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93-27 HISTORICAL AND ARCHEOLOGICAL DATA PRESERVATION

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HEARINGS

BEFORE THE

SUBCOMMITTEE ON

NATIONAL PARKS AND RECREATION

OF THE

COMMITTEE ON

INTERIOR AND INSULAR AFFAIRS

HOUSE OF REPRESENTATIVES

NINETY-THIRD CONGRESS

FIRST SESSION

ON

H.R. 296 and related bills

TO AMEND THE ACT OF JUNE 27, 1960 (74 STAT. 220), RE-
LATING TO THE PRESERVATION OF HISTORICAL AND
ARCHEOLOGICAL DATA

HEARINGS HELD IN WASHINGTON, D.C.

JULY 30 AND 31, 1973

Serial No. 93-27

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Committee on Interior and Insular Affairs



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NOTE.—The chairman of the full committee is an ex officio voting member of this subcommittee. The first listed minority member is counterpart to the subcommittee chairman.

CONTENTS

Hearings held:	Page
July 30, 1973-----	1
July 31, 1973-----	73
Appendix-----	111
Text of:	
H.R. 296-----	2
H.R. 538-----	3
S. 514-----	4
Report of:	
Department of the Interior-----	6
Department of Agriculture-----	9
General Counsel of Housing and Urban Development on H.R. 296 and related bills-----	10
Department of the Army-----	12
Statements:	
Annunzio, Hon. Frank, a Representative in Congress from the State of Illinois-----	27
Bartelsmeyer, Ralph R., Deputy Administrator, Federal Highway Administration, Department of Transportation-----	32
Beard, Hon. Robin, a Representative in Congress from the State of Tennessee-----	22
Bennett, Hon. Charles E., a Representative in Congress from the State of Florida-----	16
Burlison, Hon. Bill D., a Representative in Congress from the State of Missouri-----	25
Butler, Warren H., Deputy Assistant Secretary for Community Development, Department of Housing and Urban Development-----	73
Chapman, Dr. Carl H., director of archeology, research activities, Missouri Archeological Society-----	99
Clausen, Hon. Don H., a Representative in Congress from the State of California-----	15
Cleveland, Dr. Charles E., professor and curator of anthropology, Michigan State University-----	88
Conable, Hon. Barber B., Jr., a Representative in Congress from the State of New York-----	24
Corman, Hon. James C., a Representative in Congress from the State of California-----	29
Daugherty, Dr. Richard D., director, Washington Archeological Research Center-----	96
Davey, William B., Deputy Administrator, Soil Conservation Service, Department of Agriculture-----	53
Suggested changes to H.R. 296, submitted by Mr. Davey-----	61
Esch, Hon. Marvin L., a Representative in Congress from the State of Michigan-----	24
Fascell, Hon. Dante B., a Representative in Congress from the State of Florida-----	20
Gonzalez, Hon. Henry B., a Representative in Congress from the State of Texas-----	21
Grabert, Dr. Garland F., Ph. D., Bellingham, Wash-----	95
Hammerschmidt, Hon. John Paul, a Representative in Congress from the State of Arkansas-----	31
Hoop, Victor P., Tennessee Archeological Society-----	115
Hulett, Stanley W., Associate Director, Legislation, National Park Service-----	38
Hungate, Hon. William L., a Representative in Congress from the State of Missouri-----	18

