

87/33
DELAWARE-NEW JERSEY COMPACT

HEARING
BEFORE
SUBCOMMITTEE NO. 3
OF THE
COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH CONGRESS

SECOND SESSION

ON

H.J. RES. 555, H.J. RES. 556, H.J. RES. 562,
and H.J. RES. 570

**GRANTING CONSENT OF CONGRESS TO THE STATE OF
DELAWARE AND THE STATE OF NEW JERSEY TO ENTER
INTO A COMPACT TO ESTABLISH THE DELAWARE RIVER
AND BAY AUTHORITY FOR THE DEVELOPMENT OF THE
AREA IN BOTH STATES BORDERING THE DELAWARE
RIVER AND BAY**

JUNE 28, 1962

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CONTENTS

| Text of— | Page |
|--|------|
| House Joint Resolution 555..... | 1 |
| House Joint Resolution 556..... | 8 |
| House Joint Resolution 562..... | 14 |
| House Joint Resolution 570..... | 20 |
| Testimony of— | |
| Cahill, Hon. William T., a Representative in Congress from the State of New Jersey..... | 41 |
| Carvel, Hon. Elbert N., Governor of the State of Delaware..... | 30 |
| Glenn, Hon. Milton W., a Representative in Congress from the State of New Jersey..... | 40 |
| Hughes, Hon. Richard J., Governor of the State of New Jersey..... | 35 |
| Latchum, James L., counsel for the Delaware Interstate Highway Division..... | 47 |
| McDowell, Hon. Harris B., Jr., a Representative in Congress from the State of Delaware..... | 27 |
| Nicholson, Mrs. Mary K., legislative attorney, Bureau of Public Roads, Department of Commerce; accompanied by Ridge, Sylvester, special program coordinator, Bureau of Public Roads, Department of Commerce..... | 51 |
| Sandman, Hon. Charles W., Jr., State senator from the State of New Jersey..... | 44 |
| Thompson, Hon. Frank, Jr., a Representative from the State of New Jersey..... | 34 |
| Waddington, Hon. John A., State senator from the State of New Jersey..... | 42 |
| Weber, Hon. Robert H., State senator from the State of New Jersey..... | 46 |
| Other material: | |
| Army, Department of the, letter of April 11, 1962..... | 54 |
| Commerce, Department of, letter of June 12, 1962..... | 58 |
| Interior, Department of the, letter of April 18, 1962..... | 57 |
| Justice, Department of, letter of April 10, 1962..... | 56 |
| Leuchter, Ben, president, Southern New Jersey Development Council, letter of June 28, 1962..... | 59 |
| Securities and Exchange Commission, letter of February 14, 1962..... | 56 |
| Treasury, Department of the, letter of April 26, 1962..... | 55 |

DELAWARE-NEW JERSEY COMPACT

THURSDAY, JUNE 28, 1962

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE NO. 3 OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10 a.m., in room 346, Old House Office Building, the Honorable Edwin E. Willis (chairman of the subcommittee) presiding.

Present: Representatives Tuck, Loser, Libonati, Toll, Lindsay and Mathias.

Also present: Herbert Fuchs, counsel; Wm. H. Copenhagen, associate counsel.

Mr. WILLIS. The subcommittee will please come to order. Subcommittee No. 3 meets this morning to hear witnesses on House Joint Resolutions 555, 556, 562, and 570, identical measures calling for the consent of Congress to the State of Delaware and the State of New Jersey to enter into a compact to establish the Delaware River and Bay Authority for the development of the area in both States bordering the Delaware River and Bay. Copies of these joint resolutions will be inserted in the record at this point.

(H.J. Res. 555, 556, 562, and 570 follow:)

[H.J. Res. 555, 87th Cong., 1st sess.]

JOINT RESOLUTION Granting consent of Congress to the State of Delaware and the State of New Jersey to enter into a compact to establish the Delaware River and Bay Authority for the development of the area in both States bordering the Delaware River and Bay

Whereas, the State of Delaware and the State of New Jersey, pursuant to legislative authority adopted by each State, being 53 Laws of Delaware, chapter 145, and P. L. 1961, chapter 66 of the Laws of New Jersey, have provided, subject to the consent of Congress, for a compact, known as the Delaware-New Jersey Compact, establishing "The Delaware River and Bay Authority" for the development of the area in both States bordering the said Delaware River and Bay; and

Whereas, said compact reads as follows:

DELAWARE-NEW JERSEY COMPACT

Whereas, The State of Delaware and New Jersey are separated by the Delaware River and Bay which create a natural obstacle to the uninterrupted passage of traffic other than by water and with normal commercial activity between the two States thereby hindering the economic growth and development of those areas in both States which border the River and Bay; and

Whereas, the pressures of existing trends from increasing traffic, growing population and greater industrialization indicate the need for closer cooperation between the two States in order to advance the economic development and to improve crossings, transportation, terminal and other facilities of the area; and

Whereas, the financing, construction, operation and maintenance of such crossings, transportation, terminal and other facilities of commerce and the over-all planning for future economic development of the area may be best accomplished

for the benefit of the two States and their citizens, the region and nation, by the cordial cooperation of Delaware and New Jersey by and through a joint or common agency or authority;

Now, therefore, the State of Delaware and the State of New Jersey, do hereby solemnly covenant and agree, each with the other as follows:

ARTICLE I.

SHORT TITLE.

This Compact shall be known as the "Delaware-New Jersey Compact."

ARTICLE II.

DEFINITIONS.

"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.

"Transportation facility" and "terminal facility" mean any structure or facility other than a crossing as herein defined, adapted for public use within each of the States party hereto in connection with the transportation of persons or property, including railroads, motor vehicles, watercraft, airports and aircraft, docks, wharves, piers, slips, basins, storage places, sheds, warehouses, and every means or vehicle of transportation now or hereafter in use for the transportation of persons and property or the storage, handling or loading of property, as well as all appurtenances and equipment related thereto.

"Appurtenances" and "equipment" mean 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, transportation facility or terminal facility.

"Project" means any undertaking or program for the acquisition or creation of any crossing, transportation facility or terminal facility, or any part thereof, as well as for the operation, maintenance and improvement thereof.

"Tunnel" means a tunnel of one or more tubes.

"Governor" means any person authorized by the Constitution and law of each State to exercise the functions, powers and duties of that office.

"Authority" means the Authority created by this Compact or any agency successor thereto.

The singular whenever used herein shall include the plural, and the plural shall include the singular.

ARTICLE III.

FAITHFUL COOPERATION.

They agree to and pledge, each to the other, faithful cooperation in the effectuation of this Compact and any future amendment or supplement thereto, and of any legislation expressly in implementation thereof hereafter enacted, and in the planning, development, financing, construction, operation, maintenance and improvement of all projects entrusted to the Authority created by this Compact.

ARTICLE IV.

ESTABLISHMENT OF AGENCY; PURPOSES.

The two States agree that there shall be created and they do hereby create a body politic, to be known as "The Delaware River and Bay Authority" (for brevity hereinafter referred to as the "Authority"), which shall constitute an agency of government of the State of Delaware and the State of New Jersey for the following general public purposes, and which shall be deemed to be exercising essential governmental functions in effectuating such purposes, to wit:

(a) The planning, financing, development, construction, purchase, lease, maintenance, improvement and operation of crossings between the States of Delaware and New Jersey across the Delaware River or Bay at any location south of the boundary line between the State of Delaware and the Commonwealth of Pennsylvania as extended across the Delaware River to the New Jersey shore

of said river, together with such approaches or connections thereto as in the judgment of the Authority are required to make adequate and efficient connections between such crossings and any public highway or other routes in the State of Delaware or in the State of New Jersey; and

(b) The planning, financing, development, construction, purchase, lease, maintenance, improvement and operation of any transportation or terminal facility within those areas of both States which border on or are adjacent to the Delaware River or Bay south of the aforesaid line and which in the judgment of the States is required for the sound economic development of the area; and

(c) The performance of such other functions as may be hereafter entrusted to the Authority by concurrent legislation expressly in implementation hereof.

The authority shall not undertake any project or part thereof, other than a crossing, without having first secured approval thereof by concurrent legislation of the two States expressly in implementation hereof.

ARTICLE V.

COMMISSIONERS.

The authority shall consist of ten Commissioners, five of whom shall be residents of and qualified to vote in, and shall be appointed from, the State of Delaware, and five of whom shall be residents of and qualified to vote in, and shall be appointed from, the State of New Jersey; not more than three of the Commissioners of each State shall be of the same political party; the Commissioners for each State shall be appointed in the manner fixed and determined from time to time by the law of each State respectively. Each Commissioner shall hold office for a term of five years, and until his successor shall have been appointed and qualified, but the terms of the first Commissioners shall be so designated that the term of one Commissioner from each State shall expire each year. All terms shall run to the first day of July. Any vacancy, however created, shall be filled for the unexpired term only. Any Commissioner may be suspended or removed from office as provided by law of the State from which he shall be appointed.

Commissioners shall be entitled to reimbursement for necessary expenses to be paid only from revenues of the Authority and may not receive any other compensation for services to the Authority except such as may from time to time be authorized from such revenues by concurrent legislation.

ARTICLE VI.

BOARD ACTION.

The Commissioners shall have charge of the Authority's property and affairs and shall, for the purpose of doing business, constitute a Board; but no action of the Commissioners shall be binding or effective unless taken at a meeting at which at least three Commissioners from each State are present, and unless at least three Commissioners from each State shall vote in favor thereof. The vote of any one or more of the Commissioners from each State shall be subject to cancellation by the Governor of such State at any time within 10 days (Saturdays, Sundays and public holidays in the particular State excepted) after receipt at the Governor's Office of a certified copy of the minutes of the meeting at which such vote was taken. Each State may provide by law for the manner of delivery of such minutes, and for notification of the action thereon.

ARTICLE VII.

GENERAL POWERS.

For the effectuation of its authorized purposes, the Authority is hereby granted the following powers:

- a. To have perpetual succession.
- b. To adopt and use an official seal.
- c. To elect a chairman and a vice-chairman from among the commissioners. The chairman and vice-chairman shall be elected from different States, and shall each hold office for two years. The chairmanship and vice-chairmanship shall be alternated between the two States.
- d. To adopt by-laws to govern the conduct of its affairs by the Board of Commissioners, and it may adopt rules and regulations and may make appropriate orders to carry out and discharge its powers, duties and functions, but no by-law, or rule, regulation or order shall take effect until it has been filed with the Secre-

tary of State of each State or in such other manner in each State as may be provided by the law thereof. In the establishment of rules, regulations and orders respecting the use of any crossing, transportation or terminal facility owned or operated by the Authority, including approach roads, it shall consult with appropriate officials of both States in order to insure, as far as possible, uniformity of such rules, regulations and orders with the law of both States.

e. To appoint, or employ, such other officers, agents, attorneys, engineers and employees as it may require for the performance of its duties and to fix and determine their qualifications, duties, compensation, pensions, terms of office and all other conditions and terms of employment and retention.

f. To enter into contracts and agreements with either State or with the United States, or with any public body, department, or other agency of either State or of the United States or with any individual, firm or corporation, deemed necessary or advisable for the exercise of its purposes and powers.

g. To accept from any government or governmental department, agency or other public or private body, or from any other source, grants or contributions of money or property as well as loans, advances, guarantees, or other forms of financial assistance which it may use for or in aid of any of its purposes.

h. To acquire (by gift, purchase or condemnation), own, hire, lease, use, operate and dispose of property, whether real, personal or mixed, or of any interest therein, including any rights, franchise and property for any crossing, facility or other project owned by another, and which the Authority is authorized to own and operate.

i. To designate as express highways, and control public and private access thereto, all or any approaches to any crossing or other facility of the Authority for the purpose of connecting the same with any highway or other route in either State.

j. To borrow money and to evidence such loans by bonds, notes or other obligations, either secured or unsecured, and either in registered or unregistered form, and to fund or refund such evidences of indebtedness, which may be executed with facsimile signatures of such persons as may be designated by the Authority and by a facsimile of its corporate seal.

k. To procure and keep in force adequate insurance or otherwise provide for the adequate protection of its property, as well as to indemnify it or its officers, agents or employees against loss or liability with respect to any risk to which it or they may be exposed in carrying out any function hereunder.

l. To grant the use of, by franchise, lease or otherwise, and to make charges for the use of, any crossing, facility or other project or property owned or controlled by it.

m. To exercise the right of eminent domain to acquire any property or interest therein.

n. To determine the exact location, system and character of and all other matters in connection with any and all crossings, transportation or terminal facilities or other projects which it may be authorized to own, construct, establish, effectuate, operate or control.

o. To exercise all other powers not inconsistent with the Constitutions of the two States or of the United States, which may be reasonably necessary or incidental to the effectuation of its authorized purposes or to the exercise of any of the foregoing powers, except the power to levy taxes or assessments, and generally to exercise in connection with its property and affairs, and in connection with property within its control, any and all powers which might be exercised by a natural person or a private corporation in connection with similar property and affairs.

ARTICLE VIII.

ADDITIONAL POWERS.

For the purpose of effectuating the authorized purposes of the Authority, additional powers may be granted to the Authority by legislation of either State without the concurrence of the other, and may be exercised within such State, or may be granted to the Authority by Congress and exercised by it; but no additional duties or obligations shall be undertaken by the Authority under the law of either State or of Congress without authorization by the law of both States.

ARTICLE IX.

EMINENT DOMAIN.

If the Authority shall find and determine that any property or interest therein is required for a public use because in furtherance of the purposes of the Authority, said determination shall not be affected by the fact that such property has theretofore been taken over or is then devoted to a public use, but the public use in the hands or under the control of the Authority, shall be deemed superior to the public use for which it has theretofore been taken or to which it is then devoted.

In any condemnation proceedings in connection with the acquisition by the Authority of property or property rights of any character in either State and the right of inspection and immediate entry thereon, through the exercise by it of its power of eminent domain, any existing or future law or rule of court of the State in which such property is located with respect to the condemnation of property for the construction, reconstruction and maintenance of highways therein, shall control. The Authority shall have the same power and authority with respect thereto as the State agency named in any such law; provided that nothing herein contained shall be construed as requiring joint or concurrent action by the two States with respect to the enactment, repeal or amendment of any law or rule of court on the subject of condemnation under which the Authority may proceed by virtue of this Article.

If the established grade of any street, avenue, highway or other route shall be changed by reason of the construction by the Authority of any work so as to cause loss or injury to any property abutting on such street, avenue, highway or other route, the Authority may enter into voluntary agreements with such abutting property owners and pay reasonable compensation for any loss or injury so sustained, whether or not it be compensable as damages under the condemnation law of the State.

The power of the Authority to acquire property by condemnation shall be a continuing power, and no exercise thereof shall be deemed to exhaust it.

ARTICLE X.

REVENUES AND APPLICATION.

The Authority is hereby authorized to establish, levy and collect such tolls and other charges as it may deem necessary, proper or desirable, in connection with any crossing, transportation or terminal facility or other project which it is or may be authorized at any time to construct, own, operate or control, and the aggregate of said tolls and charges shall be at least sufficient (1) to meet the combined expenses of operation, maintenance and improvement thereof, (2) to pay the cost of acquisition or construction, including the payment, amortization and retirement of bonds or other securities or obligations assumed, issued or incurred by the Authority, together with interest thereon and (3) to provide reserves for such purposes; and the Authority is hereby authorized and empowered, subject to prior pledges, if any, to pledge such tolls and other revenues or any part thereof as security for the repayment with interest of any moneys borrowed by it or advanced to it for its authorized purposes and as security for the satisfaction of any other obligations assumed by it in connection with such loans or advances. There shall be allocated to the cost of the acquisition, construction, operation, maintenance and improvement of such facilities and projects, such proportion of the general expenses of the Authority as it shall deem properly chargeable thereto.

