure that Congress may act promptly to permit this new bistate authority to become effective at the earliest possible moment so that the traveling public may not be handicapped by a traffic bottleneck which would stifle interstate travel and commerce.

Thank you, Mr. Chairman.

STATE OF NEW JERSEY,
OFFICE OF THE GOVERNOR,
Trenton, July 23, 1962.

HON. CHARLES BUCKLEY,
*Chairman, Committee on Public Works,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: The State of New Jersey has a great interest in H.R. 5604, introduced by Congressman Frank Thompson, Jr. The bill would authorize the use of certain funds acquired by the Burlington County Bridge Commission for purposes not directly related to the maintenance and operation of two bridges owned by the commission. The sum involved, \$1,300,000, was a portion of the purchase price repaid to the Burlington County Bridge Commission in 1952 after extensive litigation.

This money, thus derived from sources other than toll revenue, is in excess of the amount required for maintenance and reconstruction of the bridges but can-

not be used by the county of Burlington unless released for this purpose by an amendment to the Federal law.

It is my sincere hope that the Committee on Public Works will favorably recommend Congressman Thompson's bill so that the funds in question can be put to constructive use by the county of Burlington.

Sincerely yours,

RICHARD J. HUGHES,
Governor.

Mr. McDOWELL. If there are any questions, Mr. Chairman, I will be glad to try to answer them.

Mr. FALLON. Are there any questions?

Mr. AUCHINCLOSS. Thank you, Mr. Chairman. I would like to ask a question.

As I understand it, this legislation is the result of the conference and agreement between the States of Delaware and New Jersey on the construction and operation and maintenance of bridges between the two States. Is that right?

Mr. McDOWELL. That is correct, Mr. Auchincloss.

Mr. AUCHINCLOSS. And the legislation has the approval of this commission that was formed? I do not know what the name of the commission is, but you know what I refer to.

Mr. McDOWELL. The new bistate commission has not actually been formed because it is awaiting the ratification by the Congress of the compact, but it has the approval of the Governors and highway departments of both States, and it has been unanimously passed, I think, by the legislatures of both States.

Mr. AUCHINCLOSS. Thank you. That is all I have.

Mr. BALDWIN. Mr. Chairman.

Mr. FALLON. Mr. Baldwin.

Mr. BALDWIN. Mr. McDowell, both the Corps of Engineers report and the Department of Commerce raise a question about the fact that in the law as it now stands all bridges which fall under this General Bridge Act of 1946, if they are toll bridges, have to make arrangements for tolls at sufficient rates to pay off the bridges within 30 years; and one of the provisions for approval of Congress under the General Bridge Act has been that the bridge be made free after the tolls have been collected so as actually to pay off the bridge.

The Department of the Army, although it does not actually say it objects to the bill before us, points this fact out: That this becomes an exception and then the Department of Commerce goes into this at somewhat greater length and points out the fact that it raises a serious problem in relationship to the Federal Interstate Highway Act. This act did not make available any Federal funds for the construction of anything upon which tolls would be charged. Even though the bridge itself is something to which the Federal Government might not contribute, the problem, as I understand the Department of Commerce's comments, is that if the Federal Government builds a Federal interstate highway with 90 percent contribution, up to a bridge, and then on the other side carries it on, and then we give a State, or a bridge commission, or whatever it is, freedom to levy tolls unrelated to the payment of the cost of the bridge, that, in effect, we are giving the State or the commission involved the freedom to use what might be termed a toll trap on a route that the Federal Government brought up to freeway standards and, therefore, encouraged people to use. But then we have given the State or the commission complete freedom

of action to use the toll trap not only to collect the tolls required to pay off the bridge, but to collect any additional sums of money that the State or commission might desire for the building of a whole series of other crossings that might not connect an interstate highway route.

The Department of Commerce feels it is a serious problem and points to the fact that they feel this committee should give rather extensive review to this whole subject.

I am wondering what your own personal opinion is on this as a means of resolving this?

Mr. McDOWELL. Mr. Baldwin, I don't really express it as a personal opinion because I think the question involved here is entirely too serious to have any personal viewpoint about, except that this involves a problem that exists, I think, all over the country, and not just at this particular crossing.

Mr. BALDWIN. That is true. That is true.

Mr. McDOWELL. The Delaware Memorial Bridge at the present time, it is true, is located at a very strategic point in the north and south travelway of the east coast. It is not a part of the Interstate Highway System; not the bridge itself, nor the immediate approach roads to the bridge, nor the connecting highway system on either side of the bridge from the Jersey side and from the Jersey side clear on up to New York, because the connecting link there is the New Jersey Turnpike, which is a toll road.

On the other side a new toll road facility in both Delaware and Maryland has been authorized both by the States and the Congress, which again is not a part of the Interstate Highway System. It will be a toll road connecting from the Delaware Memorial Bridge to the Baltimore Tunnel. So that unless the Congress in its wisdom should decide that the Interstate System should take over these facilities and reimburse the bondholders for them, then there is no other method to construct them or to make this service available to the traveling public other than to do it in this way as a toll facility.

Mr. BALDWIN. The only question that bothers me is—and I think our committee should make a review of this question generally nationwide—the thing that bothers me is if we proceed first to approve one or more bills where we vary from the General Bridge Act, and then consider the general question afterward, then all those who want to come in under the same exception as the bills that have already been passed, are going to use those bills as illustrations that we have already broken from the precedent and principle of the General Bridge Act. That is the thing that concerns me most. I just wanted to get your viewpoint on it.

I have no further comment.

Mr. McDOWELL. I think personally, and only personally, I think it would be fine if we could have a completely open freeway through all of these heavily traveled and heavy traffic areas and highways, but apparently there is simply not enough money available in the Interstate System fund from the revenues either to construct these new highways as freeways, or to purchase the already existing toll facilities. Now, as to the future of the Delaware Memorial Bridge, it would have a terrific impact on the revenues and the financial position of the State of Delaware if the bonds were paid off and then the State on its own had to take over the full maintenance, which is

estimated at someplace around \$700,000 annually for the upkeep and maintenance of the Delaware Memorial Bridge.

This is a facility that is primarily used by out-of-State traffic and, as I say, it will be a considerable burden on the taxpayers of Delaware if they had to assume the full maintenance of this. The purpose of this bill is only to allow the continuation of a toll sufficient to take care of maintenance after the bonds are paid off.

True enough, if another bridge, which is contemplated, will have to be built in the next 5 years to accommodate the present flow of traffic, then the tolls will continue to pay off those bonds.

Mr. BALDWIN. You mentioned that the New Jersey Turnpike was a toll road which connects with the bridge. It is my understanding that the New Jersey Turnpike has been brought into the Federal Interstate System and has been designated as a part of the Federal Interstate System by an agreement worked out between the State of New Jersey and the Bureau of Public Roads, so although there are no Federal funds used on the road, nevertheless it is designated as a part of the Interstate System.

The problem as I see it is, that although here there are no Federal funds that have been used on the immediate access route, once the principle is established, we are going to have a similar request from some other State where we have put up the full 90 percent on the Interstate connecting links, and then we will have the State really asking for a toll trap on that route, at the bridge, to give them freedom to get enough money from the interstate traffic coming across there to build routes they might want to use just for local purposes. But they are using our expenditures on the Interstate System route to get enough traffic over that bridge to get enough money to build all the other bridges they want to build in the area.

I raise the problem now because it is a serious one, and I know the committee will have to give consideration to it.

Mr. McFALL. Will the gentleman yield to me for a question on this point, on this subject?

Mr. BALDWIN. I will yield to the gentleman.

Mr. McFALL. As I understand it, the purpose of this exemption from the General Bridge Act, Mr. McDowell, is to permit the charging of tolls after the 30-year period for two purposes: (1) the maintenance charges, which is entirely reasonable. One would expect traffic to pay for the maintenance charges and for whatever upkeep might be necessary on the bridge; and (2) for the possible construction of a second bridge, which would be parallel to, and would handle the same traffic, in which case you would want the tolls to be paid on both bridges to pay for the new bridge.

In my opinion it is entirely reasonable. Is it possible that we could write specifically an amendment to this bill which would permit this specific action, rather than a general exemption from the Bridge Act? Could this be a possibility under your understanding of the way this bridge would be operated, and would you personally think this could be done?