Jennings, Jesse D., representing Great Basin Anthropological Conference-----	121
Johnson, Hon. Harold T. (Bizz), a Representative in Congress from the State of California-----	13
Jones, Dr. H. G., director, North Carolina Division of Archives and History-----	123
Kelly, Brig. Gen. James L., Deputy Director of Civil Works, Office of the Chief of Engineers, Department of the Army-----	62
King, Chester, president, Society for California Archaeology-----	119
Lehman, Hon. William, a Representative in Congress from the State of Florida-----	26
Mann, Hon. James R., a Representative in Congress from the State of South Carolina-----	22
McClory, Hon. Robert, a Representative in Congress from the State of Illinois-----	23
McGimsey, Dr. Charles R., III, director, Arkansas Archeological Survey, University of Arkansas-----	91
Mink, Hon. Patsy T., a Representative in Congress from the State of Hawaii-----	15
Mollohan, Hon. Robert H., a Representative in Congress from the State of West Virginia-----	20
Prichard, Mack S., State Archaeologist, Tennessee Conservation Department-----	113
Roe, Hon. Robert A., a Representative in Congress from the State of New Jersey-----	28
Stephenson, Dr. Robert L., director, Institute of Archeology and Anthropology, University of South Carolina-----	80
Symington, Hon. James W., a Representative in Congress from the State of Missouri-----	29
Thompson, Dr. Raymond H., National Committee for the Recovery of Archeological Remains-----	63
Thornton, Hon. Ray, a Representative in Congress from the State of Arkansas-----	30
Williams, Robert, director, Division of Archives, History and Records Management, State of Florida-----	84
Williams, Stephen, director, Peabody Museum of Archeology and Ethnology-----	115
Witty, Thomas A., Kansas State Historical Society-----	116
Zwach, Hon. John M., a Representative in Congress from the State of Minnesota-----	26
Letters:	
Blake, Leonard W., president, Lorraine C. Cates, secretary, Mound City Archaeological Society, Clayton, Mo., to Hon. Roy A. Taylor, dated July 17, 1973-----	121
Bridwell, Mrs. Naidyne B., secretary, C.A.S., Barrington, Ill., to Hon. Roy A. Taylor, dated July 23, 1973-----	126
Callaway, Hon. Howard H., Secretary of the Army, to Hon. James A. Haley, dated Aug. 20, 1973 (report)-----	12
Campbell, Hon. J. Phil, Under Secretary, Department of Agriculture, to Hon. James A. Haley, dated July 30, 1973 (report)-----	9
Couey, William F., vice president, Antelope Valley Archaeological Society, Inc., to Hon. Roy A. Taylor, dated July 20, 1973-----	124
DeBlois, Evan I., archeologist, executive committee, Utah State Antiquities Committee, to Hon. Roy A. Taylor, dated July 24, 1973-----	126
Elliott, Robert R. (for James L. Mitchell), General Counsel of Housing and Urban Development, to Hon. James A. Haley, dated Aug. 1, 1973 (report)-----	10
Elliott, Robert P., for James L. Mitchell, General Counsel of Housing and Urban Development, to Hon. Roy A. Taylor, dated Sept. 10, 1973-----	78
Enfield, Rollin O., archeologist, California Department of Transportation, Bishop, Calif., to Hon. Roy A. Taylor, dated July 17, 1973-----	124
Freeman, Reid C., San Jose, Calif., to Hon. Roy A. Taylor, dated July 23, 1973-----	127

Hansen, Hon. Orval, Member of Congress, to Hon. Roy A. Taylor, dated Aug. 30, 1973-----	112
Hughes, E. R., president, the Archaeological Society of Ohio, to Hon. Roy A. Taylor, dated July 23, 1973-----	126
Hulett, Stanley W., Associate Director, National Park Service, to Hon. Roy A. Taylor, dated Aug. 3, 1973-----	41
Humphries, Michael E., county archaeologist, St. Mary's County, Md., to Hon. Roy A. Taylor, dated July 19, 1973-----	118
Kenny, Lyle A., Port Hueneme, Calif., to Hon. Roy A. Taylor, dated July 23, 1973-----	125
King, Thomas F., chairman, Environmental Policy Committee, Society for California Archaeology, to Hon. Roy A. Taylor, dated July 19, 1973-----	118
Kyl, Hon. John, Assistant Secretary of the Interior, to Hon. James A. Haley, dated July 27, 1973 (report)-----	6
Latimer, Truett, executive director, Texas State Historical Survey Committee, Austin, Tex., to Hon. Roy A. Taylor, dated July 23, 1973-----	127
Litton, Hon. Jerry, Member of Congress, to Hon. James A. Haley, dated July 27, 1973 (plus enclosures)-----	111
MacKay, Robert G., secretary, Maine Archaeological Society, Stillwater, Maine, to Hon. Roy A. Taylor-----	120
McCloskey, Michael, executive director, Sierra Club, San Francisco, Calif., to Hon. Roy A. Taylor, dated July 30, 1973-----	115
Meyer, Albert S., president, Cahokia Archaeological Society, Belleville, Ill., to Hon. Roy A. Taylor, dated July 9, 1973-----	120
Milstein, Samuel A., chief, bureau of recreation, and State historic preservation officer, State of Michigan, to Hon. Roy A. Taylor, dated July 18, 1973-----	124
Missouri State Park Board, Jefferson City, Mo., to Mr. Lee McElvain, dated July 16, 1973-----	111
Moratto, Michael J., Ph. D., vice chairman, Archaeological Task Force, State of California Resources Agency, to Hon. Roy A. Taylor, dated July 20, 1973-----	123
Porter, Daniel R., director, Ohio Historical Society, Columbus, Ohio, to Hon. Roy A. Taylor, dated July 16, 1973-----	121
Salzar, David E., chairman, Houston Archeological Society, Houston, Tex., to Hon. Roy A. Taylor, dated July 25, 1973-----	125
Simons, Donald, president, Michigan Archaeological Society, Fenton, Mich., to Hon. Roy A. Taylor, dated July 20, 1973-----	117
Simpson, Ruth D., county archaeologist, Bloomington, Calif., to Hon. Roy A. Taylor, dated July 23, 1973-----	128
Swanson, Dr. Earl H., museum director, Idaho State University, to Hon. Orval Hansen, dated Aug. 22, 1973-----	112
Tanner, Joe D., commissioner, Department of Natural Resources, Atlanta, Ga., to Hon. Roy A. Taylor, dated July 5, 1973-----	116
Tuohy, Donald R., curator of anthropology, Nevada State Museum, to Hon. Roy A. Taylor, dated July 20, 1973-----	117
Warner, Frederic, president, The Archeological Society of Connecticut, to Hon. Roy A. Taylor, dated Aug. 3, 1973-----	114
Westfall, Dr. Thomas D., president, El Paso Archaeological Society, Inc., to Hon. Roy A. Taylor, dated July 24, 1973-----	126
White, Marian E., president, New York Archaeological Council, State University of New York at Buffalo, to Hon. Roy A. Taylor, dated July 23, 1973-----	128
Wilson, James, L., director of parks, Missouri State Park Board, to Mr. Lee McElvain, dated July 16, 1973-----	119
Wyckoff, Dr. Don G., State archeologist, University of Oklahoma, Norman, Okla., to Hon. Roy A. Taylor, dated July 20, 1973-----	118