ARTICLE XI.

COVENANT WITH BONDHOLDERS.

The two said States covenant and agree with each other and with the holders of any bonds or other securities or obligations of the Authority, assumed, issued or incurred by it and as security for which there may be pledged the tolls and revenues or any part thereof of any crossing, transportation or terminal facility or other project, that the two said States will not, so long as any of such bonds or other obligations remain outstanding and unpaid, diminish or impair the power of the Authority to establish, levy and collect tolls and other charges in connection therewith, and that neither of the two said States will, so long as any of such bonds or other obligations remain outstanding and unpaid, authorize any crossing of the Delaware River or Delaware Bay south of the line mentioned in Article

IV(a) of this Compact, by any person or body other than the Authority; unless, in either case, adequate provision shall be made by law for the protection of those advancing money upon such obligations.

ARTICLE XII.

SECURITIES LAWFUL INVESTMENTS.

The bonds or other securities or obligations which may be issued by the Authority pursuant to this Compact, or any amendments hereof or supplements hereto, are hereby declared to be negotiable instruments, and are hereby made securities in which all State and municipal officers and bodies of each State, all banks, bankers, trust companies, savings banks, building and loan associations, saving and loan associations, investment companies and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all administrators, executors, guardians, trustees and other fiduciaries and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of either State, may properly and legally invest any funds, including capital, belonging to them or within their control; and said obligations are hereby made securities which may properly and legally be deposited with and shall be received by any State or municipal officer or agency of either State for any purpose for which the deposit of bonds or other obligations of such State is now or may hereafter be authorized.

ARTICLE XIII.

TAX STATUS.

The powers and functions exercised by the Authority under this Compact and any amendments hereof or supplements hereto are and will be in all respects for the benefit of the people of the States of Delaware and New Jersey, the region and nation, for the increase of their commerce and prosperity and for the enhancement of their general welfare. To this end, the Authority shall be regarded as performing essential governmental functions in exercising such powers and functions and in carrying out the provisions of this compact and of any law relating thereto, and shall not be required to pay any taxes or assessments of any character, levied by either State or political subdivision thereof, upon any of the property used by it for such purposes, or any income or revenue therefrom, including any profit from a sale or exchange. The bonds or other securities or obligations issued by the Authority, their transfer and the interest paid thereon or income therefrom, including any profit from a sale or exchange, shall at all times be free from taxation by either State or any subdivision thereof.

ARTICLE XIV.

JURISDICTION; USE OF LANDS.

Each of the two States hereby consents to the use and occupancy by the Authority of any lands and property of the Authority in such State for the construction, operation, maintenance or improvement of any crossing, transportation or terminal facility or other project which it is or may be authorized at any time to construct, own or operate, including lands lying under water.

ARTICLE XV.

REVIEW AND ENFORCEMENT OF RULES.

Judicial proceedings to review and by-law, rule, regulation, order or other action of the Authority or to determine the meaning or effect thereof, may be brought in such court of each State, and pursuant to such law or rules thereof, as a similar proceeding with respect to any agency of such State might be brought.

Each State may provide by law what penalty or penalties shall be imposed for violation of any lawful rule, regulation or order of the Authority, and, by law or rule of court, for the manner of enforcing the same.

ARTICLE XVI.

NO PLEDGE OF CREDIT.

The Authority shall have no power to pledge the credit or to create any debt or liability of the State of Delaware, of the State of New Jersey, or of any other agency or of any political subdivision of said States.

ARTICLE XVII.

LOCAL COOPERATION.

All municipalities, political subdivisions and every department, agency or public body of each of the States are hereby authorized and empowered to cooperate with, aid and assist the Authority in effectuating the provisions of this Compact and of any amendment hereof or supplement hereto.

ARTICLE XVIII.

DEPOSITARIES.

All banks, bankers, trust companies, savings banks and other persons carrying on a banking business under the laws of either State are authorized to give security for the safekeeping and prompt payment of moneys of the Authority deposited by it with them, in such manner and form as may be required by and may be approved by the Authority, which security may consist of a good and sufficient undertaking with such sureties as may be approved by the Authority, or may consist of the deposit with the Authority or other depository approved by the Authority as collateral of such securities as the Authority may approve.

ARTICLE XIX.

AGENCY POLICE.

Members of the police force established by the Authority, regardless of their residence, shall have in each State, on the crossings, transportation or terminal facilities and other projects and the approaches thereto, owned, operated or controlled by the Authority, and at such other places and under such circumstances as the law of each State may provide, all the powers of investigation, detention and arrest conferred by law on peace officers, sheriffs or constables in such State or usually exercised by such officers in each State.

ARTICLE XX.

REPORTS AND AUDITS.

The Authority shall make annual reports to the Government and Legislatures of the State of Delaware and the State of New Jersey, setting forth in detail its operations and transactions, and may make such additional reports from time to time to the Governors and Legislatures as it may deem desirable.

It shall, at least annually, cause an independent audit of its fiscal affairs to be made and shall furnish a copy of such audit report together with such additional information or data with respect to its affairs as it may deem desirable to the Governors and Legislatures of each State.

It shall furnish such information or data with respect to its affairs as may be requested by the Governor or Legislature of each State.

ARTICLE XXI.

BOUNDARIES UNAFFECTED.

The existing territorial or boundary lines of the States, or the jurisdiction of the two States established by said boundary lines, shall not be changed hereby.

Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is hereby given to the States of Delaware and New Jersey to enter into the compact set forth in this resolution, except that nothing contained in such compact shall be construed as impairing or in any manner affecting any right or jurisdiction of the United States in and over the area which forms the subject of such compact.

SEC. 2. The right to alter, amend, or repeal this joint resolution is hereby expressly reserved.

[H.J. Res. 556, 87th Cong., 1st sess.]

JOINT RESOLUTION Granting consent of Congress to the State of Delaware and the State of New Jersey to enter into a compact to establish the Delaware River and Bay Authority for the development of the area in both States bordering the Delaware River and Bay

Whereas, the State of Delaware and the State of New Jersey, pursuant to legislative authority adopted by each State, being 53 Laws of Delaware, chapter 145, and P.L. 1961, chapter 66 of the Laws of New Jersey, have provided, subject to the consent of Congress, for a compact, known as the Delaware-New Jersey Compact, establishing "The Delaware River and Bay Authority" for the development of the area in both States bordering the said Delaware River and Bay; and

Whereas, said compact reads as follows:

DELAWARE-NEW JERSEY COMPACT

Whereas, the States of Delaware and New Jersey are separated by the Delaware River and Bay which create a natural obstacle to the uninterrupted passage of traffic other than by water and with normal commercial activity between the two States thereby hindering the economic growth and development of those areas in both States which border the River and Bay; and

Whereas, the pressures of existing trends from increasing traffic, growing population and greater industrialization indicate the need for closer cooperation between the two States in order to advance the economic development and to improve crossings, transportation, terminal and other facilities of the area; and

Whereas, the financing, construction, operation and maintenance of such crossings, transportation, terminal and other facilities of commerce and the over-all planning for future economic development of the area may be best accomplished for the benefit of the two States and their citizens, the region and nation, by the cordial cooperation of Delaware and New Jersey by and through a joint or common agency or authority;

Now, therefore, the State of Delaware and the State of New Jersey, do hereby solemnly covenant and agree, each with the other as follows:

ARTICLE I.

SHORT TITLE

This Compact shall be known as the "Delaware-New Jersey Compact."

ARTICLE II.

DEFINITIONS.

"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.

"Transportation facility" and "terminal facility" mean any structure or facility other than a crossing as herein defined, adapted for public use within each of the States party hereto in connection with the transportation of persons or property, including railroads, motor vehicles, watercraft, airports and aircraft, docks, wharves, piers, slips, basins, storage places, sheds, warehouses, and every means or vehicle of transportation now or hereafter in use for the transportation of persons and property or the storage, handling, or loading of property, as well as all appurtenances and equipment related thereto.

"Appurtenances" and "equipment" mean 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, transportation facility, or terminal facility.

"Project" means any undertaking or program for the acquisition or creation of any crossing, transportation facility, or terminal facility, or any part thereof, as well as for the operation, maintenance, and improvement thereof.

"Tunnel" means a tunnel of one or more tubes.

"Governor" means any person authorized by the Constitution and law of each State to exercise the functions, powers, and duties of that office.

"Authority" means the Authority created by this Compact or any agency successor thereto.

The singular whenever used herein shall include the plural, and the plural shall include the singular.

ARTICLE III.

FAITHFUL COOPERATION.

They agree to and pledge, each to the other, faithful cooperation in the effectuation of this Compact and any future amendment or supplement thereto, and of any legislation expressly in implementation thereof hereafter enacted, and in the planning, development, financing, construction, operation, maintenance and improvement of all projects entrusted to the Authority created by this Compact.

ARTICLE IV.

ESTABLISHMENT OF AGENCY; PURPOSES.

The two States agree that there shall be created and they do hereby create a body politic, to be known as "The Delaware River and Bay Authority" (for brevity hereinafter referred to as the "Authority"), which shall constitute an agency of government of the State of Delaware and the State of New Jersey for the following general public purposes, and which shall be deemed to be exercising essential governmental functions in effectuating such purposes, to wit:

(a) The planning, financing, development, construction, purchase, lease, maintenance, improvement and operation of crossings between the States of Delaware and New Jersey across the Delaware River or Bay at any location south of the boundary line between the State of Delaware and the Commonwealth of Pennsylvania as extended across the Delaware River to the New Jersey shore of said river, together with such approaches or connections thereto as in the judgment of the Authority are required to make adequate and efficient connections between such crossings and any public highway or other routes in the State of Delaware or in the State of New Jersey; and

(b) The planning, financing, development, construction, purchase, lease, maintenance, improvement and operation of any transportation or terminal facility within those areas of both States which border on or are adjacent to the Delaware River or Bay south of the aforesaid line and which in the judgment of the States is required for the sound economic development of the area; and

(c) The performance of such other functions as may be hereafter entrusted to the Authority by concurrent legislation expressly in implementation hereof.

The Authority shall not undertake any project or part thereof, other than a crossing, without having first secured approval thereof by concurrent legislation of the two States expressly in implementation hereof.

ARTICLE V.

COMMISSIONERS.

The Authority shall consist of ten Commissioners, five of whom shall be residents of and qualified to vote in, and shall be appointed from, the State of Delaware, and five of whom shall be residents of and qualified to vote in, and shall be appointed from, the State of New Jersey; not more than three of the Commissioners of each State shall be of the same political party; the Commissioners for each State shall be appointed in the manner fixed and determined from time to time by the law of each State respectively. Each Commissioner shall hold office for a term of five years, and until his successor shall have been appointed and qualified, but the terms of the first Commissioners shall be so designated that the term of one Commissioner from each State shall expire each year. All terms shall run to the first day of July. Any vacancy, however created, shall be filled for the unexpired term only. Any Commissioner may be suspended or removed from office as provided by law of the State from which he shall be appointed.

Commissioners shall be entitled to reimbursement for necessary expenses to be paid only from revenues of the Authority and may not receive any other compensation for services to the Authority except such as may from time to time be authorized from such revenues by concurrent legislation.

ARTICLE VI.

BOARD ACTION.

The Commissioners shall have charge of the Authority's property and affairs and shall, for the purpose of doing business, constitute a Board; but no action of the Commissioners shall be binding or effective unless taken at a meeting at which at least three Commissioners from each State are present, and unless at least three Commissioners from each State shall vote in favor thereof. The vote of any one or more of the Commissioners from each State shall be subject to cancellation by the Governor of such State at any time within 10 days (Saturdays, Sundays and public holidays in the particular State excepted) after receipt at the Governor's Office of a certified copy of the minutes of the meeting at which such vote was taken. Each State may provide by law for the manner of delivery of such minutes, and for notification of the action thereon.

ARTICLE VII.

GENERAL POWERS.

For the effectuation of its authorized purposes, the Authority is hereby granted the following powers:

- a. To have perpetual succession.
- b. To adopt and use an official seal.
- c. To elect a chairman and a vice-chairman from among the commissioners. The chairman and vice-chairman shall be elected from different States, and shall each hold office for two years. The chairmanship and vice-chairmanship shall be alternated between the two States.
- d. To adopt by-laws to govern and conduct of its affairs by the Board of Commissioners, and it may adopt rules and regulations and may make appropriate orders to carry out and discharge its powers, duties and functions, but no by-law, or rule, regulation, or order shall take effect until it has been filed with the Secretary of State of each State or in such other manner in each State as may be provided by the law thereof. In the establishment of rules, regulations and orders respecting the use of any crossing, transportation or terminal facility owned or operated by the Authority, including approach roads, it shall consult with appropriate officials of both States in order to insure, as far as possible, uniformity of such rules, regulations and orders with the law of both States.
- e. To appoint, or employ, such other officers, agents, attorneys, engineers and employees as it may require for the performance of its duties and to fix and determine their qualifications, duties, compensation, pensions, terms of office and all other conditions and terms of employment and retention.
- f. To enter into contracts and agreements with either State or with the United States, or with any public body, department, or other agency of either State or of the United States or with any individual, firm or corporation, deemed necessary or advisable for the exercise of its purposes and powers.
- g. To accept from any government or governmental department, agency or other public or private body, or from any other source, grants or contributions of money or property as well as loans, advances, guarantees, or other forms of financial assistance which it may use for or in aid of any of its purposes.
- h. To acquire (by gift, purchase or condemnation), own, hire, lease, use, operate and dispose of property, whether real, personal or mixed, or of any interest therein, including any rights, franchise and property for any crossing, facility or other project owned by another, and which the Authority is authorized to own and operate.
- i. To designate as express highways, and control public and private access thereto, all or any approaches to any crossing or other facility of the Authority for the purpose of connecting the same with any highway or other route in either State.
- j. To borrow money and to evidence such loans by bonds, notes or other obligations, either secured or unsecured, and either in registered or unregistered form, and to fund or refund such evidences of indebtedness, which may be executed with facsimile signatures of such persons as may be designated by the Authority and by a facsimile of its corporate seal.
- k. To procure and keep in force adequate insurance or otherwise provide for the adequate protection of its property, as well as to indemnify it or its officers, agents or employees against loss or liability with respect to any risk to which it or they may be exposed in carrying out any function hereunder.

l. To grant the use of, by franchise, lease or otherwise, and to make charges for the use of, any crossing, facility or other project or property owned or controlled by it.

m. To exercise the right of eminent domain to acquire any property or interest therein.

n. To determine the exact location, system and character of and all other matters in connection with any and all crossings, transportation or terminal facilities or other projects which it may be authorized to own, construct, establish, effectuate, operate or control.

o. To exercise all other powers not inconsistent with the Constitutions of the two States or of the United States, which may be reasonably necessary or incidental to the effectuation of its authorized purposes or to the exercise of any of the foregoing powers, except the power to levy taxes or assessments, and generally to exercise in connection with its property and affairs, and in connection with property within its control, any and all powers which might be exercised by a natural person or a private corporation in connection with similar property and affairs.

ARTICLE VIII.

ADDITIONAL POWERS.

For the purpose of effectuating the authorized purposes of the Authority, additional powers may be granted to the Authority by legislation of either State without the concurrence of the other, and may be exercised within such State, or may be granted to the Authority by Congress and exercised by it; but no additional duties or obligations shall be undertaken by the Authority under the law of either State or of Congress without authorization by the law of both States.

ARTICLE IX.

EMINENT DOMAIN.

If the Authority shall find and determine that any property or interest therein is required for a public use because in furtherance of the purposes of the Authority, said determination shall not be affected by the fact that such property has theretofore been taken over or is then devoted to a public use, but the public use in the hands or under the control of the Authority, shall be deemed superior to the public use for which it has theretofore been taken or to which it is then devoted.