Mr. McDOWELL. The gentleman is entirely correct in his interpretation that the purpose of this act—the original act, and this act, and all acts connected thereto—is to provide that the bonds shall be paid off as rapidly as the funds are accumulated and, as I pointed out, in this case instead of in 30 years it will be paid off probably in 15. Then under this act only a sufficient amount of toll could be charged

to pay for maintenance costs. If another bridge is not built, it is probable that in the next 3 years the bonds would be paid off. I might say that the toll has been reduced from the original 75 cent charge when the bridge was built and put into operation, to 25 cents, which went into effect, I think, 3 years ago. The tolls on the bridge have been considerably reduced, and still it is paying the bonds off much faster than was anticipated. So I think it is reasonable to assume that a maintenance toll would be probably not more than 5 or 10 cents at the most, and probably only 5 cents for the maintenance cost.

It is my understanding—I did not draw up this legislation and I am not an attorney—but it is my understanding that this legislation does provide for exactly what you have suggested it should provide, that is, for the charging of a maintenance toll only so long as the bonds outstanding have been paid off, whether it is for the present bridge or for new facilities, which might be authorized. I might point out that any new facility would also have to come to the Congress for ratification.

Mr. McFALL. It is your understanding that this, however is the purpose of this language, and that is all you are attempting to do?

Mr. McDOWELL. That is correct.

Mr. BALDWIN. Will the gentleman yield?

Mr. McFALL. I yield.

Mr. BALDWIN. My question, following up Mr. McFall's question, is that as of now, Mr. McDowell, do you have knowledge of what specific plans the Delaware River and Bay Authority does have? Is it the building of a specific second bridge, or do they have other plans as well in mind?

Mr. McDOWELL. For the past 5 years there have been groups of interested citizens in the southern part of New Jersey and the southern part of Delaware who have advocated the construction of ferry facilities from Cape May, N.J., to Lewes, Del. The new compact in its wording permits the building or making available of such a facility under the joint commission that would be established. There are definite plans and surveys have already been taken by the present bridge commission—the Delaware Memorial Bridge Commission—looking toward the feasibility studies for the construction of an additional crossing at or near the present bridge.

Mr. BALDWIN. This additional crossing would be in the form of a bridge?

Mr. McDOWELL. Yes. It has definitely been determined that it would not be a tunnel crossing. It would be a bridge, and the plans as they have been carried forward so far by the engineering firms, look toward the building of a bridge very close to the present structure. It would probably end up being a two-way, or one way crossing each way.

Mr. BALDWIN. Thank you.

Mr. McDOWELL. The present traffic is estimated to grow so that it will reach its peak within the next 2 years for the present bridge.

Mr. FALLON. Any further questions to my right? To my left?

Mr. McDOWELL. I would also like to leave testimony here for the committee, written testimony, by the attorney for the present bridge commission, Mr. Chairman, and again I thank the committee.

Mr. AUCHINCLOSS. May I ask one question, Mr. McDowell?

Mr. McDOWELL. Yes, sir.

Mr. AUCHINCLOSS. Will you tell the committee whether any Federal funds were used on the Delaware approaches to the memorial bridge?

Mr. McDOWELL. Well, there I am not sure that I can definitely establish that, because it depends I guess on what you say are approaches, that is, how far back from the bridge. I would say within a mile on both sides of the bridge the approaches there were built from funds authorized to the Bridge Commission by the Delaware Legislature. There have been some interchanges built in this 1-mile area where some Federal funds were, or bridge funds were originally used, and they were later reimbursed. Whether they were out of the 50-50 Federal matching funds, or only came out of State funds, I am not sure of.

Mr. AUCHINCLOSS. Thank you.

Mr. BLATNIK. Mr. Chairman, Mr. Sherwood Booth, the Deputy General Counsel of the Bureau of Public Roads is here and will be able to give us more of the desired information in answer to that question.

Mr. FALLON. Thank you, Mr. McDowell.

Mr. McDOWELL. Thank you, sir.

Mr. FALLON. Without objection at this point in the record the statement of Mr. Latchum, counsel for the Delaware Interstate Highway Division, will be made a part of the record.

(The statement of Mr. Latchum follows:)

STATEMENT OF JAMES L. LATCHUM, COUNSEL FOR THE DELAWARE INTERSTATE HIGHWAY DIVISION

Mr. Chairman and gentlemen, my name is James L. Latchum and I am counsel for the Delaware Interstate Highway Division, the agency which operates the Delaware Memorial Bridge. I also served as secretary and draftsman to the Delaware conferees, who were appointed by the Governor of Delaware, to discuss and negotiate with New Jersey conferees, appointed by the Governor of New Jersey, for the purpose of recommending a bistate compact and collateral enabling legislation which would solve the pressing transportation problems faced by both States in the Delaware River and Bay area.

As a result of the extensive negotiations, work and the report of the conferees, the legislatures of the two States adopted acts approving the Delaware-New Jersey Compact in June and July 1961. The States of Delaware and New Jersey jointly seek favorable action on two companion bills now pending in the Congress. First, they seek congressional consent for the bistate compact through the enactment of House Joint Resolution 783, which, as you know was favorably reported from the full House Judiciary Committee on July 16, 1962, and is now on the House Union Calendar. Secondly, the two States seek the enactment of H.R. 9376 which is presently under consideration by this subcommittee. The latter bill amends the act of July 13, 1946 (60 Stat. 533) which authorized the construction of the Delaware Memorial Bridge. If enacted with House Joint Resolution 783, it will authorize the continuation of tolls on the present bridge, and permit its tolls to be combined with tolls derived from other projected crossings so that the proposed bistate authority may construct and finance other crossings of the Delaware River and Bay through the issuance of revenue bonds secured by combined revenue from all existing and future crossings.

Some background information is necessary to understand the necessity for, and formulation of the Delaware-New Jersey compact and H.R. 9376. Delaware and New Jersey share a common boundary along the Delaware River and Bay. In earlier times these waters afforded the major means of transportation between the States; but with the overshadowing importance of other means of transportation the same waters have tended to become a barrier or obstacle to modern methods of transportation. The need for an efficient vehicular crossing of the Delaware River in the vicinity of Wilmington, Del., to replace privately operated ferries, was foreseen in the late nineteen thirties and early forties. It was not until 1946, however, that the necessary enabling legislation was adopted to

permit the construction of the present Delaware Memorial Bridge. By an act approved July 13, 1946 (60 Stat. 533), Congress authorized the State of Delaware, through its State highway department, to construct the present high-level suspension bridge to be operated as a toll facility for a period not to exceed 30 years following its completion. It also provided that after tolls had produced a sinking fund sufficient to amortize the cost of the bridge and its approaches, it was to be operated and maintained free of tolls.

As a consequence of this legislation, the bridge was financed by Delaware through the issuance of revenue bonds payable solely from tolls. The entire cost of the facility, including approaches in New Jersey and Delaware, were paid from the funds so raised by the State of Delaware and Delaware became the sole proprietor of the bridge. New Jersey's contribution to its construction was the enactment of legislation permitting Delaware to terminate the easterly end of the bridge upon its shores and to free the structure and its revenues from taxation by the State of New Jersey and its political subdivisions.

Approximately \$48 million was spent in constructing the present bridge. It was opened to traffic on August 16, 1951. Since then the volume of traffic using the facility has been phenomenal, exceeding by far the most optimistic estimates made at the time the bridge was conceived. During the past fiscal year almost 12 million vehicles used the crossing and traffic is expected to increase constantly at the past rate of about 6 to 7 percent annually.

This steadily increasing traffic volume has created two major problems. First, the present bridge is fast approaching its maximum capacity. The structure was designed to carry approximately 16 million vehicles per year. But congestion, unsafe operating conditions and delays become intolerable when 2,000 or more vehicles per hour use the crossing in one direction. In 1960, the 2,000 vehicles per hour figure was exceeded 85 times. In 1961, this condition existed 135 times. By 1965, our engineers predict it will occur 335 times. This simply means that hazardous driving conditions, particularly during peak weekend traffic periods, are constantly growing from increased traffic alone; even more to be feared are the accidents and emergencies which are prone to follow these peak operating capacity periods. Certainly, expanded capacity of this crossing between the two States is clearly indicated. Finances available at the time of the construction of the present bridge were insufficient to permit a design which would provide for physical enlargement of the existing structure either by the addition of lanes or double-decking. Accordingly, to alleviate this condition, it will now be necessary to build a twin structure adjacent to the present bridge to carry one-way traffic in conjunction with the present crossing.

The second problem resulting from this traffic volume has been the speed with which the outstanding revenue bonds have been paid off and retired. As previously mentioned, the original bonds have a 30-year maturity but revenues have been such that, even with a two-step reduction in the toll rates from 75 cents to 25 cents for passenger cars, less than \$12 million of bonds remain outstanding today. With the present flow of revenue continuing, the Delaware Memorial Bridge will become toll free within the next 3 years. Obviously, if this crossing becomes free of tolls, it will be economically impossible to finance a second toll facility paralleling the free bridge.