112. ...
113. ...
114. ...
115. ...
116. ...
117. ...
118. ...
119. ...
120. ...
121. ...
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123. ...
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HISTORICAL AND ARCHEOLOGICAL DATA PRESERVATION

MONDAY, JULY 30, 1973

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON NATIONAL PARKS AND RECREATION
OF THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10 a.m., in room 1324, Longworth House Office Building, Hon. Roy A. Taylor (chairman of the subcommittee) presiding.

Mr. TAYLOR. The Subcommittee on National Parks and Recreation will convene.

Today, the Subcommittee on National Parks and Recreation meets to consider various proposals dealing with the discovery and recovery of archeological materials that might be lost as a result of Federal projects and programs. We have before us about 20 bills, including one approved by the Senate. While there are a large number of bills, many of them are identical, they fit into two groups. One group is represented by H.R. 296 by Representative Bennett and S. 514, which I understand are identical, and another is represented by H.R. 538 by Representative Fuqua.

All of these proposals have been drafted as an amendment to the 1960 act which initially established a program for the survey of archeological sites and the recovery of significant archeological materials at federally constructed damsites and reservoir areas. This legislation proposes to expand that program to include all Federal construction activities and all federally licensed or assisted undertakings. It is a very broad bill which will require the careful attention of the members of the subcommittee.

I am sure that all of us here today agree with the objective of this legislation. All of us want to protect and preserve those remnants of the past which help to explain our heritage. The question is: How can this best be done?

Hearings were held last Congress on comparable proposals. We did not take any further action, but I am hopeful that we can work out the problems and develop a legislative proposal for consideration during this year.

At this point, unless there is an objection, a copy of H.R. 296¹ by Representative Bennett, along with a copy of H.R. 538 by Representative Fuqua, will be made a part of the record. In addition, a copy of S. 514 will be included in the record.

¹ H.R. 296, H.R. 2607 (identical except for title), H.R. 3222, H.R. 3555, H.R. 3582, H.R. 3583, H.R. 3584, H.R. 3585, and H.R. 3586 are identical.
H.R. 538 and H.R. 2121 are identical.

[The bills follow:]

[H.R. 296, 93d Cong., 1st sess.]

A BILL To amend the Act of June 27, 1960 (74 Stat. 220), relating to the preservation of historical and archeological data

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to provide for the preservation of historical and archeological data (including relics and specimen) which might otherwise be lost as the result of the construction of a dam", approved June 27, 1960 (74 Stat. 220), is amended to read as follows: "That it is the purpose of this Act to further the policy set forth in the Act entitled 'An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes', approved August 21, 1935 (16 U.S.C. 461-467), and the Act entitled 'An Act to establish a program for the preservation of additional historic properties throughout the Nation, and for other purpose', approved October 15, 1966 (80 Stat. 915), by specifically providing for the preservation of scientific, prehistorical, historical, and archeological data (including relics and specimens) which might otherwise be irreparably lost or destroyed as the result of (1) flooding, the building of access roads, the erection of workmen's communities, the relocation of railroads and highways, and other alterations of the terrain caused by the construction of a dam by any agency of the United States, or by any private person or corporation holding a license issued by any such agency; or (2) an alteration of the terrain caused as a result of an Federal, federally assisted, or federally licensed activity or program.

"Sec. 2. Before any agency of the United States shall undertake the construction of a dam, or issue a license to any private individual or corporation for the construction of a dam it shall give written notice to the Secretary of the Interior (hereinafter referred to as the 'Secretary') setting forth the site of the proposed dam and the approximate area to be flooded and otherwise changed if such construction is undertaken: *Provided*, That with respect to any flood-water retarding dam which provides less than five thousand acre-feet of detention capacity and with respect to any other type of dam which creates a reservoir of less than forty surface acres the provisions of this section shall apply only when the constructing agency, in its preliminary surveys, finds, or is presented with evidence that scientific, prehistorical, historical, or archeological data exist or may be present in the proposed reservoir area.