In any condemnation proceedings in connection with the acquisition by the Authority of property or property rights of any character in either State and the right of inspection and immediate entry thereon, through the exercise by it of its power of eminent domain, any existing or future law or rule of court of the State in which such property is located with respect to the condemnation of property for the construction, reconstruction and maintenance of highways therein, shall control. The Authority shall have the same power and authority with respect thereto as the State agency named in any such law; provided that nothing herein contained shall be construed as requiring joint or concurrent action by the two States with respect to the enactment, repeal or amendment of any law or rule of court on the subject of condemnation under which the Authority may proceed by virtue of this Article.

If the established grade of any street, avenue, highway or other route shall be changed by reason of the construction by the Authority of any work so as to cause loss or injury to any property abutting on such street, avenue, highway or other route, the Authority may enter into voluntary agreements with such abutting property owners and pay reasonable compensation for any loss or injury so sustained, whether or not it be compensable as damages under the condemnation law of the State.

The power of the Authority to acquire property by condemnation shall be a continuing power, and no exercise thereof shall be deemed to exhaust it.

ARTICLE X.

REVENUES AND APPLICATION.

The Authority is hereby authorized to establish, levy and collect such tools and other charges as it may deem necessary, proper or desirable, in connection with any crossing, transportation or terminal facility or other project which it is or may be authorized at any time to construct, own, operate or control, and the aggregate of said tolls and charges shall be at least sufficient (1) to meet the combined

expenses of operation, maintenance and improvement thereof, (2) to pay the cost of acquisition or construction, including the payment, amortization and retirement of bonds or other securities or obligations assumed, issued or incurred by the Authority, together with interest thereon and (3) to provide reserves for such purposes; and the Authority is hereby authorized and empowered, subject to prior pledges, if any, to pledge such tolls and other revenues or any part thereof as security for the repayment with interest of any moneys borrowed by it or advanced to it for its authorized purposes and as security for the satisfaction of any other obligations assumed by it in connection with such loans or advances. There shall be allocated to the cost of the acquisition, construction, operation, maintenance and improvement of such facilities and projects, such proportion of the general expenses of the Authority as it shall deem properly chargeable thereto.

ARTICLE XI.

COVENANT WITH BONDHOLDERS.

The two said States covenant and agree with each other and with the holders of any bonds or other securities or obligations of the Authority, assumed, issued or incurred by it and as security for which there may be pledged the tolls and revenues or any part thereof of any crossing, transportation or terminal facility or other project, that the two said States will not, so long as any of such bonds or other obligations remain outstanding and unpaid, diminish or impair the power of the Authority to establish, levy and collect tolls and other charges in connection therewith, and that neither of the two said States will, so long as any of such bonds or other obligations remain outstanding and unpaid, authorize any crossing of the Delaware River or Delaware Bay south of the line mentioned in Article IV (a) of this Compact, by any person or body other than the Authority; unless, in either case, adequate provision shall be made by law for the protection of those advancing money upon such obligations.

ARTICLE XII.

SECURITIES LAWFUL INVESTMENTS.

The bonds or other securities or obligations which may be issued by the Authority pursuant to this Compact, or any amendments hereof or supplements hereto, are hereby declared to be negotiable instruments, and are hereby made securities in which all State and municipal officers and bodies of each State, all banks, bankers, trust companies, savings banks, building and loan associations, saving and loan associations, investment companies and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all administrators, executors, guardians, trustees and other fiduciaries and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of either State, may properly and legally invest any funds, including capital, belonging to them or within their control; and said obligations are hereby made securities which may properly and legally be deposited with and shall be received by any State or municipal officer or agency of either State for any purpose for which the deposit of bonds or other obligations of such State is now or may hereafter be authorized.

ARTICLE XIII.

TAX STATUS.

The powers and functions exercised by the Authority under this Compact and any amendments hereof or supplements hereto are and will be in all respects for the benefit of the people of the States of Delaware and New Jersey, the region and nation, for the increase of their commerce and prosperity and for the enhancement of their general welfare. To this end, the Authority shall be regarded as performing essential governmental functions in exercising such powers and functions and in carrying out the provisions of this compact and of any law relating thereto, and shall not be required to pay any taxes or assessments of any character, levied by either State or political subdivision thereof, upon any of the property used by it for such purposes, or any income or revenue therefrom, including any profit from a sale or exchange. The bonds or other securities or obligations issued by the Authority, their transfer and the interest paid thereon or income therefrom, including any profit from a sale or exchange, shall at all times be free from taxation by either State or any subdivision thereof.

ARTICLE XIV.

JURISDICTION; USE OF LANDS.

Each of the two States hereby consents to the use and occupancy by the Authority of any lands and property of the Authority in such State for the construction, operation, maintenance or improvement of any crossing, transportation or terminal facility or other project which it is or may be authorized at any time to construct, own or operate, including lands lying under water.

ARTICLE XV.

REVIEW AND ENFORCEMENT OF RULES.

Judicial proceedings to review any by-law, rule, regulation, order or other action of the Authority or to determine the meaning or effect thereof, may be brought in such court of each State, and pursuant to such law or rules thereof, as a similar proceeding with respect to any agency of such State might be brought.

Each State may provide by law what penalty or penalties shall be imposed for violation of any lawful rule, regulation or order of the Authority, and, by law or rule of court, for the manner of enforcing the same.

ARTICLE XVI.

NO PLEDGE OF CREDIT.

The Authority shall have no power to pledge the credit or to create any debt or liability of the State of Delaware, of the State of New Jersey, or of any other agency or of any political subdivision of said States.

ARTICLE XVII.

LOCAL COOPERATION.

All municipalities, political subdivisions and every department, agency or public body of each of the States are hereby authorized and empowered to cooperate with, aid and assist the Authority in effectuating the provisions of this Compact and of any amendment hereof or supplement hereto.

ARTICLE XVIII.

DEPOSITARIES.

All banks, bankers, trust companies, savings banks and other persons carrying on a banking business under the laws of either State are authorized to give security for the safekeeping and prompt payment of moneys of the Authority deposited by it with them, in such manner and form as may be required by and may be approved by the Authority, which security may consist of a good and sufficient undertaking with such sureties as may be approved by the Authority, or may consist of the deposit with the Authority or other depositary approved by the Authority as collateral of such securities as the Authority may approve.

ARTICLE XIX.

AGENCY POLICE.

Members of the police force established by the Authority, regardless of their residence, shall have in each State, on the crossings, transportation or terminal facilities and other projects and the approaches thereto, owned, operated or controlled by the Authority, and at such other places and under such circumstances as the law of each State may provide, all the powers of investigation, detention and arrest conferred by law on peace officers, sheriffs or constables in such State or usually exercised by such officers in each State.

ARTICLE XX.

REPORTS AND AUDITS.

The Authority shall make annual reports to the Governors and Legislatures of the State of Delaware and the State of New Jersey, setting forth in detail its operations and transactions, and may make such additional reports from time to time to the Governors and Legislatures as it may deem desirable.

It shall, at least annually, cause an independent audit of its fiscal affairs to be made and shall furnish a copy of such audit report together with such additional information or data with respect to its affairs as it may deem desirable to the Governors and Legislatures of each State.

It shall furnish such information or data with respect to its affairs as may be requested by the Governor or Legislature of each State.

ARTICLE XXI.

BOUNDARIES UNAFFECTED.

The existing territorial or boundary lines of the States, or the jurisdiction of the two States established by said boundary lines, shall not be changed hereby.

Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is hereby given to the States of Delaware and New Jersey to enter into the compact set forth in this resolution, except that nothing contained in such compact shall be construed as impairing or in any manner affecting any right or jurisdiction of the United States in and over the area which forms the subject of such compact.

SEC. 2. The right to alter, amend, or repeal this joint resolution is hereby expressly reserved.

[H.J. RES. 562, 87th Cong., 1st sess.]

JOINT RESOLUTION Granting consent of Congress to the State of Delaware and the State of New Jersey to enter into a compact to establish the Delaware River and Bay Authority for the development of the area in both States bordering the Delaware River and Bay

Whereas, the State of Delaware and the State of New Jersey, pursuant to legislative authority adopted by each State, being 53 Laws of Delaware, chapter 145, and P. L. 1961, chapter 66 of the Laws of New Jersey, have provided, subject to the consent of Congress, for a compact, known as the Delaware-New Jersey Compact, establishing "The Delaware River and Bay Authority" for the development of the area in both States bordering the said Delaware River and Bay; and

Whereas, said compact reads as follows:

DELAWARE-NEW JERSEY COMPACT

Whereas, The States of Delaware and New Jersey are separated by the Delaware River and Bay which create a natural obstacle to the uninterrupted passage of traffic other than by water and with normal commercial activity between the two States thereby hindering the economic growth and development of those areas in both States which border the River and Bay; and

Whereas, the pressures of existing trends from increasing traffic, growing population and greater industrialization indicate the need for closer cooperation between the two States in order to advance the economic development and to improve crossings, transportation, terminal and other facilities of the area; and

Whereas, the financing, construction, operation and maintenance of such crossings, transportation, terminal and other facilities of commerce and the over-all planning for future economic development of the area may be best accomplished for the benefit of the two States and their citizens, the region and nation, by the cordial cooperation of Delaware and New Jersey by and through a joint or common agency or authority;

Now, therefore, the State of Delaware and the State of New Jersey, do hereby solemnly covenant and agree, each with the other as follows:

ARTICLE I.

SHORT TITLE.

This Compact shall be known as the "Delaware-New Jersey Compact."

ARTICLE II.

DEFINITIONS.

"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.

"Transportation facility" and "terminal facility" mean any structure or facility other than a crossing as herein defined, adapted for public use within each of the States party hereto in connection with the transportation of persons or property, including railroads, motor vehicles, watercraft, airports and aircraft, docks, wharves, piers, slips, basins, storage places, sheds, warehouses, and every means or vehicle of transportation now or hereafter in use for the transportation of persons and property or the storage, handling or loading of property, as well as all appurtenances and equipment related thereto.

"Appurtenances" and "equipment" mean 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, transportation facility or terminal facility.

"Project" means any undertaking or program for the acquisition or creation of any crossing, transportation facility or terminal facility, or any part thereof, as well as for the operation, maintenance and improvement thereof.

"Tunnel" means a tunnel of one or more tubes.

"Governor" means any person authorized by the Constitution and law of each State to exercise the functions, powers and duties of that office.

"Authority" means the Authority created by this Compact or any agency successor thereto.

The singular whenever used herein shall include the plural, and the plural shall include the singular.

ARTICLE III.

FAITHFUL COOPERATION.

They agree to and pledge, each to the other, faithful cooperation in the effectuation of this Compact and any future amendment or supplement thereto, and of any legislation expressly in implementation thereof hereafter enacted, and in the planning, development, financing, construction, operation, maintenance and improvement of all projects entrusted to the Authority created by this Compact.

ARTICLE IV.

ESTABLISHMENT OF AGENCY; PURPOSES.

The two States agree that there shall be created and they do hereby create a body politic, to be known as "The Delaware River and Bay Authority" (for brevity hereinafter referred to as the "Authority"); which shall constitute an agency of government of the State of Delaware and the State of New Jersey for the following general public purposes, and which shall be deemed to be exercising essential governmental functions in effectuating such purposes, to wit:

(a) The planning, financing, development, construction, purchase, lease, maintenance, improvement and operation of crossings between the States of Delaware and New Jersey across the Delaware River or Bay at any location south of the boundary line between the State of Delaware and the Commonwealth of Pennsylvania as extended across the Delaware River to the New Jersey shore of said river, together with such approaches or connections thereto as in the judgment of the Authority are required to make adequate and efficient connections between such crossings and any public highway or other routes in the State of Delaware or in the State of New Jersey; and

(b) The planning, financing, development, construction, purchase, lease, maintenance, improvement and operation of any transportation or terminal facility within those areas of both States which border on or are adjacent to the Delaware River or Bay south of the aforesaid line and which in the judgment of the States is required for the sound economic development of the area; and

(c) The performance of such other functions as may be hereafter entrusted to the Authority be concurrent legislation expressly in implementation hereof.

The Authority shall not undertake any project or part thereof, other than a crossing, without having first secured approval thereof by concurrent legislation of the two States expressly in implementation hereof.

ARTICLE V.

COMMISSIONERS.

The Authority shall consist of ten Commissioners, five of whom shall be residents of and qualified to vote in, and shall be appointed from, the State of Delaware, and five of whom shall be residents of and qualified to vote in, and shall be appointed from, the State of New Jersey; not more than three of the Commissioners of each State shall be of the same political party; the Commissioners for each State shall be appointed in the manner fixed and determined from time to time by the law of each State respectively. Each Commissioner shall hold office for a term of five years, and until his successor shall have been appointed and qualified, but the terms of the first Commissioners shall be so designated that the term of one Commissioner from each State shall expire each year. All terms shall run to the first day of July. Any vacancy, however created, shall be filled for the unexpired term only. Any Commissioner may be suspended or removed from office as provided by law of the State from which he shall be appointed.

Commissioners shall be entitled to reimbursement for necessary expenses to be paid only from revenues of the Authority and may not receive any other compensation for services to the Authority except such as may from time to time be authorized from such revenues by concurrent legislation.

ARTICLE VI.

BOARD ACTION.

The Commissioners shall have charge of the Authority's property and affairs and shall, for the purpose of doing business, constitute a Board; but not action of the Commissioners shall be binding or effective unless taken at a meeting at which at least three Commissioners from each State are present, and unless at least three Commissioners from each State shall vote in favor thereof. The vote of any one or more of the Commissioners from each State shall be subject to cancellation by the Governor of such State at any time within 10 days (Saturdays, Sundays and public holidays in the particular State excepted) after receipt at the Governor's Office of a certified copy of the minutes of the meeting at which such vote was taken. Each State may provide by law for the manner of delivery of such minutes, and for notification of the action thereon.

ARTICLE VII.

GENERAL POWERS.

For the effectuation of its authorized purposes, the Authority is hereby granted the following powers:

- a. To have perpetual succession.
- b. To adopt and use an official seal.
- c. To elect a chairman and a vice-chairman from among the commissioners. The chairman and vice-chairman shall be elected from different States, and shall each hold office for two years. The chairmanship and vice-chairmanship shall be alternated between the two States.
- d. To adopt by-laws to govern the conduct of its affairs by the Board of Commissioners, and it may adopt rules and regulations and may make appropriate orders to carry out and discharge its powers, duties and functions, but no by-law, or rule, regulation or order shall take effect until it has been filed with the Secretary of State of each State or in such other manner in each State of each State or in such other manner in each State as may be provided by the law thereof. In the establishment of rules, regulations and orders respecting the use of any crossing, transportation or terminal facility owned or operated by the Authority, including approach roads, it shall consult with appropriate officials of both States in order to insure, as far as possible, uniformity of such rules, regulations and orders with the law of both States.
- e. To appoint, or employ, such other officers, agents, attorneys, engineers and employees as it may require for the performance of its duties and to fix and determine their qualifications, duties, compensation, pensions, terms of office and all other conditions and terms of employment and retention.
- f. To enter into contracts and agreements with either State or with the United States, or with any public body, department, or other agency of either State or of the United States or with any individual, firm or corporation, deemed necessary or advisable for the exercise of its purposes and powers.

g. To accept from any government or governmental department, agency or other public or private body, or from any other source, grants or contributions of money or property as well as loans, advances, guarantees, or other forms of financial assistance which it may use for or in aid of any of its purposes.

h. To acquire (by gift, purchase or condemnation), own, hire, lease, use, operate and dispose of property, whether real, personal or mixed, or of any interest therein, including any rights, franchise and property for any crossing, facility or other project owned by another, and which the Authority is authorized to own and operate.

i. To designate as express highways, and control public and private access thereto, all or any approaches to any crossing or other facility of the Authority for the purpose of connecting the same with any highway or other route in either State.

j. To borrow money and to evidence such loans by bonds, notes or other obligations, either secured or unsecured, and either in registered or unregistered form and to fund or refund such evidences of indebtedness, which may be executed with facsimile signatures of such persons as may be designated by the Authority and by a facsimile of its corporate seal.

k. To procure and keep in force adequate insurance or otherwise provide for the adequate protection of its property, as well as to indemnify it or its officers, agents or employees against loss or liability with respect to any risk to which it or they may be exposed in carrying out any function hereunder.

l. To grant the use of, by franchise, lease or otherwise, and to make charges for the use of, any crossing, facility or other project or property owned or controlled by it.

m. To exercise the right of eminent domain to acquire any property or interest therein.

n. To determine the exact location, system and character of and all other matters in connection with any and all crossings, transportation or terminal facilities or other projects which it may be authorized to own, construct, establish, effectuate, operate or control.

o. To exercise all other powers not inconsistent with the Constitutions of the two States or of the United States, which may be reasonably necessary or incidental to the effectuation of its authorized purposes or to the exercise of any of the foregoing powers, except the power to levy taxes or assessments, and generally to exercise in connection with its property and affairs, and in connection with property within its control, any and all powers which might be exercised by a natural person or a private corporation in connection with similar property and affairs.