These problems were anticipated by the Delaware Interstate Highway Division some years ago and in early 1956 it caused legislation to be introduced into the 84th Congress (H.R. 10235) which, if passed, would have permitted Delaware to continue collecting tolls on the present bridge for use to finance the construction of a second crossing and freeways in Delaware leading to the bridge. On July 12, 1956, a hearing was held on that legislation by the House Subcommittee on Rivers and Harbors of the Committee on Public Works. While Delaware had obtained the prior approval of such legislation from the U.S. Commissioner of Public Roads, the bill was actively opposed at the hearing by New Jersey's Governor and other State officials. It was New Jersey's contention that if a second crossing were to be built it should be accomplished by a bi-State authority in which New Jersey was represented. In view of New Jersey's position, the congressional subcommittee refused to approve the bill on the traditional ground that it would not resolve a dispute between sister States involving a public facility located in both. Accordingly, Delaware representatives were advised by the committee at that time to negotiate with New Jersey officials with the view to arriving at a mutually satisfactory agreement.

Following this, in late 1958, the then Governors of the two States appointed five conferees from each State to discuss the transportation problems relating to the entire Delaware River and bay area. As a result of extensive and careful

study over a period of a year and a half, the joint conferees recommended that certain specific steps be taken by the two States to provide an effective means whereby the planning of essential development within the area could be carried on jointly by them in amicable cooperation. Although the conferees were fully conscious of what at first appeared conflicting aims and desires of the two States, they were able in all instances to reconcile their apparent differences in the interest of the paramount need for closer bi-State cooperation in order to advance the economic development and to improve the transportation facilities within that vital and growing area. It became evident from the outset that the most suitable mechanism to assure this cooperation would be an agency of the two States since neither State alone could hope to provide bridges, tunnels, crossings, or other facilities adequate to serve that important area without the full agreement of the other. It was also recognized that bi-State efforts to deal with such matters should have a base broad enough to permit planning and operations for many years to come. After all, transportation, by all forms and methods, must be dealt with in an integrated manner as it is but a part of the larger task of dealing with common problems affecting the economic development and progress of the adjacent areas on both sides of the Delaware River and Bay. Thus, the underlying purpose of the compact was to create a bi-State agency to serve as a conduit or medium through which the two States could act in the future with respect to all matters of common concern to them.

With these goals in mind, the joint conferees recommended the adoption of the Delaware-New Jersey compact and supplementing legislation, including H.R. 9376. As previously mentioned the legislatures of the two States acted favorably upon the recommended compact in 1961 and the only remaining steps to be taken is for Congress to act favorably upon the two pending measures.

The compact creates a bi-State agency, known as "The Delaware River and Bay Authority" to be directed by 5 commissioners appointed from each State. If H.R. 9376 is enacted to permit tolls to be continued on the present bridge, and Congress consents to the compact the Authority will take over the operation of the existing Delaware Memorial Bridge and be able to take action with respect to the immediately foreseeable projects which prompted the compact. First, it will be in a position to construct a new twin toll crossing near the present bridge to be financed through the issuance of revenue bonds payable out of the combined tolls collected on all crossings. It will also be in a position, as traffic patterns establish the extent of the need and the financial success of the project, to provide for a suitable connecting service, probably in the form of a ferry, across the entrance of the Delaware Bay between Cape May, N.J. and Lewes, Del., the last remaining expanse of water along the eastern seaboard unconnected for vehicular traffic.

Now, since the compact was to provide a long-term working agreement between the States, as well as to provide for the two immediately foreseeable projects, it specifically grants authority to the bi-State agency (1) to operate the present bridge, (2) to construct a second or additional crossing as needed, (3) to provide a ferry as mentioned, and (4) to plan, develop and operate related transportation facilities and projects within those areas of both States which border on and are adjacent to the Delaware River and Bay. In placing the responsibility for the selection of projects authorized by the Compact in the bi-State agency, it was recognized that its authority would be limited and regulated, of necessity, by (1) the financial feasibility of the project and hence its ability to borrow on its revenue bonds, (2) the requirement that all agency action be by a majority vote of the commissioners voting by States, (3) the subjection of the vote of the commissioners of each State to the veto of the Governor of their State, and (4) the need to secure approval of Federal officials for any project crossing the navigable river or bay. In addition, the compact prohibits the bi-State authority from undertaking any project, other than crossings, without first securing concurrent legislation from the Delaware and New Jersey Legislatures.

House Joint Resolution 783, now on the Union Calendar of the House, in granting congressional consent for the compact expressly denies the use of tolls collected on any crossing for the financing of transportation and terminal facilities constructed or operated by the Authority. This restriction, urged before the House Judiciary Subcommittee by the Department of Commerce, was agreeable to both States for the reason that the Authority will still be authorized to construct immediately needed crossings to be financed through the issuance of revenue bonds payable out of the combined tolls collected on the present bridge and all future crossings. The denial of the right to use tolls for financing projects, other than crossings, will in no way prevent the Authority from meeting the immediate needs of additional crossings.

Therefore, based upon the overriding need and the goals sought to be attained by H.R. 9376, it is respectfully urged that this committee report favorably on H.R. 9376.

I wish to thank the members of the committee for the opportunity to be heard on this legislation.

Mr. FALLON. Our next witness will be Mr. Gurnee of the Corps of Engineers.

**STATEMENT OF MARK S. GURNEE, CHIEF, OPERATIONS DIVISION,
CIVIL WORKS, OFFICE, CHIEF OF ENGINEERS**

Mr. GURNEE. Mr. Chairman.

Mr. FALLON. Mr. Gurnee, will you give the reporter your name and title please, sir?

Mr. GURNEE. Mr. Chairman, I am Mark S. Gurnee, Chief of the Operations Division of Civil Works, Office, Chief of Engineers. Would the chairman wish me to report on H.R. 5604 first, sir?

Mr. FALLON. Yes, Mr. Gurnee.

Mr. GURNEE. On H.R. 5604 the Secretary of the Army has reported to this committee on August 19, 1961, to the effect that the Secretary of the Army has no objection. As you have heard from the sponsor of the bill, it is concerned with the distribution of funds derived from sources other than tolls. If adopted, this bill would have no effect on the responsibilities of the Secretary of the Army or the Chief of Engineers. It is for that reason we interpose no objection. I have no further comment on that bill, sir.

Mr. FALLON. Thank you very much, Mr. Gurnee. Without objection the letter of the Secretary of the Army dated August 19, 1961, will be made a part of the record.

(The letter referred to is as follows:)

AUGUST 19, 1961.

HON. CHARLES A. BUCKLEY,
*Chairman, Committee on Public Works,
House of Representatives.*

DEAR MR. CHAIRMAN: Reference is made to your request for the views of the Department of the Army with respect to H.R. 5604, 87th Congress, a bill to amend the acts of May 21, 1926, and January 25, 1927, relating to the construction of certain bridges across the Delaware River, so as to authorize the use of certain funds acquired by the owners of such bridges for purposes not directly related to the maintenance and operation of such bridges and their approaches.

The acts approved May 21, 1926 (44 Stat. 588), and January 25, 1927 (44 Stat. 1024), granted the consent of Congress for the construction of bridges across the Delaware River at Burlington and Palmyra, N.J., respectively. This bill would amend those acts to provide that nothing contained therein shall be construed to prohibit any public agency, which now or hereafter may own such bridges and which has on hand funds, derived from sources other than toll revenues, in excess of the amount required for maintenance and reconstruction, from paying such surplus to the county of Burlington for acquisition, construction or improvement of county facilities, buildings, and roads.

The Department of the Army interposes no objection to the above-mentioned bill.

The expenditure of Federal funds would not result from enactment of the bill.

The Bureau of the Budget advises that, from the standpoint of the administration's program, there is no objection to the presentation of this report for the consideration of the committee.

Sincerely yours,

ELVIS J. STAHR, Jr.,
Secretary of the Army.

Mr. FALLON. Thank you very much, Mr. Gurnee. Now on H.R. 9376, introduced by Mr. McDowell.

Mr. GURNEE. Thank you, Mr. Chairman. On June 22, 1962, the Secretary of the Army reported to this committee the views of the Department of the Army with respect to H.R. 9376 and H.R. 9379 of the 87th Congress. These views were that the Department of the Army had no objection to either of these bills, but noted the discrepancies between these bills and the General Bridge Act of 1946, some of which have already been discussed, insofar as the responsibilities of the Secretary of the Army are concerned.