"Sec. 3. (a) Whenever any Federal agency finds, or is made aware by an appropriate historical or archeological authority, that its operation in connection with any Federal, federally assisted, or federally licensed project, activity, or program adversely affects or may adversely affect significant scientific, prehistorical, historical, or archeological data, such agency shall notify the Secretary, in writing, and shall provide the Secretary with appropriate information concerning the project, program, or activity. Such agency (1) may request the Secretary to undertake the recovery, protection, and preservation of such data (including preliminary survey, or other investigation as needed, and analysis and publication of the reports resulting from such investigation), or (2) may, with funds appropriated for such project, program, or activity, undertake the activities referred to in clause (1). Copies of reports of any investigations made pursuant to clause (2) shall be made available to the Secretary.

"(b) The Secretary, upon notification by any such agency or by any other Federal or State agency or appropriate historical or archeological authority that scientific, prehistorical, historical, or archeological data is or may be adversely affected by any Federal, federally assisted, or federally licensed project, activity, or program, shall, if he determines that such data is being or may be adversely affected, and after reasonable notice to the agency responsible for such project, activity, or program, conduct or cause to be conducted a survey and other investigation of the areas which are or may be affected and recover and preserve such data (including analysis and publication) which, in his opinion, are not being but should be recovered and preserved in the public interest. The Secretary shall initiate action within sixty days of notification to him by an agency pursuant to subsection (a), and within such time as may be agreed upon with the head of the responsible agency in all other cases. The responsible agency upon request of the Secretary is hereby authorized to assist the Secretary and to transfer to the Secretary such funds as may be necessary, in an

amount not to exceed one per centum of the total amount appropriated for such project, activity, or program, to enable the Secretary to conduct such survey or other investigation and recover and preserve such data (including analysis and publication) or, in the case of small projects which cause extensive scientific prehistorical, historical, or archeological damage, such larger amount as may be mutually agreed upon by the Secretary and the responsible Federal agency as being necessary to effect adequate protection and recovery: *Provided*, That the costs of such survey, recovery, analysis, and publication shall be considered nonreimbursable project costs.

"(c) The Secretary shall keep the responsible agency notified at all times of the progress of any survey or other investigation made under this Act, or of any work undertaken as a result of such survey, in order that there will be as little disruption or delay as possible in the carrying out of the functions of such agency.

"(d) A survey or other investigation similar to that provided for by subsection (a) or (b) of this section and the work required to be performed as a result thereof shall so far as practicable also be undertaken in connection with any dam, project, activity, or program which has been heretofore authorized by any agency of the United States, by any private person or corporation holding a license issued by any such agency, or by Federal law.

"(e) The Secretary shall consult with any interested Federal and State agencies, educational and scientific organizations, and private institutions and qualified individuals, with a view to determining the ownership of and the most appropriate repository for any relics and specimens recovered as a result of any work performed as provided for in this section.

"SEC. 4. In the administration of this Act, the Secretary may—

"(1) accept and utilize funds transferred to him by any Federal agency pursuant to this Act;

"(2) enter into contracts or make cooperative agreements with any Federal or State agency, any educational or scientific organization, or any institution, corporation, association, or qualified individual;

"(3) obtain the services of experts and consultants or organizations thereof in accordance with section 3109 of title 5, United States Code; and

"(4) accept and utilize funds made available for salvage archeological purposes by any private person or corporation.

"SEC. 5. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act."

[H.R. 538, 93d Cong., 1st sess.]

A BILL To amend the Act of June 27, 1960 (74 Stat. 220), relating to the preservation of historical and archeological data

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to provide for the preservation of historical and archeological data (including relics and specimens) which might otherwise be lost as the result of the construction of a dam", approved June 27, 1960 (74 Stat. 220), is amended to read as follows:

"That it is the purpose of this Act to further the policy set forth in the Act entitled 'An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes', approved August 21, 1935 (16 U.S.C. 461-467), and the Act entitled 'An Act to establish a program for the preservation of additional historic properties throughout the Nation, and for other purposes', approved October 15, 1966 (80 Stat. 915), by specifically providing for the preservation of scientific, prehistorical, historical, and archeological data (including relics and specimens) which might be adversely affected as the result of (1) flooding, the building of access roads, the erection of workmen's communities, the relocation of railroads and highways, and other alterations of the terrain caused by the construction of a dam by any agency of the United States, or by any private person or corporation holding a license issued by any such agency; or (2) any alteration of the terrain caused as a result of any Federal, federally assisted, or federally licensed activity or program.