ARTICLE VIII.

ADDITIONAL POWERS.

For the purpose of effectuating the authorized purposes of the Authority, additional powers may be granted to the Authority by legislation of either State without the concurrence of the other, and may be exercised within such State, or may be granted to the Authority by Congress and exercised by it; but no additional duties or obligations shall be undertaken by the Authority under the law of either State or of Congress without authorization by the law of both States.

ARTICLE IX.

EMINENT DOMAIN.

If the Authority shall find and determine that any property or interest therein is required for a public use because in furtherance of the purposes of the Authority, said determination shall not be affected by the fact that such property has theretofore been taken over or is then devoted to a public use, but the public use in the hands or under the control of the Authority, shall be deemed superior to the public use for which it has theretofore been taken or to which it is then devoted.

In any condemnation proceedings in connection with the acquisition by the Authority of property or property rights of any character in either State and the right of inspection and immediate entry thereon, through the exercise by it of its power of eminent domain, any existing or future law or rule of court of the State in which such property is located with respect to the condemnation of property for the construction, reconstruction and maintenance of highways therein, shall control. The Authority shall have the same power and authority with

respect thereto as the State agency named in any such law; provided that nothing herein contained shall be construed as requiring joint or concurrent action by the two States with respect to the enactment, repeal or amendment of any law or rule of court on the subject of condemnation under which the Authority may proceed by virtue of this Article.

If the established grade of any street, avenue, highway or other route shall be changed by reason of the construction by the Authority of any work so as to cause loss or injury to any property abutting on such street, avenue, highway or other route, the Authority may enter into voluntary agreements with such abutting property owners and pay reasonable compensation for any loss or injury so sustained, whether or not it be compensable as damages under the condemnation law of the State.

The power of the Authority to acquire property by condemnation shall be a continuing power, and no exercise thereof shall be deemed to exhaust it.

ARTICLE X.

REVENUES AND APPLICATION.

The Authority is hereby authorized to establish, levy and collect such tolls and other charges as it may deem necessary, proper or desirable, in connection with any crossing, transportation, or terminal facility or other project which it is or may be authorized at any time to construct, own, operate or control, and the aggregate of said tolls and charges shall be at least sufficient (1) to meet the combined expenses of operation, maintenance and improvement thereof, (2) to pay the cost of acquisition or construction, including the payment, amortization and retirement of bonds or other securities or obligations assumed, issued or incurred by the Authority, together with interest thereon and (3) to provide reserves for such purposes; and the Authority is hereby authorized and empowered, subject to prior pledges, if any, to pledge such tolls and other revenues or any part thereof as security for the repayment with interest of any moneys borrowed by it or advanced to it for its authorized purposes and as security for the satisfaction of any other obligations assumed by it in connection with such loans or advances. There shall be allocated to the cost of the acquisition, construction, operation, maintenance and improvement of such facilities and projects, such proportion of the general expenses of the Authority as it shall deem properly chargeable thereto.

ARTICLE XI.

COVENANT WITH BONDHOLDERS.

The two said States covenant and agree with each other and with the holders of any bonds or other securities or obligations of the Authority, assumed, issued or incurred by it and as security for which there may be pledged the tolls and revenues or any part thereof of any crossing, transportation or terminal facility or other project, that the two said States will not, so long as any of such bonds or other obligations remain outstanding and unpaid, diminish or impair the power of the Authority to establish, levy and collect tolls and other charges in connection therewith, and that neither of the two said States will, so long as any of such bonds or other obligations remain outstanding and unpaid, authorize any crossing of the Delaware River or Delaware Bay south of the line mentioned in Article IV(a) of this Compact, by any person or body other than the Authority; unless, in either case, adequate provision shall be made by law for the protection of those advancing money upon such obligations.

ARTICLE XII.

SECURITIES LAWFUL INVESTMENTS.

The bonds or other securities or obligations which may be issued by the Authority pursuant to this Compact, or any amendments hereof or supplements hereto, are hereby declared to be negotiable instruments, and are hereby made securities in which all State and municipal officers and bodies of each State, all banks, bankers, trust companies, savings banks, building and loan associations, saving and loan associations, investment companies and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all administrators, executors, guardians, trustees and other fiduciaries and all other persons whatsoever who

are now or may hereafter be authorized to invest in bonds or other obligations of either State, may properly and legally invest any funds, including capital belonging to them or within their control; and said obligations are hereby made, securities which may properly and legally be deposited with and shall be received by any State or municipal officer or agency of either State for any purpose for which the deposit of bonds or other obligations of such State is now or may hereafter be authorized.

ARTICLE XIII.

TAX STATUS.

The powers and functions exercised by the Authority under this Compact and any amendments hereof or supplements hereto are and will be in all respects for the benefit of the people of the States of Delaware and New Jersey, the region and nation, for the increase of their commerce and prosperity and for the enhancement of their general welfare. To this end, the Authority shall be regarded as performing essential governmental functions in exercising such powers and functions and in carrying out the provisions of this compact and of any law relating thereto, and shall not be required to pay any taxes or assessments of any character, levied by either State or political subdivision thereof, upon any of the property used by it for such purposes, or any income or revenue therefrom including any profit from a sale or exchange. The bonds or other securities or obligations issued by the Authority, their transfer and the interest paid thereon or income therefrom, including any profit from a sale or exchange, shall at all times be free from taxation by either State or any subdivision thereof.

ARTICLE XIV.

JURISDICTION; USE OF LANDS.

Each of the two States hereby consents to the use and occupancy by the Authority of any lands and property of the Authority in such State for the construction, operation, maintenance or improvement of any crossing, transportation or terminal facility or other project which it is or may be authorized at any time to construct, own or operate, including lands lying under water.

ARTICLE XV.

REVIEW AND ENFORCEMENT OF RULES.

Judicial proceedings to review any by-law, rule, regulation, order or other action of the Authority or to determine the meaning or effect thereof, may be brought in such court of each State, and pursuant to such law or rules thereof, as a similar proceeding with respect to any agency of such State might be brought.

Each State may provide by law what penalty or penalties shall be imposed for violation of any lawful rule, regulation or order of the Authority, and, by law or rule of court, for the manner of enforcing the same.

ARTICLE XVI.

NO PLEDGE OF CREDIT.

The Authority shall have no power to pledge the credit or to create any debt or liability of the State of Delaware, or the State of New Jersey, or of any other agency or of any political subdivision of said States.

ARTICLE XVII.

LOCAL COOPERATION.

All municipalities, political subdivisions and every department, agency or public body of each of the States are hereby authorized and empowered to cooperate with, aid and assist the Authority in effectuating the provisions of this Compact and of any amendment hereof or supplement hereto.

ARTICLE XVIII.

DEPOSITARIES.

All banks, bankers, trust companies, savings banks and other persons carrying on a banking business under the laws of either State are authorized to give security

for the safekeeping and prompt payment of moneys of the Authority deposited by it with them, in such manner and form as may be required by and may be approved by the Authority, which security may consist of a good and sufficient undertaking with such sureties as may be approved by the Authority, or may consist of the deposit with the Authority or other depository approved by the Authority as collateral of such securities as the Authority may approve.

ARTICLE XIX.

AGENCY POLICE.

Members of the police force established by the Authority, regardless of their residence, shall have in each State, on the crossings, transportation or terminal facilities and other projects and the approaches thereto, owned, operated or controlled by the Authority, and at such other places and under such circumstances as the law of each State may provide, all the powers of investigation, detention and arrest conferred by law on peace officers, sheriffs or constables in such State or usually exercised by such officers in each State.

ARTICLE XX.

REPORTS AND AUDITS.

The Authority shall make annual reports to the Governors and Legislatures of the State of Delaware and the State of New Jersey, setting forth in detail its operations and transactions, and may make such additional reports from time to time to the Governors and Legislatures as it may deem desirable.

It shall, at least annually, cause an independent audit of its fiscal affairs to be made and shall furnish a copy of such audit report together with such additional information or data with respect to its affairs as it may deem desirable to the Governors and Legislatures of each State.

It shall furnish such information or data with respect to its affairs as may be requested by the Governor or Legislature of each State.

ARTICLE XXI.

BOUNDARIES UNAFFECTED.

The existing territorial or boundary lines of the States, or the jurisdiction of the two States established by said boundary lines, shall not be changed hereby, Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is hereby given to the States of Delaware and New Jersey to enter into the compact set forth in this resolution, except that nothing contained in such compact shall be construed as impairing or in any manner affecting any right or jurisdiction of the United States in and over the area which forms the subject of such compact.

SEC. 2. The right to alter, amend, or repeal this joint resolution is hereby expressly reserved.

[H.J. Res. 570, 87th Cong., 1st sess.]

JOINT RESOLUTION Granting consent of Congress to the State of Delaware and the State of New Jersey to enter into a compact to establish the Delaware River and Bay Authority for the development of the area in both States bordering the Delaware River and Bay

Whereas, the State of Delaware and the State of New Jersey, pursuant to legislative authority adopted by each State, being 53 Laws of Delaware, chapter 145, and P.L. 1961, chapter 66 of the Laws of New Jersey, have provided, subject to the consent of Congress, for a compact, known as the Delaware-New Jersey Compact, establishing "The Delaware River and Bay Authority" for the development of the area in both States bordering the said Delaware River and Bay; and

Whereas, said compact reads as follows:

DELAWARE-NEW JERSEY COMPACT

Whereas, The States of Delaware and New Jersey are separated by the Delaware River and Bay which create a natural obstacle to the uninterrupted passage of traffic other than by water and with normal commercial activity between the two States thereby hindering the economic growth and development of those areas in both States which border the River and Bay; and

Whereas, the pressures of existing trends from increasing traffic, growing population and greater industrialization indicate the need for closer cooperation between the two States in order to advance the economic development and to improve crossings, transportation, terminal and other facilities of the area; and

Whereas, the financing, construction, operation and maintenance of such crossings, transportation, terminal and other facilities of commerce and the over-all planning for future economic development of the area may be best accomplished for the benefit of the two States and their citizens, the region and nation, by the cordial cooperation of Delaware and New Jersey by and through a joint or common agency or authority;

Now, therefore, the State of Delaware and the State of New Jersey, do hereby solemnly covenant and agree, each with the other as follows:

ARTICLE I.

SHORT TITLE.

This Compact shall be known as the "Delaware-New Jersey Compact."

ARTICLE II.

DEFINITIONS.

"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.

"Transportation facility" and "terminal facility" mean any structure or facility other than a crossing as herein defined, adapted for public use within each of the States party hereto in connection with the transportation of persons or property, including railroads, motor vehicles, watercraft, airports and aircraft, docks, wharves, piers, slips, basins, storage places, sheds, warehouses, and every means or vehicle of transportation now or hereafter in use for the transportation of persons and property or the storage, handling or loading of property, as well as all appurtenances and equipment related thereto.

"Appurtenances" and "equipment" mean 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, transportation facility or terminal facility.

"Project" means any undertaking or program for the acquisition or creation of any crossing, transportation facility or terminal facility, or any part thereof, as well as for the operation, maintenance and improvement thereof.

"Tunnel" means a tunnel of one or more tubes.

"Governor" means any person authorized by the Constitution and law of each State to exercise the functions, powers and duties of that office.

"Authority" means the Authority created by this Compact or any agency successor thereto.

The singular whenever used herein shall include the plural, and the plural shall include the singular.

ARTICLE III.

FAITHFUL COOPERATION.

They agree to and pledge, each to the other, faithful cooperation in the effectuation of this Compact and any future amendment or supplement thereto, and of any legislation expressly in implementation thereof hereafter enacted, and in the planning, development, financing, construction, operation, maintenance and improvement of all projects entrusted to the Authority created by this Compact.

ARTICLE IV.

ESTABLISHMENT OF AGENCY; PURPOSES.

The two States agree that there shall be created and they do hereby create a body politic, to be known as "The Delaware River and Bay Authority" (for brevity hereinafter referred to as the "Authority"), which shall constitute an agency of government of the State of Delaware and the State of New Jersey for

the following general public purposes, and which shall be deemed to be exercising essential governmental functions in effectuating such purposes, to wit:

(a) The planning, financing, development, construction, purchase, lease, maintenance, improvement and operation of crossings between the States of Delaware and New Jersey across the Delaware River or Bay at any location south of the boundary line between the State of Delaware and the Commonwealth of Pennsylvania as extended across the Delaware River to the New Jersey shore of said river, together with such approaches or connections thereto as in the judgment of the Authority are required to make adequate and efficient connections between such crossings and any public highway or other routes in the State of Delaware or in the State of New Jersey; and

(b) The planning, financing, development, construction, purchase, lease, maintenance, improvement and operation of any transportation or terminal facility within those areas of both States which border on or are adjacent to the Delaware River or Bay south of the aforesaid line and which in the judgment of the States as required for the sound economic development of the area; and

(c) The performance of such other functions as may be hereafter entrusted to the Authority be concurrent legislation expressly in implementation hereof.

The Authority shall not undertake any project or part thereof, other than a crossing, without having first secured approval thereof by concurrent legislation of the two States expressly in implementation hereof.

ARTICLE V.

COMMISSIONERS.

The Authority shall consist of ten Commissioners, five of whom shall be residents of and qualified to vote in, and shall be appointed from, the State of Delaware, and five of whom shall be residents of and qualified to vote in, and shall be appointed from, the State of New Jersey; not more than three of the Commissioners of each State shall be of the same political party; the Commissioners for each State shall be appointed in the manner fixed and determined from time to time by the law of each State respectively. Each Commissioner shall hold office for a term of five years, and until his successor shall have been appointed and qualified, but the terms of the first Commissioners shall be so designated that the term of one Commissioner from each State shall expire each year. All terms shall run to the first day of July. Any vacancy, however created, shall be filled for the unexpired term only. Any Commissioner may be suspended or removed from office as provided by law of the State from which he shall be appointed.

Commissioners shall be entitled to reimbursement for necessary expenses to be paid only from revenues of the Authority and may not receive any other compensation for services to the Authority except such as may from time to time be authorized from such revenues by concurrent legislation.

ARTICLE VI.

BOARD ACTION.

The Commissioners shall have charge of the Authority's property and affairs and shall, for the purpose of doing business, constitute a Board; but no action of the Commissioners shall be binding or effective unless taken at a meeting at which at least three Commissioners from each State are present, and unless at least three Commissioners from each State shall vote in favor thereof. The vote of any one or more of the Commissioners from each State shall be subject to cancellation by the Governor of such State at any time within 10 days (Saturdays, Sundays and public holidays in the particular State excepted) after receipt at the Governor's Office of a certified copy of the minutes of the meeting at which such vote was taken. Each State may provide by law for the manner of delivery of such minutes and for notification of the action thereon.