These bills provide that the Secretary of the Army may, under the provisions of the General Bridge Act, review and change the rates of tolls for the existing bridge, but exclude this authority for any additional bridges to be constructed. The bills also provide that the tolls charged may be used for the construction of transportation, or terminal, or other facilities or projects under the authority. The bill also has other provisions, but these are the ones that directly concern the administration of the Secretary of the Army and the Chief of Engineers who advises the Secretary of the Army in these matters.

In these two respects in which the responsibilities of the Secretary of the Army are directly concerned, it would appear that consideration of changes or deviations from the General Bridge Act, on review of toll rates for existing bridges, should be by review of the General Bridge Act rather than in individual bridge acts.

It is also noted that the use of tolls for purposes other than direct costs of the bridge concerned introduce difficulties in determining the reasonableness of toll rates if they come up for review under the provisions of the General Bridge Act. However, we have had similar difficulties on other bridges, and these difficulties are not insurmountable.

The other provisions of these bills which involve the sinking fund period and the making of the bridges toll free are not of great concern to the responsibilities of the Secretary of the Army, and I have no further comment on them.

Mr. FALLON. Any questions?

Mr. BLATNIK. I have no questions, except that I agree and I think it is the feeling of quite a few members of the committee that very soon the committee ought to give very careful review and have hearings to go into the matter of reviewing and modernizing and bringing up to date the entire General Bridge Act of 1946 to accommodate the situations as they now exist, so that we will not have these individual bills coming up for particular bridges. We will be getting more and more from now on. At this point, Mr. Gurnee, the Department of the Army has no objection to this bill. Is that correct?

Mr. GURNEE. Yes, sir. That is correct.

Mr. BLATNIK. Am I clear that there is no provision in this bill to provide for the removal of tolls after the period? The original memorial bridge had no limitation. Is that correct?

Mr. GURNEE. That is correct.

Mr. BLATNIK. There is no such limitation now in either the original bridge or the proposed new bridge, or other means of crossing, namely, a ferry route?

Mr. GURNEE. That is correct, sir. Yes.

Mr. BLATNIK. Is there any reason why a limitation of perhaps 30 years should not be included in this bill?

Mr. GURNEE. I know of no reason why you should not provide such a limitation if you wish. It seems to me from a personal point of view that there is logic in providing revenue from bridges to take care of the operation and maintenance of those bridges, however.

Mr. BLATNIK. We do not place a time limitation in this specific legislation. Would that be taken care of in a review and in future consideration of the General Bridge Act of 1946?

Mr. GURNEE. It could be done, sir. However, the provisions of the General Bridge Act of 1946 are put into motion only in the event that there is a protest on the reasonableness of the tolls. The Chief of Engineers or the Secretary of the Army do not initiate this action.

Mr. BLATNIK. That is all, Mr. Chairman.

Mr. FALLON. Are there any questions?

Mr. BALDWIN. I have a question on that point. When you mentioned that in theory at the end of 30 years you could still put in the provisions of the General Bridge Act if you got objection, as I understand it section 5 of this particular bill makes the specific statement: "* * * except that the fixing, changing, and adjusting of rates of toll and the duration of toll charges for use of said additional bridges shall not be subject to the provisions of said General Bridge Act of 1946."

That specifically takes the new bridges out from under the General Bridge Act. Is it your interpretation under this bill that you could still utilize the 30-year limitation if you have an objection as far as the basic bridge is concerned?

Mr. GURNEE. Under the 1946 act for the existing bridge, the provisions of the 1946 act would be applicable. Yes. And we could review the tolls under that act at any time.

Mr. BALDWIN. And at the end of 30 years, if you had an objection, you could under that act require termination of the tolls?

Mr. GURNEE. Yes, sir.

Mr. BALDWIN. Let me ask you this: From an administrative standpoint does the fact that there are going to be one or more bridges and one or more ferry routes plying across the same area, which are specifically removed by this bill from the provisions of the General Bridge Act and, therefore, removed from any jurisdictional authority of the Secretary of the Army as to rates of tolls, present a problem? What kind of problem will that present if the same administering authority locally is running one bridge subject to your review as far as toll rates are concerned and length of the toll, and building another toll road, or bridge or ferry close to the bridge, that is not subject to your review? Will this present an administrative problem from your standpoint?

Mr. GURNEE. From our standpoint I don't see how it will be a serious administrative problem because we will just not concern ourselves with facilities over which we have no jurisdiction. It does seem to me that might present confusion and difficulties on the part of those citizens who might want to protest tolls on the facilities over which we do not have jurisdiction, if some other system is not established to take care of that.

Mr. FALLON. Are there any other questions? If not, thank you very much, Mr. Gurnee. Mr. Booth. For the record, Mr. Booth, would you give the reporter your full name and title.

STATEMENT OF SHERWOOD K. BOOTH, DEPUTY GENERAL
COUNSEL, BUREAU OF PUBLIC ROADS

Mr. BOOTH. Sherwood K. Booth, Deputy General Counsel for the Bureau of Public Roads.

Mr. FALLON. Mr. Booth, did you want first to direct your attention to H.R. 5604?

Mr. BOOTH. I will be glad to do so. The position of the Department of Commerce with respect to H.R. 5604 has been set forth in the Department's letter to the committee under date of August 23, 1961. As indicated in that report, the Department of Commerce interposes no objection to the enactment of this bill. As has been pointed out in earlier testimony, the bill would permit the Burlington County Bridge Commission to use the funds which it has received as a result of this litigation for the acquisition, construction and improvement or enlargement of the county's facilities, buildings and roads. As stated in the bill, those funds are regarded as capital funds which are from sources other than toll revenues.

In addition, it is significant to point out that there have been no Federal-aid highway funds involved in the construction of either of these bridges. Under all the circumstances, the Department of Commerce sees no basis for making any objection to the bill.

Mr. FALLON. Any questions? If not, the letter from Clarence D. Martin, Jr., the Under Secretary of Commerce, will be made a part of the record at this point.

(The letter referred to is as follows:)

THE UNDER SECRETARY OF COMMERCE FOR TRANSPORTATION,
Washington, D.C., August 23, 1961.

HON. CHARLES A. BUCKLEY,
*Chairman, Committee on Public Works,
House of Representatives,
Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reply to your request for the views of this Department on H.R. 5604, a bill to amend the acts of May 21, 1926, and January 25, 1927, relating to the construction of certain bridges across to Delaware River so as to authorize the use of certain funds acquired by the owners of such bridges for purposes not directly related to the maintenance and operation of such bridges and their approaches.

The bill would amend each of the Acts of Congress authorizing the construction of two bridges over the Delaware River located near Burlington and Palmyra, N.J., respectively, by permitting the bridge owner, the Burlington County Bridge Commission, to use capital funds on hand derived from sources other than toll revenues in excess of the amount required for maintenance, repair, operation, reconstruction, replacement, and modernization and improvement of the bridges for payment to the county of Burlington, N.J., for its use in the acquisition, construction, improvement, or enlargement of the county's facilities, buildings, and roads.

It is understood that the Burlington County Bridge Commission purchased the two bridges in question in 1948 and that a portion of the purchase price was returned to the Bridge Commission after extensive litigation. It is further understood that the money so repaid to the Bridge Commission is that referred to in the bill as "* * * capital funds derived from sources other than toll revenues * * *" and that these funds amount to approximately \$1,300,000. Federal-aid highway funds were not involved in the construction of these bridges.

The Department of Commerce would interpose no objection to enactment of H.R. 5604.

The Bureau of the Budget advises that there would be no objection to the submission of this report from the standpoint of the administration's program.

Sincerely,

CLARENCE D. MARTIN, JR.

Mr. FALLON. Now, Mr. Booth, we would like for you to direct your remarks to H.R. 9376 and H.R. 9379.

Mr. BOOTH. Under H.R. 9376 the proposed Delaware River and Bay Authority would be authorized to operate the Delaware River Memorial Bridge and to continue tolls on that bridge beyond the amortization period provided for in the original 1946 act to provide for maintenance and operation, and also to provide for the construction of additional crossings.

In addition, the proposed legislation would permit the proposed bay authority to use tolls derived from these crossings, including tolls from the Memorial Bridge, for the financing of transportation or terminal facilities, which in large part may be of a nonhighway character.

As indicated in House Joint Resolution 783, which has recently been reported by another committee of the House, and is presently before the House for consideration, such resolution would grant the consent of Congress for a compact that has been entered into between Delaware and New Jersey. It is pointed out in that compact that these transportation and terminal facilities would mean railroads, motor vehicles, watercraft, aircraft, airports, wharves, piers, slips, basins, storage places, sheds, warehouses, and other items of such character.