"Sec. 2. Before any agency of the United States shall undertake the construction of a dam, or issue a license to any private individual or corporation for the construction of a dam, it shall give written notice to the Secretary of the Interior (hereinafter referred to as the 'Secretary') setting forth the site of the proposed dam and the approximate area to be flooded and otherwise changed if such construction is undertaken: *Provided*, That with respect to any flood-

water retarding dam which provides less than five thousand acre-feet of detention capacity and with respect to any other type of dam which creates a reservoir of less than forty surface acres the provisions of this section shall apply only when the constructing agency, in its preliminary surveys, finds, or is presented with evidence that scientific, prehistorical, historical, or archeological materials exist or may be present in the proposed reservoir area.

"SEC. 3. (a) Whenever any Federal agency finds or is made aware by a responsible authority that its operations in connection with any Federal, federally assisted, or federally licensed activity or program affects or may affect adversely significant scientific, prehistorical, historical, or archeological data, such agency is hereby authorized to expend program or activity funds for the recovery, protection, preservation of such data (including preliminary survey, analysis, and publication) and shall provide the Secretary with copies of such publications; or it shall notify the Secretary, in writing, that such data is or may be adversely affected and shall provide the Secretary with appropriate information concerning the program or activity.

"(b) The Secretary, upon notification by any such agency or by any other Federal or State agency or responsible private organization that scientific, prehistorical, historical, or archeological data is or may be adversely affected by any such Federal, federally assisted, or federally licensed activity or program, shall, if he determines that such data is or may be adversely affected, immediately conduct a survey or other investigation of the areas which are or may be affected and recover and preserve such data (including its analysis and publication) which, in his opinion, should be recovered and preserved in the public interest. The instigating agency is hereby authorized to transfer to the Secretary such funds as may be necessary, in an amount not to exceed 1 per centum of the total amount appropriated in connection with such activity or program, to enable the Secretary to conduct such survey or other investigation and to recover and preserve such data (including analysis and publication).

"(c) The Secretary shall keep the instigating agency notified at all times of the progress of any survey or other investigation made under this Act, or of any work undertaken as a result of such survey, in order that there will be as little disruption or delay as possible in the carrying out of the functions of such agency.

"(d) A survey or other investigation similar to that provided for by subsection (b) of this section and the work required to be performed as a result thereof shall so far as practicable also be undertaken in connection with any dam, activity, or program which has been heretofore authorized by any agency of the United States, by any private person or corporation holding a license issued by any such agency, or by Federal law.

"(e) The Secretary shall consult with any interested Federal and State agencies, educational and scientific organizations, and private institutions and qualified individuals, with a view to determining the ownership of and the most appropriate repository for any relics and specimens recovered as a result of any work performed as provided for in this section.

"SEC. 4. In the administration of this Act, the Secretary may—

"(1) accept and utilize funds transferred to him by any Federal agency pursuant to this Act;

"(2) enter into contracts or make cooperative agreements with any Federal or State agency, any educational or scientific organization, or any institution, corporation, association, or qualified individual;

"(3) obtain the services of experts and consultants or organizations thereof in accordance with section 3109 of title 5, United States Code; and

"(4) accept and utilize funds made available for salvage archeological purposes by any private person or corporation.

"SEC. 5. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act."

[S. 514, 93d Cong., 1st sess.]

AN ACT To amend the Act of June 27, 1960 (74 Stat. 220), relating to the preservation of historical and archeological data

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to provide for the preservation of historical and archeological data (including relics and

specimens) which might otherwise be lost as the result of the construction of a dam", approved June 27, 1960 (74 Stat. 220), is amended to read as follows: "That it is the purpose of this Act to further the policy set forth in the Act entitled 'An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes', approved August 21, 1935 (16 U.S.C. 461-467), and the Act entitled 'An Act to establish a program for the preservation of additional historic properties throughout the Nation, and for other purposes', approved October 15, 1966 (80 Stat. 915), by specifically providing for the preservation of scientific, prehistorical, historical, and archeological data (including relics and specimens) which might otherwise be irreparably lost or destroyed as the result of (1) flooding, the building of access roads, the erection of workmen's communities, the relocation of railroads and highways, and other alterations of the terrain caused by the construction of a dam by any agency of the United States, or by any private person or corporation holding a license issued by any such agency; or (2) any alteration of the terrain caused as a result of any Federal, federally assisted, or federally licensed activity or program.

"SEC. 2. Before any agency of the United States shall undertake the construction of a dam, or issue a license to any private individual or corporation for the construction of a dam it shall give written notice to the Secretary of the Interior (hereinafter referred to as the 'Secretary') setting forth the site of the proposed dam and the approximate area to be flooded and otherwise changed if such construction is undertaken: *Provided*, That with respect to any floodwater retarding dam which provides less than five thousand acre-feet of detention capacity and with respect to any other type of dam which creates a reservoir of less than forty surface acres the provisions of this section shall apply only when the constructing agency, in its preliminary surveys, finds, or is presented with evidence that scientific, prehistorical, historical, or archeological data exist or may be present in the proposed reservoir area.