ARTICLE VII.

GENERAL POWERS.

For the effectuation of its authorized purposes, the Authority is hereby granted the following powers:

- a. To have perpetual succession.
- b. To adopt and use an official seal.
- c. To elect a chairman and a vice-chairman from among the commissioners. The chairman and vice-chairman shall be elected from different States, and shall

each hold office for two years. The chairmanship and vice-chairmanship shall be alternated between the two States.

d. To adopt by-laws to govern the conduct of its affairs by the Board of Commissioners, and it may adopt rules and regulations and may make appropriate orders to carry out and discharge its powers, duties and functions, but no by-law, or rule, regulation or order shall take effect until it has been filed with the Secretary of State of each State or in such other manner in each State as may be provided by the law thereof. In the establishment of rules, regulations and orders respecting the use of any crossing, transportation or terminal facility owned or operated by the Authority, including approach roads, it shall consult with appropriate officials of both States in order to insure, as far as possible, uniformity of such rules, regulations and orders with the law of both States.

e. To appoint, or employ, such other officers, agents, attorneys, engineers and employees as it may require for the performance of its duties and to fix and determine their qualifications, duties, compensation, pensions, terms of office and all other conditions and terms of employment and retention.

f. To enter into contracts and agreements with either State or with the United States, or with any public body, department, or other agency of either State or of the United States or with any individual, firm or corporation, deemed necessary or advisable for the exercise of its purposes and powers.

g. To accept from any government or governmental department, agency or other public or private body, or from any other source, grants or contributions of money or property as well as loans, advances, guarantees, or other forms of financial assistance which it may use for or in aid of any of its purposes.

h. To acquire (by gift, purchase or condemnation), own, hire, lease, use, operate and dispose of property, whether real, personal or mixed, or of any interest therein, including any rights, franchise and property for any crossing, facility or other project owned by another, and which the Authority is authorized to own and operate.

i. To designate as express highways, and control public and private access thereto, all or any approaches to any crossing or other facility of the Authority for the purpose of connecting the same with any highway or other route in either State.

j. To borrow money and to evidence such loans by bonds, notes or other obligations, either secured or unsecured, and either in registered or unregistered form, and to fund or refund such evidences of indebtedness, which may be executed with facsimile signatures of such persons as may be designated by the Authority and by a facsimile of its corporate seal.

k. To procure and keep in force adequate insurance or otherwise provide for the adequate protection of its property, as well as to indemnify it or its officers, agents or employees against loss or liability with respect to any risk to which it or they may be exposed in carrying out any function hereunder.

l. To grant the use of, by franchise, lease or otherwise, and to make charges for the use of, any crossing, facility or other project or property owned or controlled by it.

m. To exercise the right of eminent domain to acquire any property or interest therein.

n. To determine the exact location, system and character of and all other matters in connection with any and all crossings, transportation or terminal facilities or other projects which it may be authorized to own, construct, establish, effectuate, operate or control.

o. To exercise all other powers not inconsistent with the Constitutions of the two States or of the United States, which may be reasonably necessary or incidental to the effectuation of its authorized purposes or to the exercise of any of the foregoing powers, except the power to levy taxes or assessments, and generally to exercise in connection with its property and affairs, and in connection with property within its control, any and all powers which might be exercised by a natural person or a private corporation in connection with similar property and affairs.

ARTICLE VIII.

ADDITIONAL POWERS.

For the purpose of effectuating the authorized purposes of the Authority, additional powers may be granted to the Authority by legislation of either State without the concurrence of the other, and may be exercised within such State, or may be granted to the Authority by Congress and exercised by it; but no additional duties or obligations shall be undertaken by the Authority under the law of either State or of Congress without authorization by the law of both States.

ARTICLE IX.

EMINENT DOMAIN.

If the Authority shall find and determine that any property or interest therein is required for a public use because in furtherance of the purposes of the Authority, said determination shall not be affected by the fact that such property has theretofore been taken over or is then devoted to a public use, but the public use in the hands or under the control of the Authority, shall be deemed superior to the public use for which it has theretofore been taken or to which it is then devoted.

In any condemnation proceedings in connection with the acquisition by the Authority of property or property rights of any character in either State and the right of inspection and immediate entry thereon, through the exercise by it of its power of eminent domain, any existing or future law or rule of court of the State in which such property is located with respect to the condemnation of property for the construction, reconstruction and maintenance of highways therein, shall control. The Authority shall have the same power and authority with respect thereto as the State agency named in any such law; provided that nothing herein contained shall be construed as requiring joint or concurrent action by the two States with respect to the enactment, repeal or amendment of any law or rule of court on the subject of condemnation under which the Authority may proceed by virtue of this Article.

If the established grade of any street, avenue, highway or other route shall be changed by reason of the construction by the Authority of any work so as to cause loss or injury to any property abutting on such street, avenue, highway or other route, the Authority may enter into voluntary agreements with such abutting property owners and pay reasonable compensation for any loss or injury so sustained, whether or not it be compensable as damages under the condemnation law of the State.

The power of the Authority to acquire property by condemnation shall be a continuing power, and no exercise thereof shall be deemed to exhaust it.

ARTICLE X.

REVENUES AND APPLICATION.

The Authority is hereby authorized to establish, levy and collect such tolls and other charges as it may deem necessary, proper or desirable, in connection with any crossing, transportation or terminal facility or other project which it is or may be authorized at any time to construct, own, operate or control, and the aggregate of said tolls and charges shall be at least sufficient (1) to meet the combined expenses of operation, maintenance and improvement thereof, (2) to pay the cost of acquisition or construction, including the payment, amortization and retirement of bonds or other securities or obligations assumed, issued or incurred by the Authority, together with interest thereon and (3) to provide reserves for such purposes; and the Authority is hereby authorized and empowered, subject to prior pledges, if any, to pledge such tolls and other revenues or any part thereof as security for the repayment with interest of any moneys borrowed by it or advanced to it for its authorized purposes and as security for the satisfaction of any other obligations assumed by it in connection with such loans or advances. There shall be allocated to the cost of the acquisition, construction, operation, maintenance and improvement of such facilities and projects, such proportion of the general expenses of the Authority as it shall deem properly chargeable thereto.

ARTICLE XI.

COVENANT WITH BONDHOLDERS.

The two said States covenant and agree with each other and with the holders of any bonds or other securities or obligations of the Authority, assumed, issued or incurred by it and as security for which there may be pledged the tolls and revenues or any part thereof of any crossing, transportation or terminal facility or other project, that the two said States will not, so long as any of such bonds or other obligations remain outstanding and unpaid, diminish or impair the power of the Authority to establish, levy and collect tolls and other charges in connection therewith, and that neither of the two said States will, so long as any of such bonds or other obligations remain outstanding and unpaid, authorize any crossing of the Delaware River or Delaware Bay south of the line mentioned

in Article IV (a) of this Compact, by any person or body other than the Authority; unless, in either case, adequate provisions shall be made by law for the protection of those advancing money upon such obligations.

ARTICLE XII.

SECURITIES LAWFUL INVESTMENTS.

The bonds or other securities or obligations which may be issued by the Authority pursuant to this Compact, or any amendments hereof or supplements hereto, are hereby declared to be negotiable instruments, and are hereby made securities in which all State and municipal officers and bodies of each State, all banks, bankers, trust companies, savings banks, building and loan associations, saving and loan associations, investment companies and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all administrators, executors, guardians, trustees and other fiduciaries and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of either State, may properly and legally invest any funds, including capital, belonging to them or within their control; and said obligations are hereby made securities which may properly and legally be deposited with and shall be received by any State or municipal officer or agency of either State for any purpose for which the deposit of bonds or other obligations of such State is now or may hereafter be authorized.

ARTICLE XIII.

TAX STATUS.

The powers and functions exercised by the Authority under this Compact and any amendments hereof or supplements hereto are and will be in all respects for the benefit of the people of the States of Delaware and New Jersey, the region and nation, for the increase of their commerce and prosperity and for the enhancement of their general welfare. To this end, the Authority shall be regarded as performing essential governmental functions in exercising such powers and functions and in carrying out the provisions of this compact and of any law relating thereto, and shall not be required to pay any taxes or assessments of any character, levied by either State or political subdivision thereof, upon any of the property used by it for such purposes, or any income or revenue therefrom, including any profit from a sale or exchange. The bonds or other securities or obligations issued by the Authority, their transfer and the interest paid thereon or income therefrom, including any profit from a sale or exchange, shall at all times be free from taxation by either State or any subdivision thereof.

ARTICLE XIV.

JURISDICTION; USE OF LANDS.

Each of the two States hereby consents to the use and occupancy by the Authority of any lands and property of the Authority in such State for the construction, operation, maintenance or improvement of any crossing, transportation or terminal facility or other project which it is or may be authorized at any time to construct, own or operate, including lands lying under water.

ARTICLE XV.

REVIEW AND ENFORCEMENT OF RULES.

Judicial proceedings to review any by-law, rule, regulation, order or other action of the Authority or to determine the meaning or effect thereof, may be brought in such court of each State, and pursuant to such law or rules thereof, as a similar proceeding with respect to any agency of such State might be brought.

Each State may provide by law what penalty or penalties shall be imposed for violation of any lawful rule, regulation or order of the Authority, and, by law or rule of court, for the manner of enforcing the same.

This is standard language that we on our initiative put in these compacts. It reads:

The right to alter, amend, or repeal this joint resolution is hereby expressly reserved.

As you no doubt know, this reserved power was the subject of some litigation involving the New York Port Authority. I think I should say that the full committee intends this reserved power to be meaningful. I think that should be made part of the record. I should imagine the members of the subcommittee agree with me. Is that correct?

Mr. TOLL. Yes. I served on Subcommittee 5 on the New York Port Authority. You are absolutely right.

Mr. LINDSAY. Will the chairman yield?

Mr. WILLIS. Yes.

Mr. LINDSAY. I think it should be stated for the record in the interest of completeness, however, that a close reading of the opinion of the Court of Appeals for the District of Columbia indicates that there is still some doubt as to the constitutionality of this provision. That will be tested, I would assume, in the Supreme Court in the event certiorari is granted.

Mr. WILLIS. I understand; but unless and until there is a square decision on it we intend for this reserved power to mean exactly what it says.

Mr. LINDSAY. Right.

Mr. TOLL. I think they are checking the language contained in the compact approval of the Port of New York Authority. There is no reason why this language could not be broader with respect to the rights of Congress.

Mr. WILLIS. I was coming to another point. For the record, because as I see it what I am now saying will no doubt be the subject of some discussion before the full committee and the subcommittee when we go into executive session, let me say the Department of the Interior has made a report and a policy position on these resolutions. Although I do not have before me the full text of the letter of Interior, counsel calls my attention to the fact that in substance Interior takes the position that the resolution should make clear that we do not amend or alter in any way the Delaware River Basin compact that we passed out of this committee last year. That bill was authored by a member of this committee, a mighty important one, Mr. Walter of Pennsylvania.

Also, Interior points out that we should consider making applicable the provision of the Fish and Wildlife Coordination Act, which requires some kind of consultation.

I am building up a record, Governor, I am not really asking you a question.

Then the Department of Commerce wants to make it clear that we are not consenting to spending bridge tolls on facilities like an airport. They raise some question about the additional powers and duties, which is somewhat spelled out in articles 4 and 8 of the resolutions.

Finally, there may be some discussion—I suspect the gentleman from New York, chairman of this committee, may bring up for discussion the question of reserved power to examine books which is involved in the New York controversy. I am spelling these things out in all frankness to you Governors because they are subjects which

will come up for discussion. How they will come out, I do not know, but I repeat, assuming that the compact proposed is in order and conforms with committee policy, which it obviously does in the sense that the two legislatures have come out with identical bills, we have sympathy for the proposal, but I thought I should say what I have said for the record.

Governor CARVEL. Mr. Chairman, I think I understand what you are saying is that this authority should be subject to some other authority besides itself. That is, when the Congress gives its approval at this time, it reserves the right to ask the authority—

Mr. WILLIS. The right of visitation.

Governor CARVEL. Further questions and expects to have the questions answered.

Mr. WILLIS. Substantially, yes.

Governor CARVEL. The authority should submit to the authority of the Congress. I realize this.

Mr. WILLIS. I am going into this because of this pending litigation which is sort of touchy.

Governor CARVEL. The important thing I wish to emphasize is that the great majority of our people are in favor of this important legislation, and this compact, and that we realize that this is a matter that we have to resolve with our fellow State and that we cannot go it alone as we tried to do in 1956. Although we did build the bridge by ourselves. Of course, New Jersey cooperated very well by sending us a nice turnpike all the way from New York to the bridge. This helped to make the bridge successful, unquestionably.

Mr. WILLIS. I yield to the gentleman from New Jersey.

Mr. THOMPSON. With respect to the report from the Department of the Interior and from the Department of Commerce, Mr. McDowell and I agree that their suggestions are reasonable. There is no intent nor should there be any possibility of this interfering with the Delaware River Basin compact. The Interior report indicates that the nature of that compact, which is a five-party compact, is such that this would have to be considered within its sphere of influence, and it wants that reservation.

Further, with respect to the Department of Commerce suggestion, Mr. McDowell and I have absolutely no objection.

We think also, I as a former member of the New Jersey Legislature, where we had dealings at some length with respect to the Port of New York Authority, that the committee's right, the congressional committee's reservation of the right to examine books and to get reasonable information from them should be spelled out if not in the legislation then in the report.

But we think that all of this can be done without doing any violence at all to the concept envisioned in this legislation.

Mr. WILLIS. I will say to the gentleman he is making our task very easy. There are technical questions on that that we probably will ask of Mr. Latchum.

Mr. LINDSAY. Will the chairman yield?

Mr. WILLIS. Mr. Lindsay.

Mr. LINDSAY. Do I understand, Mr. Chairman, that what our good friend and colleague from New Jersey is suggesting is that they agree to the deletion from their bills of the additional powers granted in article 4 and the deletion of article 8 in total? Is that the point he is making?

Mr. WILLIS. No.

Mr. THOMPSON. No.

Mr. LINDSAY. I beg your pardon.

Mr. TUCK. As I understood the gentleman from New Jersey, it is to the effect that we can show our legislative intent in the report without having to resort to the necessity of amending the resolution itself.

Mr. THOMPSON. That is right, and such technical amendments in the legislation itself as would be reflected in the report. We recognize fully the interest of this body of Congress in these matters and we want to respect those things so that there will not be any conflict. We are glad the Governor acknowledges our toll road which took those 50-cent pieces down there so fast they could hardly count them—

Governor CARVEL. Congressman, it is now 25 cents to cross the bridge.

Mr. THOMPSON. Yes, that is right.

Mr. McDOWELL. Mr. Chairman.

Mr. WILLIS. Mr. McDowell.

Mr. McDOWELL. I certainly concur in the statement of my colleague, Mr. Thompson, in regard to the departmental report. I further concur completely in your statement, Mr. Chairman, that this committee in this section you have quoted reserves the right to be a watchdog over the bistate compact and to have the opportunity for full review of its actions at any time.

Mr. WILLIS. Governor, we are not asking you to speak on that point, but we would welcome an observation.

Governor CARVEL. I think the point is well taken. I do not think any of us conceive of an authority which is responsible to no one except itself. I think it is important that this authority and all other authorities be made to realize that they are not a law unto themselves.

Mr. WILLIS. Thank you very much.

Governor CARVEL. Thank you very much, Mr. Chairman. It is a real pleasure to have had the opportunity to testify before this eminent and distinguished committee.

Mr. WILLIS. Will our colleague from New Jersey do us the honor of presenting his Governor.