Mr. FALLON. Similar to the New York Port Authority.

Mr. BOOTH. Very similar to the New York Port Authority. In view of this situation the Department seriously considered the desirability of permitting tolls that are paid by highway users to be used for such purposes. Accordingly, the Department's report recommends that the bill be amended by deleting the words, "transportation or terminal facility," wherever those words appear in the bill, and if this bill is so amended the Department has no objection to its enactment.

Mr. FALLON. I understand, too, from Mr. McDowell's testimony, that there is no objection on his part to eliminating that language from the bill.

Mr. BOOTH. That is my understanding, Mr. Chairman. All parties at interest are in accord with the recommended amendment. The Department's report does include several other comments and observations which have been incorporated in the report at the suggestion of the Bureau of the Budget. These relate to the possible need for refining the General Bridge Act, and other matters that are somewhat extraneous to the immediate issues of the bill.

I feel, however, that there is no purpose in commenting further on those points. They have merely been included in the Department's report for the committee's appropriate consideration, to be taken up as the committee may see fit. Other than that I believe I have no specific comments, Mr. Chairman, on the bill.

Mr. FALLON. Any questions on my right?

U.S. DEPARTMENT OF COMMERCE,
BUREAU OF PUBLIC ROADS,
Washington, D.C., August 1, 1962.

HON. CHARLES A. BUCKLEY,
Chairman, Committee on Public Works,
House of Representatives, Washington, D.C.

DEAR MR. BUCKLEY: At the hearing on H.R. 9376 and H.R. 9379 held before the Subcommittee on Rivers and Harbors on July 25, 1962, Hon. George H. Fallon presiding, the Bureau of Public Roads was requested to furnish for the

record a statement concerning the expenditure of Federal-aid highway funds in relation to the approaches on the Delaware side of the Delaware Memorial Bridge.

In response to the subcommittee's request, the following statement summarizes the Federal-aid projects in Delaware in the vicinity of the approaches to the Delaware Memorial Bridge. These projects are located on toll-free sections of the highway serving in part free traffic not using the toll facility. For the benefit of the committee, the statement also includes Federal-aid projects on the New Jersey side of the bridge.

DELAWARE

On the Delaware side, no Federal-aid funds have been expended or committed for any work from the interchange at the intersection of FAI-295 (U.S. 40) and State Route 9, easterly to the toll bridge. This interchange is approximately 0.5 of a mile west of the west end of the bridge. The section of FAI-295 westerly from this interchange is entirely free of toll and Federal-aid funds have participated in the cost of a number of improvements on this section from State Route 9 westerly to a point about 0.5 of a mile west of the Farnhurst interchange between FAI-295 and U.S. 13. These projects are briefly described below:

I(52)-I-295-4(3) one bridge in Farnhurst interchange. Estimated total cost, \$586,400.

I-295-4(4) construct one roadway from New Castle Avenue (SR-9) west to Landers Lane. Estimated total cost, \$437,700.

I-295-4(5) construct dual roadway from U.S. 13 east to Landers Lane. Estimated total cost, \$765,600.

I-295-4(6) two bridges and two ramps in Farnhurst interchange. Estimated total cost, \$601,800.

I-295-4(7) two bridges over U.S. 13 interchange ramps in Farnhurst interchange. Estimated total cost, \$396,600.

I-295-4(8) westbound bridge over U.S. 13 in Farnhurst interchange. Estimated total cost, \$900,200.

I-295-4(9) four bridges between Farnhurst interchange and a point 0.4 of a mile westerly. Estimated total cost, \$2,030,000.

I-295-4-(10) construct dual roadways from Farnhurst interchange to a point 0.4 of a mile west. Estimated total cost, \$1,511,200.

These eight Delaware Federal-aid projects have an estimated total cost of \$7,229,500. Federal participation in the above projects was 90 percent, except for the first listed project which was partly financed with 50 percent Federal funds.

NEW JERSEY

On the New Jersey side, the interchange between FAI-295 and the New Jersey Turnpike is approximately 0.8 of a mile east of the east end of the toll bridge. No Federal-aid funds have been expended or committed for any work between this interchange and the toll bridge. North from this interchange FAI-295 is entirely free of toll and the following four Federal-aid projects all begin at this interchange and extend north 1.7 miles to Hollywood Avenue:

I-295-1(14) P. Engr. only. Estimated total cost, \$48,000.

I-295-1(16) Right-of-way only. Estimated total cost, \$22,000.

I-295-1(17) Dual highway construction. Estimated total cost, \$1,090,600.

I-295-1(18) Utility adjustments. Estimated total cost, \$2,900.

These four New Jersey Federal-aid projects have an estimated total cost of \$1,163,500. Federal participation in these projects was 90 percent.

Enclosed is a map which sets forth graphically the location of each of the Federal-aid projects listed above.

If we may be of further assistance, please let us know.

Sincerely yours,

REX M. WHITTON,
Federal Highway Administrator.

Mr. AUCHINCLOSS. May I ask one question?

Mr. FALLON. Mr. Auchincloss.

Mr. AUCHINCLOSS. Can you tell the committee whether there are Federal funds involved in the approaches on the Delaware side of the Delaware Memorial Bridge?



*Federal Aid Projects
 Related To
 Delaware Memorial Bridge
 Approaches*

Maped by U. S. Coast & Geodetic Survey
 Edited and published by the Geological Survey
 Control by USC&GS (C) and USCE (E)
 Culture and drainage in part compiled from
 aerial photographs taken 1946
 Topography by plane-table methods 1946. Field check 1948
 Polyconic projection. 1927 North American datum
 10,000-foot grids based on Delaware and New Jersey
 coordinate systems
 No distinction is made between dwellings, barns,
 commercial and industrial buildings
 Road style indicates areas in which only
 landmarks buildings are shown

APPROXIMATE MEAN DECLINATION, 1948

THIS MAP COMPLETES WITH NATIONAL MAP ACCURACY STANDARDS
 FOR SALE BY U. S. GEOLOGICAL SURVEY, WASHINGTON 25, D. C.
 A FOLDER DESCRIBING TOPOGRAPHIC MAPS AND SYMBOLS IS AVAILABLE ON REQUEST