"SEC. 3. (a) Whenever any Federal agency finds, or is made aware by an appropriate historical or archeological authority, that its operation in connection with any Federal, federally assisted, or federally licensed project, activity, or program adversely affects or may adversely affect significant scientific, prehistorical, historical, or archeological data, such agency shall notify the Secretary, in writing, and shall provide the Secretary with appropriate information concerning the project, program, or activity. Such agency (1) may request the Secretary to undertake the recovery, protection, and preservation of such data (including preliminary survey, or other investigation as needed, and analysis and publication of the reports resulting from such investigation), or (2) may, with funds appropriated for such project, program, or activity, undertake the activities referred to in clause (1). Copies of reports of any investigations made pursuant to clause (2) shall be made available to the Secretary.

"(b) The Secretary, upon notification by an such agency or by any other Federal or State agency or appropriate historical or archeological authority that scientific, prehistorical, historical, or archeological data is or may be adversely affected by any Federal, federally assisted, or federally licensed project, activity, or program, shall, if he determines that such data is being or may be adversely affected, and after reasonable notice to the agency responsible for such project, activity, or program, conduct or cause to be conducted a survey and other investigation of the areas which are or may be affected and recover and preserve such data (including analysis and publication) which, in his opinion, are not being but should be recovered and preserved in the public interest. The Secretary shall initiate action within sixty days of notification to him by an agency pursuant to subsection (a), and within such time as may be agreed upon with the head of the responsible agency in all other cases. The responsible agency upon request of the Secretary is hereby authorized to assist the Secretary and to transfer to the Secretary such funds as may be necessary, in an amount not to exceed 1 per centum of the total amount appropriated for such project, activity, or program, to enable the Secretary to conduct such survey or other investigation and recover and preserve such data (including analysis and publication) or, in the case of small projects which cause extensive scientific, prehistoric, historical, or archeological damage, such larger amount as may be mutually agreed upon by the Secretary and the responsible Federal agency as being necessary to effect adequate protection and recovery: *Provided*, That the costs of such survey, recovery, analysis, and publication shall be considered nonreimbursable project costs.

"(c) The Secretary shall keep the responsible agency notified at all times of the progress of any survey or other investigation made under this Act, or of any work undertaken as a result of such survey, in order that there will be as little disruption or delay as possible in the carrying out of the functions of such agency.

"(d) A survey or other investigation similar to that provided for by subsection (a) or (b) of this section and the work required to be performed as a result thereof shall so far as practicable also be undertaken in connection with any dam, project, activity, or program which has been heretofore authorized by any agency of the United States, by any private person or corporation holding a license issued by any such agency, or by Federal law.

"(e) The Secretary shall consult with any interested Federal and State agencies, educational and scientific organizations, and private institutions and qualified individuals, with a view to determining the ownership of and the most appropriate repository for any relics and specimens recovered as a result of any work performed as provided for in this section.

"SEC. 4. In the administration of this Act, the Secretary may—

"(1) accept and utilize funds transferred to him by any Federal agency pursuant to this Act;

"(2) enter into contracts or make cooperative agreements with any Federal or State agency, any educational or scientific organization, or any institution, corporation, association, or qualified individual;

"(3) obtain the services of experts and consultants or organizations thereof in accordance with section 3109 of title 5, United States Code; and

"(4) accept and utilize funds made available for salvage archeological purposes by any private person or corporation.

"SEC. 5. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act."

Mr. TAYLOR. Also, unless there is an objection the reports of the departments on these proposals will be included in the record.

[The reports follow:]

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., July 27, 1973.

HON. JAMES A. HALEY,
Chairman, Committee on Interior and Insular Affairs, House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for the views of this Department on H.R. 296, a bill "To amend the Act of June 27, 1960 (74 Stat. 220), relating to the preservation of historical and archeological data", and on identical bills H.R. 1880, H.R. 2607 (identical except title), H.R. 3222, H.R. 3555, H.R. 3582, H.R. 3583, H.R. 3584, H.R. 3585, and H.R. 3586, as well as on similar bills, H.R. 538 and H.R. 2121.

We recommend enactment of H.R. 296 or one of the bills identical to it, if amended as suggested in this report.

The Act of June 27, 1960 (74 Stat. 220), provides that before any agency of the United States undertakes the construction of a dam, or issues a license for that purpose, it shall give written notice to the Secretary of the Interior. Upon receipt of such notice, the Secretary is directed to survey the affected area and ascertain whether historical and archeological data exist and should be preserved, and if so, to collect and preserve such data. The Act authorizes the appropriation of such sums as may be necessary to carry out its purposes.