Mr. THOMPSON. I thank you. Mr. McDowell and I are very grateful for the committee's invitation to sit with you this morning. We appreciate that courtesy. With respect to myself, I have no formal statement except to subscribe to that of my colleague, Mr. McDowell, and the two Governors. I would like Governor Hughes to have the pleasure of having Governor Tuck introduce him. He does it so graciously. Would you introduce Governor Hughes. You have not met him, but you would find him every bit as charming a fellow as Governor Carvel, I am sure.

Mr. TUCK. Mr. Chairman, I accept the invitation of our distinguished colleague from New Jersey with a great deal of pleasure. I intended, of course, most of what I said previously to apply to both of these distinguished gentlemen.

New Jersey is one of the original States, and whether we know personally the present distinguished Governor or not, we all know him by reputation and know something of the fine work he is doing

in that great State. I take pleasure at this time in presenting him to our committee.

Mr. WILLIS. Welcome, Governor.

STATEMENT OF HON. RICHARD J. HUGHES, GOVERNOR OF THE STATE OF NEW JERSEY

Governor HUGHES. Thank you, Mr. Chairman and gentlemen. Thank you very much, Governor Tuck. The fact that former Governor Tuck is on this committee, this subcommittee, impels me to recall a complaint I made before a very large group of labor leaders in New Jersey yesterday about the vicissitudes of a Governor's life. I referred to the trend in talking about the 40-hour week. I pointed out I was putting in, as best I could compute, an 80-hour week. Some heckler from the audience called out, "Organize a union."

The presence of the distinguished former Governor of Virginia on this committee reminds me that there would be a great source of strength, I think, in gathering up all former Governors and present Governors and beginning to organize, limited only to the conditions of work and pay, hours, and so forth. I take it that Governor Tuck would be glad to join in such an effort.

I want to seriously express my appreciation to the committee and to its distinguished chairman for a reminder as to the invitation to comment on this legislation which is pending before Congress whereby its consent to the compact is sought by both States, Delaware and New Jersey, who are of one mind with regard to the need and the objectives of this legislation. The importance of the compact to the future economic growth of the States of Delaware and New Jersey can hardly be overestimated.

Attached to the written copy of my remarks, which I filed with your committee, is a lengthy newspaper story from the Wilmington Morning News of August 23, 1960, which points up very clearly the difficulties which have been created over the years by lack of an agency empowered to act for both States in the vital area of interstate transportation. The effort involved in working out the compact now before you on a mutually satisfactory basis was a very long one and an exhausting one. It was approved by my predecessor, Gov. Robert Meyner, only last year, and at that time he stated that he considered it one of the most significant pieces of legislation adopted during his two terms. I fully agree and am most hopeful that your approval of this compact as covered by the various resolutions before you will enable my administration to implement this far-reaching and constructive opportunity.

At the present time, as you know, there is only one highway crossing between the State of Delaware and the State of New Jersey, the Delaware Memorial Bridge referred to by Governor Carvel. This four-lane span is expected to carry between 12 and 13 million vehicles this year. For all practical purposes it is already overcrowded, especially on the busy weekends of the summer vacation season, although frankly I had not realized until I heard the Governor the long number of hours that were involved in some of these stoppages.

What is even more important is this road is a key link in perhaps the busiest north-south traffic corridor in the Nation. The traffic potential of the New Jersey Turnpike, which feeds directly into this

bridge, has not yet reached its maximum or anywhere near its maximum, in my judgment. The construction of interstate routes both in Delaware and New Jersey will funnel additional traffic into this already crowded area. So that there is not much question but that additional facilities for vehicles crossing the Delaware River and Bay are needed.

Long experience indicates that a bi-State agency is the type of organization best fitted to administer such a program. Under the proposed compact Delaware River and Bay Authority would be empowered to provide these urgently needed facilities by bridge or tunnel or ferry, or a combination of such methods. Preliminary thinking has favored construction of a parallel bridge next to the existing span, and this might well be the first project to be undertaken.

There has been a good deal said, too, about the desirability of the ferry between Lewes, Del., and Cape May, N.J. The geographical advantages of a crossing at this point are perfectly obvious to all of us. The economic feasibility of it would have to be carefully analyzed before such a project should be undertaken. There is no doubt, however, that the future growth of southern New Jersey and southern Delaware would be greatly spurred by the establishment of such a service. I am also very greatly enthused at the possibility of a bay crossing from Sea Breeze, in our Cumberland County, to Bombay Hook Point, or that area in Delaware. I think it is in Kent County. Such a crossing would open another life-giving artery of commerce between New Jersey and Delaware and put it into the mainstream of north-south transportation that Governor Carvel mentioned.

I would point out, if I may, with deference to the committee, the need for comparatively prompt action. I see from the references by you, Mr. Chairman, to the Interior and the Commerce Departments views on the subject that you have some problems, but I think not problems which have to do with the urgent necessity of prompt approval of the compact, the ironing out, I take it, of some portions of it, including the references in section 2, which would intend to preserve to Congress the right to appeal, alter, and amend its approval of such compact in future years.

We have no objection to that general provision within the boundaries of law as it will be eventually determined by the U.S. Supreme Court. I would not like to be misunderstood in supporting these resolutions, Mr. Chairman, as abandoning in any way the position of the State of New Jersey, which was coincident with and the same as that of the State of New York with respect to the other matter which came into the conversation between you and Governor Carvel. That is to say, the question of records of an authority.

New Jersey maintains that position unless and until the U.S. Supreme Court overrules it, again with every deference to the continuing interest and the advisability and need of interest of Congress in having a compact-created authority understand that it is an instrumentality of government and not a power unto itself. We continuously have maintained that position.

Many safeguards exist in the compact, which has been litigated in the courts, with respect to veto by the Governors, inspection of minutes, et cetera. But as to the scope and the constitutional limits, such as they are, of the right of Congress or the power of Congress

to alter, amend, repeal, change, I think this would have to be determined by the U.S. Supreme Court and no doubt will in the litigation pending.

I thought, since the subject had come up and since, as Governor of New Jersey, I am here to very respectfully ask the subcommittee to recommend the prompt approval of this compact, that I think the committee would appreciate candor from me in that respect, that it in no way abandons or alters the position of New Jersey in the other matter.

The present Delaware Memorial span is shortly approaching the point of paying off its bonded indebtedness. This would leave an already overcrowded span with a very large maintenance burden entirely resting upon the State of Delaware, though the great bulk of the traffic using the bridge originates or has its destination in other States. Likewise, the opportunity to move forward rapidly with new facilities, buttressed by the proven earning power of the existing bridge, would be lost and the growth of a very large area indeed retarded.

The future of the entire area dictates the necessity of a broader horizon of interconnection between our two States and not confined solely to the present crossing.

The State of New Jersey is most pleased at the prospect of working with the State of Delaware and continuing to work, I should say, toward the accomplishment of a mutual objective, facilitating and making more convenient the movement of people and goods between our two States and a better way of life generally for all of our residents. I know that you gentlemen have already given this matter a great deal of study and, therefore, it only remains for me to urge your prompt favorable consideration of the proposed compact and its early approval by the Congress.

I appreciate ever so much the opportunity to come here this morning and testify to the committee, and would be glad to answer any non-technical questions, Mr. Chairman. We have some other people here, including Senator John Waddington, who was chairman of the New Jersey committee that acted with the Delaware committee in formulating this agreement that resulted in the legislation in both States, so that on the technical background of the negotiations, so far as the committee might be interested in them, he would be better able to answer than I.

Mr. LIBONATI. Mr. Chairman.

Mr. WILLIS. Mr. Libonati.

Mr. LIBONATI. Governor, the existing facilities, what happens to them? Do you take those over under the compact?

Governor HUGHES. The existing bridge is taken over under the compact, except it then becomes a bi-State operation. The additional parallel span, as I understand it, will be added to that so that this will be the first venture, really, to combine these facilities.

Mr. LIBONATI. Is there some arbitration board that will consider the evaluation of the facilities that are now being used?

Governor HUGHES. I would think that would be the members of the authorities in both States. We have progressed this far, with deference to the jurisdiction of Congress to approve or not approve the compact, we have three members of the authority but I have not filled the remaining two places in New Jersey. I do not know whether Delaware has appointed its authority members or all of them or not.

Now, if I may, I would like to take particular pleasure in presenting to the subcommittee the man who, in Salem County, has been in the forefront in seeking the approval of this resolution, the man who has distinguished himself in the New Jersey Legislature for many years, and who represents Salem County in Trenton.

It is an honor to present to you the Honorable John Waddington, the State senator from Salem County, who will, I believe, not only have a statement to make to the committee but will be in a position to answer any specific questions which the committee may have concerning the objectives of this particular bill.

Mr. LIBONATI. We are very proud to have this distinguished member of our committee before us. I am sure in his presentation he dealt with a clarity which made us understand his interest and the interest of his local community.

We congratulate you on your presentation.

Mr. WILLIS. He is always an influential member.

Mr. LIBONATI. That is right, Mr. Chairman.

Mr. WILLIS. Senator, you may proceed.

STATEMENT OF HON. JOHN A. WADDINGTON, STATE SENATOR FROM THE STATE OF NEW JERSEY

Senator WADDINGTON. Thank you, Mr. Chairman, and thank you, Congressman. It is always a pleasure to do business with Congressman Cahill.

Mr. Chairman and members of the Subcommittee on the Judiciary, I appreciate the invitation to testify at this public hearing held by your subcommittee on House Joint Resolution 555 and companion bills.

I am the State senator from Salem County in New Jersey, which county is situated at the conjunction of the southern terminus of the New Jersey Turnpike and the Delaware Memorial Bridge.

I understand House Joint Resolution 555, introduced by Congressman McDowell of Delaware, is identical in both intent and wording with three companion bills. I have studied a copy of House Joint Resolution 556, introduced by Congressman Thompson of New Jersey. On the preceding basis my remarks are applicable to House Joint Resolution 555 and companion bills.

It has been my firm belief for many years that the pressures of rapidly increasing traffic and growing populations require that the long-range needs of both Delaware and New Jersey be met by the establishment of a bistate agency with continuing existence to cope with specific details of the best way to resolve problems common to both States as they arise.

I understand Delaware had originally proposed a bistate agency in the 1930's, but this offer was declined at that time. The House of Representatives, Subcommittee on Rivers and Harbors of the Committee on Public Works held a public hearing on H.R. 10235 by Mr. McDowell on July 12, 1956. In my testimony at that hearing, in which I opposed Mr. McDowell's bill on behalf of the State of New Jersey, I proposed a bistate authority as the long-range solution to the problems between the two States. This is, of course, the method used to resolve similar matters between New Jersey and its other neighbors, New York and Pennsylvania.

I have probably followed these matters more closely for the past 8 to 10 years than anyone else in New Jersey because my county is the county directly involved with the Delaware Memorial Bridge and its several connecting major highways in New Jersey, including the turnpike. However, the economic development, the transportation needs and general well-being of not only the entire States of Delaware and New Jersey are involved, but to a considerable degree the entire eastern seaboard since ours are "corridor" States.

In 1958 and 1959 Governors' committees representing both Delaware and New Jersey worked out in a long series of meetings over many months the essentials of a compact between the two States. I was chairman of the Governor's committee representing New Jersey.

As you know, bills embodying the agreements reached by the Governors' committees were introduced in the legislatures of both States. As the principal sponsor of the bill in New Jersey I can state that to the best of my knowledge there was no opposition in New Jersey to the passage of the bill establishing the compact and bistate authority. The bill was passed without a dissenting vote by both houses. Neither have I heard of any opposition in Delaware to their similar bill.

At the public hearing in 1956 Mr. Fallon, member of the Subcommittee on Rivers and Harbors, told representatives of both States that it had been the policy of his committee, that if two States can get together, the committee had acted unanimously on all the legislation. So the problem was if we could get together and both be satisfied, he would be sure his committee would report it out favorably.

A number of years have intervened, but we have taken Mr. Fallon's advice. Today I can support Mr. McDowell's bill and the companion bills and urge the prompt passage in the best interests of the people of Salem County and New Jersey and of this expanding area on both sides of the Delaware River and Bay.

Thank you very much, gentlemen. If there are any questions I can answer I shall be very happy to try.

Mr. LIBONATI. I was wondering if there was any discussion concerning the pact between New York and New Jersey. Would that affect the Delaware and New Jersey pact?

Senator WADDINGTON. We have visualized these as two separate pacts. When we drafted this compact we were quite concerned with the thought, and the New Jersey Legislature has been quite concerned, with being sure that we control, that we put controls in our legislation on these authorities. We specifically put two controls into this context.

First of all, there were five members from each State. Any decision arrived at by the commission must have a majority of the members of each State.

Secondly, the actions of the commissioners from each State are subject to veto by the Governors.

We believe this puts a real basic control on the actions of the authority.

Mr. LIBONATI. A dual control?

Senator WADDINGTON. Yes, sir.

Mr. LIBONATI. Thank you.

Mr. WILLIS. Thank you very much, gentlemen.

I notice that our colleague, Mr. Glenn, previously introduced Senator Sandman.

Senator, we shall be happy to hear from you.

**STATEMENT OF HON. CHARLES W. SANDMAN, JR., STATE SENATOR
FROM THE STATE OF NEW JERSEY**

Senator SANDMAN. Mr. Chairman and members of the committee, I thank you for your invitation to come here today. The remarks I shall have to make will be very brief. I do not have a prepared statement.

This compact which is before you for ratification is extremely important to our State, especially the part of the State which I represent.

We have been working on this a good long time. In fact, it goes over as many years as Senator Waddington just referred to.

Back in 1956 the relationship between the two States affected here were not good due to some tension over the Memorial Bridge, which already has been discussed. However, the committee of conferees, of which I was a member along with Senator Waddington, I think has done a good deal toward solidifying good relations between the States.

The only thing I would like to say, which I would hope would be beneficial to the committee, would be to point out the urgency of having this thing done at an early date.

I would like the committee to take cognizance of the fact that the New Jersey Legislature and the Delaware Legislature have been working on this thing, to my knowledge, very vigorously since 1956.

The conferees committees were appointed by the Governors of both States in 1958. We have held many meetings. Two of the meetings were held with the Governors, and in late September of 1959 we reached unanimous agreement between the States, which as we look back and compare the feeling between the States as of 1956 and now, it was quite an accomplishment.

I think the compact is as fair as one can be. The controls which are in this compact are much different from those with which you are concerned in the Port of New York Authority, which Senator Waddington has told you about. The majority of membership of each State must vote for something before it becomes effective.

Secondly, the Governor of each State is entitled to a copy of the minutes within 10 days after any kind of a meeting. The Governor of each State has 10 days after the receipt of those minutes to veto the vote of any member of his State or the entire delegation if he chooses to do so.

With regard to section 2 of the compact bill which is before you, and House bill 555, I do not say this in a political sense, I am the only one testifying so far from our State that is of a different political party from the Governor, but I want you to know it makes no difference. We are supporting his position. There is no difference of opinion as between parties in New Jersey. Congress should have the right to ask questions of these authorities. Congress should have the right to have whatever information it wants from these authorities, so that we have no particular objection to section 2 of the joint resolution.

The only thing we would hope is that section 2 of the joint resolution would not have any effect upon increasing interest rates because of the

power of Congress to alter or amend after such a contract would have been made. This is altogether possible to happen.

I know that Congress would not increase the interest rates. I do not mean that. I am wondering how it will look to the people who are going to buy the bonds if the Congress has a right to change something after a bond issue is sold. That is what I am thinking about.

Mr. LIBONATI. Your contention is that the only interest Congress could ever assert, even in a passive way, would be to inquire into violation of public interest.

Senator SANDMAN. That is right.

Mr. LIBONATI. I agree.

Senator SANDMAN. Both parties in New Jersey support the Governor in his position. Congress should have that right.

Mr. WILLIS. We have this language in section 2:

The right to repeal this joint resolution is hereby expressly reserved.