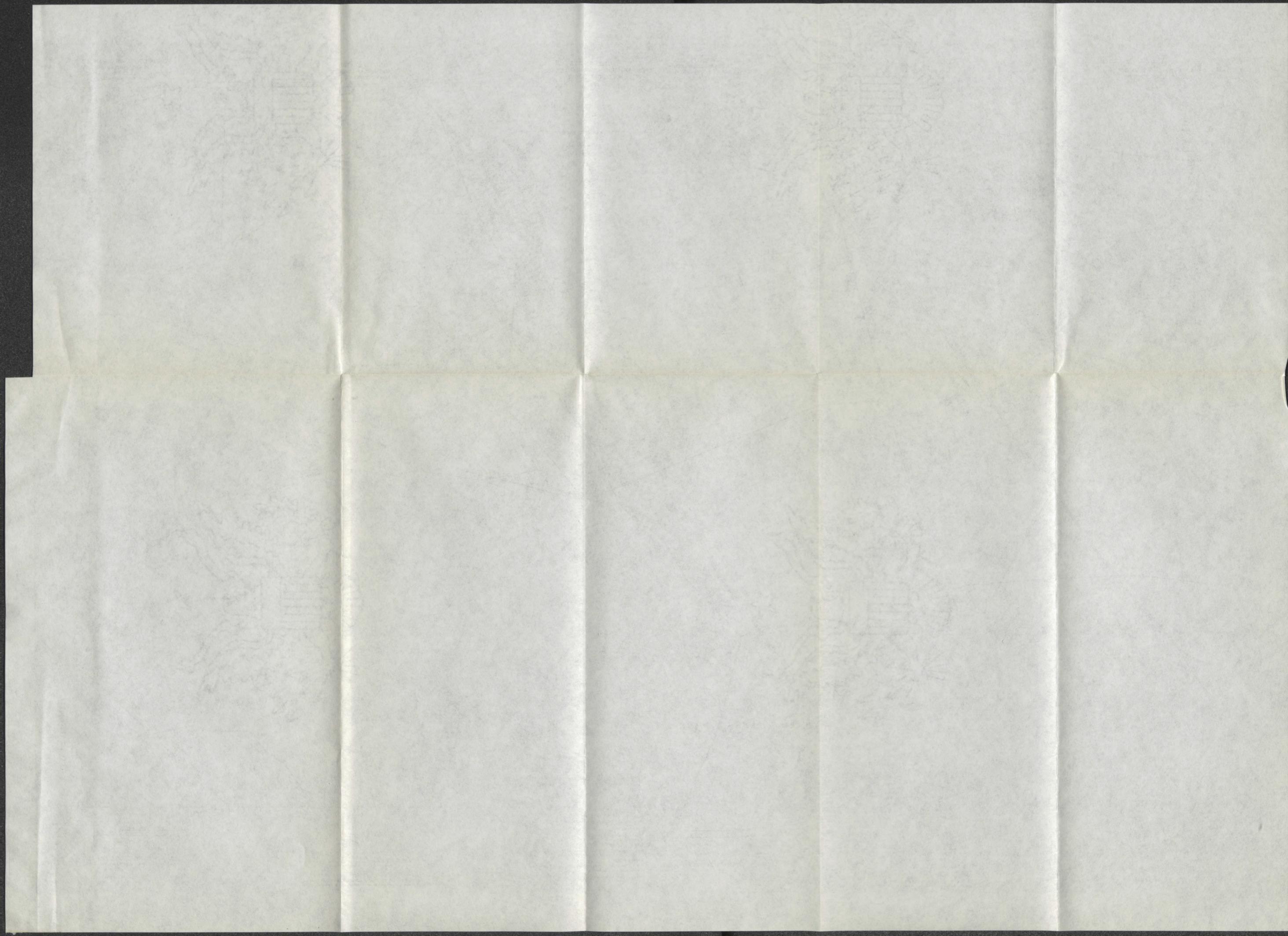
1948

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 No distinction is made between dwellings, barns,
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 In-ched elevations are shown in brown

APPROXIMATE MEAN DECLINATION, 1948

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EDITION OF 1961



Mr. BOOTH. Mr. Auchincloss, I do not have the particulars with me. I would be very happy to furnish them for the record if you desire. It is my understanding that there have been no Federal funds spent in the immediate approaches to the bridge.

Mr. AUCHINCLOSS. That was my understanding too. If you could furnish that for the record I would appreciate it.

Mr. BOOTH. We would be very glad to do that. I think there have been Federal-aid funds expended in the approach roads that lead toward the bridge; and under the Federal-aid highway legislation, Federal-aid projects may be located and funds spent up to the point where the project would have some use other than as an approach to the bridge. I would be very happy to furnish that information to you.

(The information to be furnished by the Bureau of Public Roads, Department of Commerce, faces this page.)

Mr. BALDWIN. There is one other specific recommendation in the Department of Commerce report, Mr. Booth, that pertains to this particular bill. That is on page 2 of the Commerce report, the fourth paragraph or, rather, the third paragraph on that page. It says:

Attention is called to the fact that section 5 of the act of July 13, 1946, would be amended by H.R. 9376 and would provide that the fixing, changing, and adjusting of rates of toll and the duration of toll charges for additional bridges constructed by the authority would be excluded from the provisions of the General Bridge Act of 1946. We believe that the intent of the amendment is to exclude additional bridges only from the provisions of section 506 of the General Bridge Act of 1946 relating to the duration of tolls, and we suggest that section 5 of the act be amended accordingly.

If I understand that recommendation correctly, this recommendation is that section 5 of the bill would be modified so that the exclusion would not just exclude the General Bridge Act as a whole, but would only exclude section 506 and, therefore, would bring the additional bridges or crossings under the general provision subjecting them to review as to rates by the Secretary of the Army, but would exclude them from a terminal time of 30 years. Is this your present recommendation as of today?

Mr. BOOTH. As far as I know there has been no change in the Department's recommendation on that point.

Mr. BALDWIN. So that your recommendation would be, on the last line of page 3, where it said, "* * * of said General Bridge Act of 1946" that that be changed to say, "section 506 of the General Bridge Act of 1946."

Mr. BOOTH. That is correct, because section 506 relates to the duration of time.

Mr. BALDWIN. Thank you.

Mr. FALLON. Are there any other questions? Thank you very much, Mr. Booth.

Mr. BALDWIN. Mr. Chairman, I think it would be appropriate at this time to ask Mr. McDowell to comment on this particular recommendation of the Department of Commerce, so we would be able to have his views on it.

Mr. FALLON. Mr. McDowell.

STATEMENT OF HON. HARRIS B. McDOWELL, JR., A REPRESENTATIVE IN CONGRESS AT LARGE FROM THE STATE OF DELAWARE—Resumed

Mr. McDOWELL. Would you mind restating it so I am sure I understand it?

Mr. FALLON. Mr. Baldwin.

Mr. BALDWIN. Yes. Mr. McDowell, the Department has made a comment pertaining to this section 5 on the bottom of page 3, and their comment says:

Attention is called to the fact that section 5 of the act of July 13, 1946, as it would be amended by H.R. 9376, would provide that the fixing, changing, and adjusting of rates of toll and the duration of toll charges for additional bridges constructed by the authority would be excluded from the provisions of the General Bridge Act of 1946. We believe that the intent of the amendment is to exclude additional bridges only from the provisions of section 506 of the General Bridge Act of 1946 relating to the duration of tolls, and we suggest that section 5 of the act be amended accordingly.

My understanding of this recommendation is that if we amend the last line of page 3 to add the words “* * * of section 506 of the General Bridge Act of 1946” we would be then building these other crossings under the general authority of the Secretary of the Army to review the rates fixed for toll, but we would exclude them from the terminal date of 30 years. My question is, What is your comment on the Department of Commerce’s recommendation?

Mr. McDOWELL. Well, again not being an attorney, and realizing that this involves legal terminology here in the act, I would be somewhat apprehensive of such a change in this act, as it might affect the compact ratification resolution which has been approved by the Judiciary Committee, and which is now on the Union Calendar. I think your own legal counsel could better advise you on that. I see and I cannot contemplate, or have not heard of any objection, or any intention on the part of the authorities of the two States to have any desire to continue other than a maintenance toll. I do think there is justification for a reasonable maintenance toll, but not to continue a toll road after the bonds have been paid off.

I also point out that in such authority granted, and I know of course that you gentlemen too are aware, that such language sometimes has a direct effect upon the acceptance of such bonds for financing such crossings with the investment banking people. So if there is no problem involved here in such a change as you suggest either affecting the compact resolution, or having any effect on the sale of such bonds, then I could see no further objection than to have it be completely in conformity with the section referred to in the General Bridge Act.

Mr. BALDWIN. I would say on the second point, as to the sale of bonds, since the General Bridge Act applied to bridges all over the country, many of which have been built by the sale of bonds, I do not believe under the General Bridge Act there has been any demonstrated problem as far as the sale of bonds is concerned, because obviously the Secretary of the Army has given consideration to the need for paying off and amortizing the bonds over a period of 30 years. I do not see any problem there. As to the second point, on the resolution before the Judiciary Committee, that point will have to be studied perhaps by this committee.

Mr. JONES. You mean, as it relates to the elimination of bond retirements under the terms of this bill?

Mr. BALDWIN. This bill as it now stands would not have anything to do with bond retirements on any other bridge built.

Mr. JONES. That is correct.

Mr. BALDWIN. But if we put in this suggested provision of the Department of Commerce, which would change section 5 only to include section 506 of the General Bridge Act, Mr. McDowell brought up the question as to whether it would in any way hazard the bonds. I do not think it would because the General Bridge Act guarantees that tolls will be adequate to pay off the bonds. Practically, that is one of its requirements. And the only requirement, I think is perhaps to review it—

Mr. JONES. Is the gentleman's contention—and I didn't hear all of it—that your opinion is you have some fear that there would be an extension of the tolls after the bonds are retired?

Mr. BALDWIN. I am not making any contention right now. I am inviting the comment of Mr. McDowell on a recommendation made by the Department of Commerce. The Department of Commerce's report recommended that section 5 be modified to limit the exclusion in section 5 simply to section 506 of the General Bridge Act and, therefore, narrow the exclusion only to the terminal time of 30 years, but would leave any other constructed bridge under the general requirements of the General Bridge Act; and the tolls fixed on those bridges would be subject to the Corps of Engineers, which has responsibility for the basic bridge which provides the funds for making possible the building of it. So I am just inquiring into the position of Mr. McDowell on the recommendations of the Department of Commerce.

Mr. McDOWELL. I say again my concern is only that there is after these long years of negotiation between the two States, a compact. They now find themselves completely in agreement and coming up to what appears to be a deadline in the next 2 to 3 years to build a new facility here to accommodate the traveling public. My concern is that we do not run into some roadblock which delays the possible adoption of this legislation by the Congress in this session.