H.R. 296 will amend the 1960 Act by re-enacting its major provisions, but with the following significant changes: (1) broadening the scope of activity that will give rise to a salvage program to include not only dam construction but any Federal, federally assisted, or federally licensed project, program, or activity; (2) authorizing the Secretary to conduct a survey and salvage program upon notification not only by the responsible agency but also upon notification by any other Federal or State agency or appropriate societies or individuals who are recognized historical or archeological authorities; and (3) authorizing the responsible agency to expend program activity funds for recovery, protection, and preservation of data or, upon request of the Secretary to transfer to him up to 1 percent of the amount appropriated for the activity (or more than 1 percent in the case of certain small projects) in order to enable the Secretary to conduct

the survey and salvage required. A Federal agency, when it finds or is made aware by an appropriate historical or archeological authority that its project, or a project assisted or licensed by it, adversely affects significant historic or archeological data, must notify the Secretary of the Interior. The agency may either request the Secretary to carry out salvage operations, or may do so itself. This notice requirement is, of course, supplementary to, and does not supersede, the requirements with respect to properties listed on the National Register, contained in the National Historic Preservation Act of 1966, (80 Stat. 915, 917).

The Secretary of the Interior, under the 1960 Act through the National Park Service has spent approximately \$1.2 million per year on historical and archeological surveys and recovery of data located at proposed Federal or federally licensed dam and reservoir sites.

A major problem in conducting an adequate program of salvage archeology is the great increase in recent years of the number of small construction projects which are injurious to archeological values. The existing legislation is not adequate to deal with these smaller projects for two reasons. First, a number are unrelated to dam and reservoir construction—for example, they involve construction of roads and other developments on Indian lands, or construction in connection with defense programs. Second, the traditional method of advance programming by the National Park Service for individual projects does not work well for these small projects. For instance, the Soil Conservation Service is conducting activities affecting archeological values in its watershed program carried out under authority of the Watershed Protection and Flood Prevention Act (68 Stat. 666; 16 U.S.C. 1001), as amended. This Act authorizes Federal assistance to qualified local organizations to conserve and improve water and related resources in watersheds not exceeding 250,000 acres in size. By June 1972, 1,060 projects had been authorized. The projects are for the most part small, and involve Federal assistance to local organizations. Because of the large quantity of small projects and minimal leadtimes, which make communication between the Department and individual project organizations difficult, advance salvage funding is unsatisfactory. We believe that the Soil Conservation Service should be authorized instead to provide funding for salvage work on an actual need basis at the time of construction.

Following are several instances where significant remains were destroyed by Federal, federally assisted, or federally licensed projects because there was either insufficient statutory authority, or insufficient leadtime for advance funding.

1. At a Soil Conservation Service Watershed project in Montana, a bison kill site known as the Beaver Creek Site, a Late Plains Indian manifestation, was totally destroyed because of lack of leadtime, which made impossible advance programming by the National Park Service. The Soil Conservation Service does not itself have authority to expend program funds for salvage work.
2. In Missouri, the National Register Site known as Lillbourn, a Late Mississippian Site, was partially destroyed by a 60 percent federally financed school construction project. There was no statutory authority to expend school construction funds for salvage, and the project, of course, did not come within the authorizations of the 1960 Act.
3. In Oregon, the HUD urban renewal project in the city of Cascade Locks completely destroyed one of the last remaining important archeological sites on this portion of the Columbia River. The Department of Housing and Urban Development can expend funds for historic preservation, but not for archeological salvage work.
4. Construction of the Southwest International Airport, Fort Worth, Texas, undoubtedly destroyed some archeological remains in this largely unstudied area, where any archeological remains would be significant.
5. Construction of roads and other features at Fort Bliss, Texas (and doubtless other military installations), has destroyed known sites of archeological significance. There are no salvage funds now available for such projects.

It appears, therefore, that there is a need to provide a more flexible basis for conducting surveys and recovery of data than is afforded by the 1960 Act. By broadening the Federal activity subject to survey, and by permitting the responsible agency to transfer funds, up to 1 percent of the total appropriated (or more in specific instances) on the basis of need, we believe H.R. 296 will greatly assist our ability to recover significant historical and archeological data. In addition, by allowing the Secretary or responsible agency to act on information furnished by other public and private agencies, H.R. 296 will improve the information on the basis of which the Secretary or responsible agency can act.

If the contemplated program is to be effective, the funds required for the protective activities should be available in advance of any construction activities. Generally speaking, appropriations for a project are spread out over a period of years. We intend, to the extent possible, to request appropriation of the full amount authorized for the recovery, protection, and preservation of the data prior to initiation of the project. To the extent that other agencies may ask this Department to recover and preserve the data, we would expect them to request the full amount authorized in their appropriations so that the funds may be transferred promptly.

Of course, under the terms of H.R. 296, project construction agencies may prefer to undertake salvage work themselves, without transferring funds to this Department. For example, agencies of the Department of Agriculture might choose this course. We would hope, however, that in so doing, other such agencies would program salvage funds well in advance of construction activities.