This has been retained in all compacts for the last 14 years. I have been a member of this subcommittee for 14 years and I have been chairman of this subcommittee for 12 years. This is not a new provision. Nobody even thought there would be any question about this until this controversy existed relating to the Port Authority of New York.

With reference to additional language concerning disclosure of information, and so on, might I say again that putting this language in this bill would not be anything unusual.

For example, I hold in my hand a bill, House Joint Resolution 659, introduced by Mr. Tuck, a member of this subcommittee, which contains this language, and that would be substantially what we are talking about: Subsection (B) of section 2 of House Joint Resolution 659 reads:

The right is hereby reserved to the Congress, or any of its committees, to require of the Potomac River Fisheries Commission the disclosure and furnishing of such information and data as is deemed appropriate by the Congress, or any committee thereof, having jurisdiction of the subject matter of this resolution.

You can see what we are talking about. This is nothing new.

Here is a member of this committee introducing a bill affecting his State of Virginia and asking that this be adopted.

I don't know whether the language with reference to these pending resolutions will be the same, but I would judge it would be just about the same. We are not talking about anything unusual here.

Mr. LIBONATI. Really the Congress would move in only if they violated their jurisdiction or extended it without the permission of the Congress, or dealt with the interest in violation of the general public interest.

In the New York case and in the New Jersey case the commissioners became so powerful that even the members of the assembly had no effect on any legislation they introduced for the purpose of correcting some of the departures, or to ascertain whether any departures were in evidence.

You lose all jurisdiction when the commission is appointed as a State body, as a legislative body. It is the only protection that you have, when you have Congress in a position to inquire into any exigencies which you might question, either by petition or resolution of either body, the Senate or the House of New Jersey and Delaware.

I do not think there is any fear that Congress will interfere with the commission carrying on its duties in accordance with the sentiments of the public, the public of both States.

Senator SANDMAN. We are in accord with that, sir. I raise no question at all to this particular House joint resolution. What I had to say was only in passing.

I would be hopeful that the broad language contained in that section would not have that kind of effect, although we are in accord, as our Governor has said, that you should have this right. You should have the right to these records. You should have the right to look into the activities if there is any feeling that there is wrong being done, or the original concept was not being carried out. We are in accord with that.

The only other thing I would like to mention as to the necessity of having this done as soon as we can is because of the long period of time that this has been worked on.

When you get to Cape May City there is a stretch of 12 miles of water and you can't go anywhere. This is not in keeping with modern development and we do need a connection there with the southern part of Delaware.

To do this we have proposed a ferry operation. The ferry operation is quite economical, especially at this time because of the large bridge being built down at Cape Charles.

We would be hopeful that this commission, if it is formed at an early date, would be in a position to acquire the facilities of the ferry operation there which is going out of business. It will go out of business when the new bridge is fully completed and opened, which will be in December of 1963, so that if any delay takes place in the adoption of this resolution, and the further actions of the commission, both States and the commission will lose the very valuable privilege they have now of getting these used facilities which the Cape Charles Ferry Commission will have available for sale.

For this reason we are very interested in the commission being formed as soon as possible.

That is all I have to say, gentlemen. If there are questions I shall be happy to answer them.

Mr. LIBONATI. Thank you very much.

Mr. WILLIS. Senator Weber, we are delighted to have you.

STATEMENT OF HON. ROBERT H. WEBER, STATE SENATOR FROM THE STATE OF NEW JERSEY

Senator WEBER. Thank you, Mr. Chairman. I am Senator Robert Weber from Cumberland County, one of the counties directly affected in this proposed legislation. I would like to express the appreciation of the people of our county and my own personal appreciation for being invited here today.

I think my colleagues and your colleagues in the Congress have amply proved the need for this type of legislation. The southern end of New Jersey is confronted with a geographical barrier in the Delaware River and the Delaware Bay.

I thought perhaps it might be helpful to this committee, since the need has been well established, if I submitted to you some evidence that the people in Cumberland County are 1,000 percent behind this project.

If I may, I will quote from some editorials in our home county in relation to this proposed legislation.

I might add that though we are a small county we do have three daily newspapers and four radio stations for a population of 100,000. Every one of the news media in that area have commented favorably on this legislation.

An example of the editorial comment runs something like this, from the Bridgeton Evening News, October 12, 1961:

Probably the greatest factor in the development of any area is a highway network to provide speedy and convenient access to surrounding areas. A look at the overall picture of the present highway network will show that the southern counties of New Jersey are not in close relationship to the existing through highway system because of the natural barrier of the Delaware Bay. It seems obvious, therefore, that a crossing of the Delaware Bay with its contingent highway development would, first of all, provide the impetus for the development of these southern New Jersey counties.

The same paper on June 25 of 1962 says this:

This proposed legislation would be the signal for an influx of industrial sites. It should be of interest to every go-getter and planner in southern New Jersey counties. It will be the first step in a gigantic expansion system which could sharply reduce the time estimated when the boom will really hit the lower end of the State of New Jersey.

The Times Journal says "Governor Hughes and the New Jersey Senators will be among those testifying at a hearing of the House judiciary subcommittee in Washington on June 28 on the enabling legislation. We hope all will continue with this project."

The Cumberland County Board of Freeholders has passed a resolution endorsing this compact. So has the city council of the city of Bridgeton. The Cumberland County Planning Board gave me a statement to bring down that they are in favor of it.

The Southern New Jersey Development Council has indicated its approval.

The mayors of Bridgeton, Vineland, and Millville have individually stated that they feel this legislation is necessary for the proper development of the southern end of the county.

All of our financial institutions, including Reynolds & Co., the largest brokerage house operating in our area, have signified that they feel this is something which is necessary for the counties in the southern end of the State.

I have no further comments to make except I want to assure this committee that I personally, and I know of no one connected with the government of the State of New Jersey, who has any reservations about section 2 contained in this legislation.

Mr. WILLIS. Thank you very much. That is a fine statement.

Next we have the representative of the Interstate Highway Commission of Delaware, Mr. Latchum.

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

Mr. LATCHUM. 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 now jointly seek congressional consent for the compact through the enactment of House Joint Resolution 555, under consideration by this committee.

The Legislature of New Jersey adopted the compact. The need for this type of legislation and compact has been foreseen for some time, but actually there were two conditions which were really the underlying basis for it.

One is that the Delaware Memorial Bridge, which was designed for a maximum capacity of 16 million vehicles a year, is fast approaching that point.

Last year almost 12 million vehicles crossed the Delaware Memorial Bridge.

However, you have hazardous driving conditions occurring at those periods of travel when more than 2,000 vehicles an hour attempt to cross the bridge one way.

Those instances are increasingly occurring. It was 185 times the past year and it is projected that there will be 365 of those periods in the year 1965.

Both States were faced with the problem of alleviating this condition, and the only way it could be done was to build a twin bridge near the location of the present Delaware Memorial Bridge to take care of the traffic demand and to alleviate the traffic hazards which occur on the present bridge.

In negotiating this immediate problem the conferees were told by the Governors of both States that since this entire area was changing rapidly that they should prepare a framework for the future for these two States to act in cooperation on all matters of common concern to them within this area, and therefore, they said, when this compact—and the legislature so adopted—is adopted, it will create a conduit where all of the common problems relative to transportation will be under one bistate authority in which both States have representatives.

In addition to that, there is one area on the eastern seaboard of the United States which has a large expanse of water unconnected now by any means of transportation. That area is across the opening of the Delaware Bay between Cape May and Lewes, Del. If you look at your map with highways on it, bridges, and ferries, you will see that with the completion of the bridge and tunnel being built that the only remaining large body of water unbridged, or unconnected by ferries, is across the Delaware Bay.

Therefore, there were two foreseeable projects in the minds of the two States when this compact was adopted. One was to alleviate the pressure that is on the present Delaware Memorial Bridge. The second was that if it turns out to be financially feasible that there be some connecting link made between Cape May, N.J., and Lewes, Del. They are the only two foreseeable projects under this compact.

However, the legislatures and the Governors of both States said that since we are preparing a compact which is to have the framework

to eliminate all future possible matters of interest between the States, it should be the bistate authority which could create and establish other transportation facilities and terminals. I suppose they had in mind harbor facilities in the Delaware River-Bay area adjacent to both Delaware and New Jersey.

However, the compact makes a distinction between those two types of projects. If this compact is consented to by Congress, the two States through their bistate agency may build additional crossings by bridges or tunnels between the two States.

They may, if it is feasible, operate a ferry at the location I have just mentioned. That can be done without any further legislation.

However, nothing other than crossings of the Delaware River Bay can be undertaken by this bistate authority without concurrent legislation being specifically passed for that purpose by the legislatures of both States; and, of course, which must be approved by the Governor.

Mr. WILLIS. That legislation would have no effect unless consented to by Congress.

Mr. LATCHUM. That is right. To put the present Delaware Memorial Bridge and transfer it to this bistate authority is done for one purpose. There is experience developed on that bridge. We know what the tolls are that will produce at certain rates. We know what traffic will use that, and that bridge must be continued as a toll facility if we are to build an additional bridge next to it, or in the general vicinity. We cannot have a free bridge, which this will become within the next 3 years at the present rate of income and revenue, we cannot have a free bridge beside a toll bridge, which this compact would authorize together with the House Resolution 9376, which is now before the House Committee of Public Works, Subcommittee of Rivers and Harbors. It would take that act, together with this compact, before the compact could ever become effective and before it can operate. That other legislation to which I referred, and which is not before this committee, would permit continuation of tolls on the present bridge to be put under a blanket indenture in order to finance additional crossings.

There are two points which I wish to mention. The committee here has pointed out section 2 of the resolution to the present act. At the time that this legislation was drafted for introduction to the Congress we attempted to follow the tried and true formula of past legislation on this type of subject.

I believe that the Governor of the State of Delaware said that he would have no objection to the resolution being broadened to language similar to that quoted by the chairman this morning in connection with the Potomac River Commission.

There had been two objections to the legislation, or two comments made, by the Department of the Interior. I would like to address myself to those two objections. One is that they suggest that there be a provision in the resolution of Congress stating specifically that this compact in no way would change the Delaware River Basin Compact which was approved by Congress and which the United States actually is party to, and it was adopted in 1961.

While Delaware has no objection to this, I think it is unnecessary because certainly a two-party compact with the consent of Congress could not by any stretch of the imagination under our present law be considered to amend in any way a five-party compact in which the United States actually is a party.

Secondly, the two compacts are entirely unrelated because they deal with different subject matters.

The other suggestion by the Department of the Interior is that the action of the bistate authority be subjected to the Fish and Wildlife Coordination Act.

That act, which is an act of Congress, requires that before dams or water are diverted in any navigable stream by any agency of the United States, or with their permission or approval, that they consult with the Department of the Interior.

We think we are already covered by that legislation because under our Bridge Act before we can build an additional bridge we would have to obtain from the Corps of Engineers, and from the Department of the Army a permit for the type of bridge.

Mr. LIBONATI. Then the provision does not hurt.

Mr. LATCHUM. That is right. Therefore we have no objection.

Mr. WILLIS. What you are saying is that these may not be necessary but you have no objection?

Mr. LATCHUM. We have no objection.

Mr. WILLIS. From our point of view, so we can say on the floor of the House that we have worked it in such a way that this agency is satisfied, it helps to pass the bill.

Mr. LATCHUM. That is right, sir.

Now when we come to the comments made by the Department of Commerce, copy of a statement which was delivered to me this morning, this poses a somewhat different question from that of the Department of the Interior because what the Department of Commerce has done here is to raise many broad policy questions involving the entire intrastate and interstate system of highways and bridges in this country.

Mr. LIBONATI. You wouldn't expect them to sit by and have you build a bridge which would interfere?

Mr. LATCHUM. But the Commerce Department is not concerned with the navigation.

Mr. LIBONATI. Still they would have an interest.

Mr. LATCHUM. They take the position they would have no objection to our building additional crossings, a toll crossing, of the Delaware River and Bay, as I understand their statement, combining the tolls to pay off the revenue bonds which were issued to pay for those facilities.

However, they do raise the question as to whether Congress should permit the combination of tolls collected on interstate crossings to be used for the payment of revenue bonds which would be to finance other terminal or transportation facilities covered by the compact but which cannot be done unless both legislatures by concurrent legislation permit the authority to do.

Mr. WILLIS. Where in the compact is that authority?

Mr. LATCHUM. The authority in the compact is page 5. In article 4, subdivision (a) provides for crossings.

Subdivision (b) provides for planning, financing, development, construction, purchase, lease, maintenance, improvement, and so forth of transportation and terminal facilities.

Mr. WILLIS. It states nothing about tolls?

Mr. LATCHUM. No, actually it is not in this bill.

Mr. WILLIS. It is nowhere in the compact?

Mr. LATCHUM. That is right; it is in the bill which is pending before the Public Works Committee.

Mr. WILLIS. Let me read the statement about to be made by the representative of the Department of Commerce.

I understand you have the statement?

Mr. LATCHUM. I got it this morning.

Mr. WILLIS (reading):

In order to avoid any ambiguity between the provisions of H.R. 9376 and the proposed compact on the subject of the use of bridge tolls, we suggest that House Joint Resolution 555 be amended so as to provide that nothing contained in the compact shall be construed as authorizing the use of tolls collected on any crossing for the financing of any transportation or terminal facility constructed or operated by the authority.

You say, they are trying not to cross up your proposal with H.R. 9376.

Mr. LATCHUM. Yes, sir.

Mr. WILLIS. Don't you think that is a valid statement?

Mr. LATCHUM. It is if Congress feels that the present bill which is before the Subcommittee on Rivers and Harbors should be amended in that regard.

Of course, as I pointed out, really there is no foreseeable project in mind.

Mr. WILLIS. Would you have objections to this amendment? I ask you to think about your answer. As I understand it, two of the authors of the bill, and the two Governors, said they would have no objection to our putting language to carry out the recommendations of Interior and Commerce.

Mr. LATCHUM. Mr. Chairman, I am not in a position to overrule the Governor of our State on this point.

I would say this, however: If this condition were inserted in this compact it would not cripple the compact on the basis of what it was actually planned for.

It might in the future, some time 50 years from now, cause us to come back to Congress.

Mr. WILLIS. That is one of these things where we have to be careful.

If in the distant future that is necessary, and you do not envisage it now, then I do not think we should leave it up to speculation, particularly in light of the pendency of H.R. 9376, and then it certainly does not do you harm.

Mr. LATCHUM. Not for the immediate future. It would permit us to put these crossings and operations under combined tolls.

I have no further comment, Mr. Chairman, unless there is some other question.

Mr. WILLIS. I thank you very much. You have been very helpful.

Mrs. Nicholson and Mr. Ridge, in behalf of the Department of Commerce.

STATEMENT OF MRS. MARY K. NICHOLSON, LEGISLATIVE ATTORNEY, BUREAU OF PUBLIC ROADS, U.S. DEPARTMENT OF COMMERCE

Mrs. NICHOLSON. Mr. Chairman, I am Mrs. Mary K. Nicholson, legislative attorney, Bureau of Public Roads. With me is Mr. Sylvester Ridge, special program coordinator.

Mr. Chairman and members of the committee, I am pleased to appear before you to present the views of the Department of Commerce and the Bureau of Public Roads on House Joint Resolution 555.

The proposed joint resolution would grant the consent of Congress to the States of New Jersey and Delaware to enter into a compact establishing the Delaware River and Bay Authority for the purpose of planning, financing, constructing, operating, and maintaining crossings of the Delaware River and Bay, as well as transportation, terminal, and other facilities of commerce adapted for public use within each of the States in connection with transportation of persons or property. The authority would be empowered to enter into contracts or agreements with either of the two States, or the United States, or with any public body, department, or other agency of either State or of the United States necessary or advisable for the exercise of its purposes and powers. Article X of the compact would authorize the combination financing of all facilities, both highway and nonhighway, under the control of the authority.