Mr. BALDWIN. But you have not felt it would be a roadblock to adopt the other recommendations of the Department of Commerce?

Mr. McDOWELL. No.

Mr. BALDWIN. Which strikes out the terminal date?

Mr. McDOWELL. No, because I have had the attorneys, both in New Jersey and Delaware check those recommendations, and they have so advised me. So I feel on perfectly safe ground to have made that statement. I believe I noted the Department of Commerce made specific recommendations as to those changes, but not such specific recommendations for the change now under discussion. There is a comment, but I do not believe there is a direct recommendation.

Mr. BALDWIN. They say, "we suggest that section 5 of the act be amended accordingly."

Mr. McDOWELL. Yes, sir.

Mr. BALDWIN. That is a pretty specific recommendation, isn't it?

Mr. McDOWELL. But it is a suggestion. It is a little different, I think, from the wording of their other change that they recommended.

Mr. FALLON. Let me ask you this, Mr. McDowell. It is a fact that we cannot act on this legislation until the compact bill is passed

out of the Judiciary Committee creating this authority. We have to wait till that becomes law before we can give a commission or authority any power, when they actually will exist, because at present they do not exist under the law. So there is no rush, within a week or so, on this bill. I wonder if you would like to consult with the counsel to the authority or the commission to see just exactly what he would recommend in regard to the suggestion of the Department of Commerce, and we will just hold up anything in advance until we hear from you on that.

Mr. McDOWELL. I will be glad to do that, Mr. Chairman, and I assure you there will be no delay in advising the committee on that point.

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

Mr. McDOWELL. Thank you, Mr. Chairman.

Mr. FALLON. Gentlemen, I have some correspondence here from the Governor of the State of Delaware and the various departments concerned with this legislation. I ask unanimous consent that we make it a part of the record in the place where it should go. For instance, part of it deals with H.R. 5604, and the rest deals with H.R. 9376. Without objection it is so ordered.

I think we could hold an executive session here on the bill introduced by Mr. Thompson, H.R. 5604. I would like to have the Corps of Engineers representatives, and the representatives of the Department of Commerce to remain for a few minutes. The committee will now go into executive session.

(Whereupon, at 11:25 a.m., the subcommittee went into executive session.)

(The following was furnished for insertion.)

STATEMENT OF HON. MILTON W. GLENN, A REPRESENTATIVE IN CONGRESS FROM
THE STATE OF NEW JERSEY

Mr. Chairman, as a sponsor of H.R. 9050, a companion bill to H.R. 9376, I am very much interested in the enactment of this legislation as it pertains to southern New Jersey, and to a large extent to my Second Congressional District. I represent a large area on the New Jersey side of Delaware Bay, and while the bay is a very important part of the economy of south Jersey, yet it has always been a physical impediment toward social and economic relationships between south Jersey and the State of Delaware.

For instance, to get from Cape May County at the southern end of my district to Sussex County in Delaware, one has to travel approximately 60 miles up the Jersey side of Delaware Bay and River to the Delaware Memorial Bridge, and then down another 60 miles on the Delaware side to Sussex County. In fact, the Delaware Bay is the only estuary on the Atlantic coast from Maine to Florida that does not have some type of crossing, which connects the eastern seaboard highway system, and which would permit travel across this 20 miles of water.

The Garden State Parkway, which runs from the New York State line along the coastal area of New Jersey down to Cape May Point, is considered as not only the most beautiful parkway in the United States, but is classified by safety engineers as the safest for automobile driving, and yet at the Cape May terminus, it is a dead end. Ever since the completion of this wonderful parkway, the area and the whole State have looked forward to the day when a ferry service would connect the Garden Parkway with highways across the bay in Delaware, so there could be an uninterrupted passage from New England and the Northern States down through the coastal area of New Jersey, and to the Southern States and Florida. I mention this because it is so vital to my district, and to the southern portion of New Jersey, to have the bill before this committee reported out and enacted into law in conjunction with House Joint Resolution 783, giving consent of Congress to the States of Delaware and New Jersey to enter into a compact establishing the Delaware River and Bay Authority for the development of the

area in both States bordering the Delaware Bay and River. The House joint resolution has been passed by the House.

Of course, the main purpose of this legislation is to enable the newly created Delaware River and Bay Authority to build another toll bridge across the Delaware River, adjoining the present Delaware Memorial Bridge. The traffic on the present bridge is so heavy that it is estimated that within the next 2 years, it will not be able to serve the heavy traffic, which is increasing every year. The authorization of the new bridge will, of course, alleviate this condition, but is cannot come too soon. With the march of time, it is highly possible that another crossing, either bridge or tunnel, may be necessary between the two States at a point farther down the river and bay, and perhaps halfway between the present structure and the 70-mile-distant location for the ferry service to which I have heretofore referred.

These crossings will be of great benefit to the development of the economy of both areas for purposes of industrial, economic, and social growth, as there is nothing that compares in economic growth to the bringing in of new highways to undeveloped areas.

I know of the concern of the Department of Commerce on the broad aspects of the original bill before this committee, and know of its recommendation to amend it by deletion of the phrase "transportation or terminal facility, facilities, or projects" wherever it appears. I also note in the same paragraph of the Department's report that this criticism only applies to terminals or other facilities other than a highway crossing. I also note in the same paragraph that the Department refers to the tolls being collected on the Delaware Memorial Bridge and other highway bridges or crossings which might be constructed and operated by the Authority.

I am sure that the Department of Commerce in its disapproval referred to terminal facilities or separate projects that were not a part of or necessary for crossings, such as bridges, tunnels, and ferries.

The States of New Jersey and Delaware in their compact, which has now been made a part of House Joint Resolution 783 in article 11 defines "crossing" as "Crossing" means any structure or facility adapted for public use in crossing the Delaware River or Bay between the States, whether by bridge, tunnel, ferry or other device, and by any vehicle or means of transportation of persons or property, as well as all approaches thereto and connecting and service routes and all appurtenances and equipment relating thereto." This certainly and specifically includes a ferry service. It further defines "appurtenances" and "equipment" as, "Appurtenances" and "equipment" means all works, buildings, structures, devices, appliances and supplies, as well as every kind of mechanism, arrangement, object or substance related to and necessary or convenient for the proper construction, equipment, maintenance, improvement and operation of any crossing."

Therefore, there should be no question of the intention of Congress and of the States of New Jersey and Delaware in including within the authorization of the authority, the power to build and construct ferry service, as well as all approaches thereto and buildings, structures, devices, appliances, and supplies, as well as every kind of mechanism, arrangement, object or substance related to and necessary or convenient for the proper construction and maintenance of such ferries with ferry houses and ferry slips.

While I am content that this bill, H.R. 9376, and my bill, H.R. 9050, have to do with the amendment of the act authorizing the State of Delaware to construct, maintain, and operate the toll bridge now known as the Delaware Memorial Bridge across the Delaware River and particularly with the sections having to do with the charging of tolls over this bridge as they refer to the General Bridge Act of 1946, I still believe it is germane to comment on the relevancy of the coverage of House Joint Resolution 783, as these are companion measures having to do with the congressional approval and authorization for the Delaware River and Bay Authority as it is constituted and defined by the compact between the two States. Also, I believe it is important as a matter of record to note that the definitions as contained in the compact between the States and as adopted in House Joint Resolution 783, are adoptable to the same words and phrases as appear in both bills, so that there can be no doubt as to the extent of the authorization and powers of the Delaware River and Bay Authority as referred to in both bills.

I urge this committee to favorably report this bill and to include in its report an explanation of the purport of the bill as I have tried to point out in the foregoing so that there can be no question now or in the future as to the intent of the Congress in its approval of the compact between the States of New Jersey and Delaware in the creation of the Delaware River and Bay Authority.

DEPARTMENT OF THE ARMY,
Washington, D.C., June 22, 1962.

HON. CHARLES A. BUCKLEY,
Chairman, Committee on Public Works,
House of Representatives.

DEAR MR. CHAIRMAN: Reference is made to your request for the views of the Department of the Army with respect to H.R. 9376, and H.R. 9379, 87th Congress, identical bills to amend the act of July 13, 1946, to authorize the construction, maintenance, and operation of certain additional toll bridges over or across the Delaware River and Bay.

The act of July 13, 1946, authorizes the State of Delaware, by and through its State highway department, to construct, maintain, and operate a toll bridge across the Delaware River near Wilmington, Del., the tolls to be used to pay the cost of maintenance, repair and operation of the bridge and its approaches and to provide a sinking fund sufficient to amortize the cost of the bridge within a period not to exceed 30 years from completion.

