

166, signed by you as an emergency bill on February 24, 1971, to provide for the filling of Congressional vacancies by special election) to accomplish several things: first, to provide that, if the vacancy occurs within a stated period of time prior to or following a regularly scheduled, statewide primary election, the Governor must by proclamation declare that the vacancy will be filled at the regular primary and regular general elections rather than at a special primary and a special general election; second, that the successful candidate at the regular general election "shall assume the duties of Representative in Congress on the date of his election and shall fill the vacancy from that date forth"; and, third, that, if the regular statewide primary election date is rescheduled so as to occur more than four months prior to the regular general election and a vacancy occurs within sixty days prior to said primary election date, a special election must be called by the Governor. You now ask our comments upon the legal effect of that part of the bill which relates to the commencement of the term of the Representative.

Amendment XX, Section 1 of the Constitution of the United States provides that the term of a Representative in Congress shall begin on the third day of January, at which time the term of his predecessor shall also expire. Where a vacancy has occurred during the term of a Congressman and a special election is held to fill that vacancy, it is self-evident that the Twentieth Amendment does not require the successful candidate to await January 3rd of the year in which his predecessor's term would have ended, before taking office. The successful candidate simply fills out the balance of the term of his predecessor.

When, however, the special election to complete the balance of an unexpired term is held simultaneously, as apparently is contemplated by the sponsor of this bill, with the regularly scheduled general election to fill the next succeeding term, serious complications arise. The bill does not provide for notice to be given to the voters of the dual impact of such an election nor does it specify, as would be logical and legally proper, that the face of the ballot used in the district must provide the voter with an opportunity to cast two votes, one for the unexpired term and one for the forthcoming term. Conceivably wholly different candidates could be involved in the two simultaneous elections.

We believe that, on this particular point, the above-captioned bill is incomplete and that a carrying out of its principles could result in severe voter confusion and administrative chaos.

Very truly yours,

/s/ FRANCIS B. BURCH,  
*Attorney General.*

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**Senate Bill No. 578—Highway Connections Requiring Legislative Approval**

AN ACT to add new Section 162B to Article 89B of the Annotated Code of Maryland (1969 Replacement Volume), title "State Roads," subtitle "Bonds, Notes or Other Evidence of Indebtedness," subhead-