The Department of Commerce would interpose no objection to enactment of the proposed legislation, if amended as recommended.

While there are a number of Federal-aid routes in the areas adjacent to the section of the Delaware River and Bay covered by House Joint Resolution 555, the only crossing now on any of the Federal-aid highway systems is the Delaware Memorial Bridge, a part of Interstate Route 295. Federal-aid funds did not participate in the construction of this bridge.

We believe that the diversion of revenues derived from highway users of toll facilities to nonhighway uses should be discouraged, even though Federal-aid funds are not involved in the construction of the toll facility. We 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 such highway crossings.

Attention is drawn to the fact that subsection (c) of article IV of the proposed compact specifically prohibits the undertaking of any project by the authority, other than a crossing as defined in article II, without first having secured approval thereof by concurrent legislation of the two States. 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.

On H.R. 9376, a companion measure now under consideration by the House Public Works Committee which would amend existing law relating to the Delaware Memorial Bridge, this Department has recommended that such bill be amended so as to prohibit the use of bridge tolls for purposes other than crossings of the Delaware River or Bay constructed or operated by the authority.

In order to avoid any ambiguity between the provisions of H.R. 9376 and the proposed compact on the subject of the use of bridge tolls, we suggest that House Joint Resolution 555 be amended so as to provide that nothing contained in the compact shall be construed as authorizing the use of tolls collected on any crossing for the financing of any transportation or terminal facility constructed or operated by the authority.

In addition, attention is invited to subsection (c) of article IV and to article VIII of the compact which provide, in effect, that additional functions may be entrusted to the authority by joint action of the two States. We recommend that House Joint Resolution 555 be amended so as to provide that such powers shall not be conferred upon the authority without the consent of the Congress.

These amendments would have the effect of limiting, to the foregoing extent, the consent of the Congress to the proposed compact. The Department of Commerce believes that such limiting amendments are desirable particularly in the light of the following review of the broad issues involved.

Consideration by the Department of Commerce of both House Joint Resolution 555 and H.R. 9376 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 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. We realize that, historically, Federal general bridge legislation has had one of its primary bases in the responsibility of the Secretary of the Army (formerly the Secretary of War) with respect to navigation and the navigable waters of the United States.

For many years, 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. 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. The question is particularly pertinent with respect to 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., sec. 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.

We are 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 in the public interest.

Mr. WILLIS. The policy question about which you spoke on page 4 of your statement would generally come under the jurisdiction of the Committee on Public Works and maybe Interstate and Foreign Commerce. You are calling them to our attention to watch for them if ever they are embedded in a compact; is that right?

Mrs. NICHOLSON. That is one of the purposes. We wish to bring it to your attention as a problem, and a broad one, which arises in connection with the consideration of the legislation now before you.

Mr. WILLIS. If we would go along with the proposed amendments that you have suggested, that would satisfy the purpose of your broad presentation?

Mrs. NICHOLSON. That is correct, sir.

Mr. WILLIS. May I say, having read your statement, it would seem to me that we are not in a bad position, after all. The authors and Governors have affirmatively said that the proposals you suggest and Commerce and Interior suggest may be made part of our bill; so it looks as though we wind up satisfying the authors, the Governors, and all agencies downtown. We seem to be in good shape unless somebody changes his mind. We thank you very much for your very fine statement.

The agency reports will be inserted at this point in the record.
(The reports referred to follow:)

DEPARTMENT OF THE ARMY,
Washington, D.C., April 11, 1962.

Hon. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives.

DEAR MR. CHAIRMAN: Reference is made to your request to the Secretary of Defense for the views of the Department of Defense on House Joint Resolution 555, 87th Congress, a resolution "Granting consent of Congress to the State of Delaware and the State of New Jersey to enter into a compact to establish the Delaware River and Bay Authority for the development of the area in both States bordering the Delaware River and Bay." The Department of the Army has been assigned responsibility for expressing the views of the Department of Defense.

The Department of the Army interposes no objection to the resolution.

The resolution would grant the consent of Congress to the States of Delaware and New Jersey to enter into a compact to create a Delaware River and Bay Authority for the purposes of providing crossings between the two States across the Delaware River or Bay and providing transportation or terminal facilities required for sound economic development of the area.

The interests of the United States are protected by the provision in the resolution that nothing in the compact is to be construed as impairing or affecting any right or jurisdiction of the United States over the area which is the subject of the compact.

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,

STEPHEN AILES,
Acting Secretary of the Army.

THE GENERAL COUNSEL OF THE TREASURY,
Washington, April 16, 1962.

Hon. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your request for the views of this Department on House Joint Resolution 555, "Granting consent of Congress to the State of Delaware and the State of New Jersey to enter into a compact to establish the Delaware River and Bay Authority for the development of the area in both States bordering the Delaware River and Bay."

The proposed compact is not of primary interest to this Department and the Department is not in a position to comment on the merits of its approval by the Congress. However, the following observations are offered with respect to certain features of the compact.

Article VII would, among other things, authorize the proposed Delaware River and Bay Authority to issue bonds, notes, or other obligations. Article XII would make the obligations lawful investments for all banks of the States of Delaware and New Jersey. Article XIII would exempt from taxation by either State any interest or income from the bonds or other obligations issued by the authority, including any profit from a sale and exchange.

The compact contains no language which could be construed to obligate the United States to pay the principal and interest on the bonds or other obligations issued by the authority so that the compact presents no problems to the Treasury Department in that respect. As to Federal taxation, section 103 of the Internal Revenue Code exempts from Federal income tax interest income derived from bonds issued by a State or political subdivision thereof. The proposed authority would be considered a political subdivision within the meaning of the foregoing tax provision since article XIII of the compact provides that the authority shall be regarded as performing essential governmental functions. With respect to the investment provisions, the investment by national banks in the obligations of the authority would be subject to the limitations and restrictions contained in section 5136 of the Revised Statutes, as amended (12 U.S.C. 24) and in the investment securities regulation of the Comptroller of the Currency. Although section 5136 of the Revised Statutes, as amended, contains an exemption for the general obligations of a political subdivision of a State, the proposed authority would not be considered a political subdivision within the meaning of this exemption because it would not have the power of general property taxation, together with the incidental power to compel payment of taxes.

The Department has been advised by the Bureau of the Budget that there is no objection from the standpoint of the administration's program to the submission of this report to your committee.

Sincerely yours,

ROBERT H. KNIGHT, General Counsel.

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D.C., April 10, 1962.

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on House Joint Resolution 555 "Granting consent of Congress to the State of Delaware and the State of New Jersey to enter into a compact to establish the Delaware River and Bay Authority for the development of the area in both States bordering the Delaware River and Bay."

The resolution would give the consent of Congress to the States of Delaware and New Jersey to enter into a compact to be known as the Delaware-New Jersey compact. The compact would establish a joint agency of the two States, The Delaware River and Bay Authority, to plan, finance, develop, construct, purchase, lease, maintain, improve, and operate crossings between the States of Delaware and New Jersey across the Delaware River or Bay at any location south of the boundary line between the State of Delaware and the Commonwealth of Pennsylvania as extended across the Delaware River to the New Jersey shore of said river, together with such approaches or connections thereto as in the judgment of the authority are required to make adequate and efficient connections between such crossings and any public highway or other routes in the State of Delaware or in the State of New Jersey. Similar authority would be vested in the authority with respect to transportation or terminal facilities which in the judgment of the States is required for the further economic development of the area.

Provision is made "that nothing contained in such compact shall be construed as impairing or in any manner affecting any right or jurisdiction of the United States in and over the area which forms the subject of such compact." The right to alter, amend, or repeal the resolution is expressly reserved.

The subject of this resolution is not a matter for which the Department of Justice has primary responsibility and accordingly we make no recommendation as to its enactment.

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

Sincerely yours,

JOSEPH F. DOLAN,
Assistant Deputy Attorney General.

SECURITIES AND EXCHANGE COMMISSION,
Washington, D.C., February 14, 1962.

Re House Joint Resolution 555, 87th Congress, 1st session.

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D.C.

DEAR CHAIRMAN CELLER: This is in response to your request for the Commission's comments on H.J. Res. 555, 87th Congress. The resolution would grant consent of the Congress to the States of Delaware and New Jersey to enter into a compact to establish the Delaware River and Bay Authority for the development of the area in both States bordering the Delaware River and Bay.

The only provisions of the compact of concern to the Commission are those which authorize the authority to borrow money and issue evidences of indebtedness, and which prohibit the authority from pledging the credit or creating any debt or liability of the States of Delaware and New Jersey, or any agency or subdivision of those States. Under the compact, the authority would be established as an agency of the State of Delaware and the State of New Jersey. The securities issued by the authority under the terms of the compact would, therefore, be exempt from registration under section 3(a)(2) of the Securities Act of 1933, and would be exempt from qualification under section 304(a)(4) of the Trust Indenture Act of 1939. Accordingly, the Commission has no comment to make with respect to the resolution.

Sincerely yours,

BYRON D. WOODSIDE, Commissioner.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., April 18, 1962.

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for the views of this Department on House Joint Resolution 555, a joint resolution granting the consent of Congress to the State of Delaware and the State of New Jersey to enter into a compact to establish the Delaware River and Bay Authority for the development of the area in both States bordering the Delaware River and Bay. This report also applies to the identical joint resolution, House Joint Resolution 556, which is pending before your committee.

We have no objection to the enactment of the joint resolution if amended as suggested below.

The purposes of the joint resolution is to grant the consent of Congress to the States of Delaware and New Jersey to enter into the compact known as the Delaware-New Jersey Compact, which would establish the Delaware River and Bay Authority as an agency of government of the two States. The authority would be empowered to construct and operate bridges, tunnels, and other facilities for public use in crossing the Delaware River or Bay between the States and to construct transportation and terminal facilities within those areas of the two States which border on or are adjacent to the Delaware River or Bay south of the Delaware-Pennsylvania border.

Section 1 of the joint resolution properly provides that nothing in such compact shall be construed as impairing or affecting any right or jurisdiction of the United States. This provision reinforces our interpretation that article IX of the compact, relating to the exercise by the authority of the powers of eminent domain, will not apply to property of the United States.

In 1961 the United States consented to, and joined the States of Delaware, New Jersey, and New York and the Commonwealth of Pennsylvania in, the Delaware River Basin Compact for the purpose of providing comprehensive and coordinated planning and development of the water resources of the Delaware River Basin. In order to eliminate any possible conflict between that compact and the Delaware-New Jersey Compact, we recommend that the joint resolution be amended by striking the period at the end of section 1, on line 21, page 20, and adding: "or as amending or superseding the provisions of the Act of September 27, 1961 (75 Stat. 688)."

The waters and shorelines of the Delaware River and Bay covered by the compact are of significance to important fish and wildlife resources. There are valuable commercial fisheries in these waters, including oyster production. Portions of the shoreline areas are used for migration and wintering habitat by waterfowl on this segment of the Atlantic flyway, toward which the United States has obligations under international treaty. We believe it is important that the possible effect of any bridge, tunnel, or other crossing on these resources should be ascertained and considered by the Authority prior to final decision on location, design, and construction, in accordance with established procedures for other water projects under the Fish and Wildlife Coordination Act. Accordingly, we recommend that the joint resolution be amended by the addition of a third section as follows:

"SEC. 3. In addition to any other requirement of law, any project constructed by the Delaware River and Bay Authority in or over the navigable waters of the United States shall be subject to the procedural requirements of section 2(a) of the Fish and Wildlife Coordination Act, as amended (48 Stat. 401; 16 U.S.C. 662(a))."

The Bureau of the Budget advises that it has no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

FRANK P. BRIGGS,
Secretary of the Interior.

THE SECRETARY OF COMMERCE,
Washington, D.C., June 12, 1962.

Hon. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
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 House Joint Resolution 555, a joint resolution granting consent of Congress to the State of Delaware and the State of New Jersey to enter into a compact to establish the Delaware River and Bay Authority for the development of the area in both States bordering the Delaware River and Bay.

The proposed joint resolution would grant the consent of Congress to the States of New Jersey and Delaware to enter into a compact establishing the Delaware River and Bay Authority for the purpose of planning, financing, constructing, operating and maintaining crossings of the Delaware River and Bay, as well as transportation, terminal and other facilities of commerce adapted for public use within each of the States in connection with transportation of persons or property. The Authority would be empowered to enter into contracts or agreements with either of the two States, or the United States, or with any public body, department, or other agency of either State or of the United States necessary or advisable for the exercise of its purposes and powers. Article X of the compact would authorize the combination financing of all facilities, both highway and nonhighway, under the control of the Authority. Article XI would restrict any crossing of the Delaware River or Bay south of a line mentioned in article IV(a) of the compact unless adequate provision is made for the protection of those advancing money upon obligations of the authority.

The Department of Commerce would interpose no objection to enactment of the proposed legislation, if amended as recommended herein.

While there are a number of Federal-aid routes in the areas adjacent to the section of the Delaware River and Bay covered by H.J. Res. 555, the only crossing now on any of the Federal-aid highway systems is the Delaware Memorial Bridge, a part of Interstate Route 295. Federal-aid funds did not participate in the construction of this bridge.

The Department of Commerce believes that the diversion of revenues derived from highway users of toll facilities to nonhighway uses should be discouraged, even though Federal-aid funds are not involved in the construction of the toll facility. We 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 such highway crossings. Attention is drawn to the fact that article IV of the proposed compact specifically prohibits the undertaking of any project by the authority, other than a crossing as defined in article II, without first having secured approval thereof by concurrent legislation of the two States. 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.

On H.R. 9376, a companion measure now under consideration by the House Public Works Committee which would amend existing law relating to the Delaware Memorial Bridge, this Department has recommended that such bill be amended so as to prohibit the use of bridge tolls for purposes other than crossings of the Delaware River or Bay constructed or operated by the authority. In order to avoid any ambiguity between the provisions of H.R. 9376 and the compact relating to the use of bridge tolls, it is suggested that House Joint Resolution 555 be amended so as to provide that nothing contained in the compact shall be construed as authorizing the use of tolls collected on any crossing for the financing of any transportation or terminal facility constructed or operated by the authority.

Attention is called to the fact that subsection (c) of article IV and article VIII of the compact provide, in effect, that additional functions may be entrusted to the authority by joint action of the two States. House Joint Resolution 555 should be amended so as to provide that such powers shall not be conferred on the authority without the consent of Congress.

Consideration by the Department of Commerce of both House Joint Resolution 555 and H.R. 9376 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 section 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 in the public interest.

We have been advised by the Bureau of the Budget that 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.

VINELAND TIMES JOURNAL,
Vineland, N.J., June 28, 1962.

Representative MILTON W. GLENN,
Second District, N.J., House Office Building, Washington, D.C.

DEAR CONGRESSMAN GLENN: The Southern New Jersey Development Council endorses the enabling legislation for a compact between the States of New Jersey and Delaware in order to make possible the enlargement of transportation facilities between the two States.

The development council is a nonprofit association representing the county governments of the six southern New Jersey counties, the governments of more

than 50 municipalities in these six counties, and more than 500 industries, banks, business associations, utilities, small businessmen and farm organizations. It is nonpartisan, and dedicated solely to the development of this part of the State. I take the liberty of writing to you as president of the council.

The proposed legislation will pave the way for facilities which not only will further tremendously the development of this State but which will be of substantial benefit to the entire eastern seaboard. The council sincerely hopes the House subcommittee will give favorable recommendation to the proposed enabling legislation.

Sincerely,

BEN LEUCHTER,
President, Southern New Jersey Development Council.

Mr. WILLIS. This concludes the hearings. We will stand in recess subject to the call of the Chair.

(Whereupon, at 12:45 p.m., the subcommittee adjourned.)

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