These bills would amend the act of July 13, 1946, by substituting the Delaware River and Bay Authority for the State highway department, and would authorize the authority to construct, operate and maintain additional toll bridges over or across the Delaware River and Bay between the States of Delaware and New Jersey. In addition, the authority would be authorized to fix and charge tolls for use of the bridges and to use the tolls to pay for the cost of maintaining, repairing, improving, and operating the bridges and other toll crossings, terminal or transportation facilities and projects operated by the Delaware River and Bay Authority.

The Department of the Army interposes no objection to enactment of these bills. However, the following comments are called to the attention of the committee in connection with its consideration of the bills.

It will be noted that the bills create a distinction between the Delaware Memorial Bridge and any other bridges that the authority may construct, with respect to the charging of tolls by the Secretary of the Army under the authority of the General Bridge Act of 1946. In addition, the committee's attention is invited to the fact that the proposal to authorize the tolls charged, on the existing and additional bridges, to be used for the construction of transportation or terminal and other facilities or projects of the authority, is not in accordance with the General Bridge Act of 1946, which provides that the rates of toll shall be so adjusted as to provide a fund to pay the cost of maintaining, repairing and operating bridges and to provide a sinking fund to amortize the cost within a period not to exceed 30 years. Further, the existing bridge is subject to a provision that it shall be made free of tolls (as is also true under the 1946 Bridge Act) whereas these bills would not so provide for either additional bridges or the existing bridge.

The Bureau of the Budget advises that, from the standpoint of the administration's program, there is no objection to the presentation of this report for the consideration of the committee.

Sincerely yours,

ELVIS J. STAHR, Jr.,
Secretary of the Army.

THE UNDER SECRETARY OF COMMERCE,
Washington, D.C., June 22, 1962.

HON. CHARLES A. BUCKLEY,
Chairman, Committee on Public Works,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in further reply to your request for the views of the Department of Commerce concerning H.R. 9376, a bill to amend the act of July 13, 1946, to authorize the construction, maintenance, and operation of certain additional toll bridges over or across the Delaware River and Bay.

The proposed legislation would amend the act approved July 13, 1946, (60 Stat. 533) which authorized the State of Delaware, by and through its State highway department, to construct, maintain, and operate a toll bridge across the Delaware River near Wilmington, Del. This bridge is known as the Delaware Memorial Bridge. The proposed amendment would provide for the operation of the bridge by the "Delaware River and Bay Authority" and would permit its combination, for financing purposes, with other facilities to be constructed by said authority, including transportation or terminal facilities or projects under, over,

along or across the Delaware River and Bay between the States of Delaware and New Jersey. Tolls from such facilities and the Delaware Memorial Bridge would be used to pay the costs thereof including construction, reconstruction, improvement, maintenance, repair and debt service.

The Department of Commerce would interpose no objection to the enactment of H.R. 9376 if amended as recommended herein.

It is understood that the States of Delaware and New Jersey have recently enacted legislation to provide for an interstate compact between the two States to establish the Delaware River and Bay Authority. It is also understood that Delaware has enacted legislation to implement the transfer of the Delaware Memorial Bridge to the proposed new Delaware River and Bay Authority. The Congress has not yet granted its consent to the proposed compact; however, H.J. Res. 555, now under consideration by the Committee on the Judiciary, would provide for such consent. In this connection, it is noted that section 1723 of title 17 of the Delaware Code (the Delaware Act, approved July 21, 1961, relating to the proposed compact) provides that such legislation "shall take effect and become binding upon the State of Delaware upon the completion of the last of the following three events: (1) upon the enactment by the State of New Jersey of legislation agreeing to the exact terms of the Delaware-New Jersey Compact; (2) upon the granting of the consent of Congress thereto; and (3) upon the enactment of Congress of an amendment to 60 Stat. 553 to eliminate the present requirement for the cessation of tolls for those of the Delaware Memorial Bridge upon payment of the outstanding revenue bonds, but in no event prior to July 1, 1962."

This Department would seriously question the desirability of permitting the use of tolls collected on the Delaware Memorial Bridge and other highway bridges or crossings which might be constructed and operated by the authority for the financing of terminals or any facility other than a highway crossing. Accordingly, it is recommended that H.R. 9376 be amended by deleting the phrase "transportation or terminal facility, facilities or projects" wherever it appears in said bill with appropriate changes in punctuation where necessary.

Attention is called to the fact that section 5 of the act of July 13, 1946, as it would be amended by H.R. 9376, would provide that the fixing, changing, and adjusting of rates of toll and the duration of toll charges for additional bridges constructed by the authority would be excluded from the provisions of the General Bridge Act of 1946. We believe that the intent of the amendment is to exclude additional bridges only from the provisions of section 506 of the General Bridge Act of 1946, relating to the duration of tolls, and we suggest that section 5 of the act be amended accordingly.

Attention is drawn to the fact that article IV of the proposed compact, contained on H.J. Res. 555 previously referred to, specifically prohibits the undertaking of any project by the Delaware River and Bay Authority, other than a crossing as defined in article II, without first having secured approval thereof by concurrent legislation of the States of New Jersey and Delaware. Thus, unless the State legislatures approve a particular transportation facility or terminal facility, the authority of the proposed agency will be limited to crossings of the Delaware River or Bay.

Consideration by this Department of the proposed legislation as well as H.J. Res. 555, has led to the belief that the general situation relating to highway toll facilities and the applicable provisions of Federal law indicates the desirability of further study by the Congress and possible revision of such provisions of law.

The General Bridge Act of 1946 (60 Stat. 847), as amended, contains in section 506 thereof a limitation on the imposition of tolls with respect to publicly owned interstate bridges constructed or acquired under that act. On these bridges rates of toll must be adjusted so as to provide a sinking fund sufficient to amortize bridge costs within a period not to exceed 30 years. Thereafter, these publicly owned interstate bridges are required to be maintained and operated free of tolls. These restrictions and limitations on tolls do not apply, however, to intrastate bridges. Therefore, the Federal law is not consistent in its application to toll bridges over navigable waters. Nor does the General Bridge Act apply in any way to tunnels under such navigable waters, thus creating another inconsistency in the Federal law. It is realized that, historically, Federal general bridge legislation has had one of its primary bases in the responsibility of the Secretary of the Army (formerly Secretary of War) with respect to navigation and the navigable waters of the United States. For decades, Federal responsibility and jurisdiction as to reasonableness of tolls on bridges constructed under the general bridge acts have been lodged in the Secretary of the Army or his predecessor.

(See sec. 503 of the General Bridge Act of 1946). The question arises whether the present-day interest of the Department of the Army in such bridges is sufficient to justify the continuation of this responsibility in that Department in the light of the overall transportation responsibilities of the Federal Government.

A related question raised by the inclusion of the Delaware Memorial Bridge in the Interstate System, concerns the Federal policy on the duration of tolls charged for the use of facilities included in the Federal-aid highway systems, particularly the Interstate System where Federal-State participation is on a 90-10 basis. Under the Federal Aid Highway Act of 1956, the Congress specifically authorized the inclusion of toll facilities as part of the Interstate System (23 U.S.C. § 129(b)) for purposes of system integration when such facilities meet the adopted design standards, with the express provision, however, that no Federal funds be expended thereon except to the extent permitted by law. No Federal restrictions are placed on the use of tolls from such facilities or the duration of the toll collection period, except that if a State applies for Federal aid for certain approaches to toll roads on the Interstate System under section 129(d) of title 23, United States Code, the State must agree that the section of the toll road involved will become free when specified costs are provided. It is possible under existing law, therefore, for individual States to maintain key segments of the Interstate System as toll facilities indefinitely.

The specific question is raised whether it is desirable to permit the continuation of tolls on a part of the Interstate System for indefinite periods for the support of other projects or purposes. Traffic generated by free portions of the system undoubtedly contributes materially to the financial success of these toll facilities, and 90 percent of the cost of these free highways is borne by the Federal Government out of funds collected from the highway user through taxes going to the highway trust fund.

The Department of Commerce is aware that the points raised herein go beyond the immediate issues of the pending bill. The Congress may wish, however, as already indicated, to take the opportunity presented by the proposal to examine the larger issues concerned, the consistency of Federal law regarding toll facilities of all kinds and the effect of such tolls on the highway user, particularly the user of Interstate System highways, with a view to determining whether amendment to existing law on this subject may be desirable and in the public interest.

The Bureau of the Budget advised there would be no objection to the submission of this report from the standpoint of the administration's program.

Sincerely yours,

EDWARD GUDEMAN,
Under Secretary of Commerce.