While H.R. 538 and H.R. 2121 are similar to H.R. 296, we favor enactment of the latter because we believe it contains a number of refinements which will aid in administration of the archeological salvage program. For example, it permits more than 1 percent of project funds to be used in the case of small projects which cause extensive scientific, prehistorical, historical, or archeological damage. Such flexibility for small projects is needed because 1 percent of the cost of a small project might fall far short of data collection costs if the project directly impacted an area of archeological or historic significance. Other useful refinements contained in H.R. 296 are (1) the use of the term "appropriate historical or archeological authority" in place of "responsible authority", a more precise definition of the type of organization or person that can bring the need for preservation of data to the Government's attention; and (2) a deletion of the requirement in section 3(b) that the Secretary "immediately" conduct a survey and recover and preserve data, and the substitution of requirements that in the event that the Secretary is requested by an agency to undertake recovery work he shall initiate action within 60 days or, that in all other events, he shall begin within the time agreed upon with the responsible agency.

We do, however, suggest an amendment to H.R. 296, which would make the cost of survey, recovery, analysis, and publication, a reimbursable project cost, to be borne by the grantee under Federal grant-in-aid programs. We believe that the cost of salvage is one which should be allocated to the individual project in all cases. We suggest, therefore, that the proviso of section 3(b) be amended to read:

"Provided, That the costs of such survey, recovery, analysis, and publication shall be considered project costs allocated to the several project purposes. An appropriate share, as determined by the responsible Federal agency, of the costs of survey, recovery, analysis, and publication shall be borne by the grantee in the case of projects, activities, or programs funded under Federal grant-in-aid programs."

We would also like to suggest several drafting changes in the bill which will avoid any questions in interpretation of the bill.

We would suggest amending section 1 so that the standard of damage to archeological data in that section conforms with that in the body of the bill. Specifically, page 2, line 8, should be revised to read "be adversely affected as the result of (1) flooding," thus deleting the present "irreparably lost or destroyed" standard.

We would suggest amending section 3(d) so that the language concerning types of Federal activities affected by the bill follows exactly that in section 3(a). Page 5, lines 17-20 could be revised to read "any Federal, federally assisted, or federally licensed project, activity, or program, including dams, which has been heretofore authorized."

We would suggest amending section 3(b) to make it clear that the 1 percent of funds permitted to be transferred to the Secretary is 1 percent of the funds *authorized* to be appropriated. Page 4, line 20, could be amended to read "exceed one per centum of the total amount authorized to be appropriated for".

Sections 2 and 3(a) are somewhat duplicative. We would suggest combining these, by amending the language of section 3(a) as set out below, deleting section 2, and renumbering subsequent sections accordingly. The following language could be added at the end of the first sentence of section 3(a), *Provided, That a Federal agency which undertakes the construction of a dam which is a floodwater retarding dam providing 5,000 acre-feet or more of detention capacity or any other type of dam which creates a reservoir*

of forty surface acres or more, or issues a license to any private individual or corporation for the construction of such a dam shall in every case give prior written notice to the Secretary of the Interior (hereinafter referred to as the Secretary) setting forth the site of the proposed dam and the approximate area to be flooded and otherwise changed if such construction is undertaken."

Such language would make it clear that the Secretary must be notified in the case of large Federal or federally licensed dam projects, whether or not the Federal agency is aware of adverse effects on significant archeological, scientific, prehistorical, or historical data, but need only be notified in other cases when the responsible Federal agency finds or is made aware of adverse effects on such data.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

JOHN KYL,
Assistant Secretary of the Interior.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., July 30, 1973.

HON. JAMES A. HALEY,

Chairman, Committee on Interior and Insular Affairs, House of Representatives.

DEAR MR. CHAIRMAN: This is in response to your letter of February 21, 1973, requesting the view of this Department on H.R. 296, H.R. 538, H.R. 1880, H.R. 2121, H.R. 3222, H.R. 3555, and H.R. 3582-3586, bills "To amend the Act of June 27, 1960 (74 Stat. 220), relating to the preservation of historical and archeological data," and on H.R. 2607, a bill "To amend the Act entitled 'An Act to provide for the preservation of historical and archeological data (including relics and specimens) which might otherwise be lost as the result of the construction of a dam,' and for other purposes."

This Department recommends that these bills not be enacted unless several significant points are clarified.

The Act of June 27, 1960, presently provides that the Secretary of the Interior will survey and arrange for the preservation of historical and archeological data which might otherwise be irreparably lost or destroyed as a result of the construction of Federal dams or federally licensed dams.

These bills would broaden the Act in the following ways:

In addition to the presently covered dams, coverage would be extended to any alteration of the terrain caused as a result of any Federal, federally assisted, or federally licensed activity or program. The provisions of the bills could be interpreted to have retroactive effect in connection with any uncompleted dam, project, activity, or program previously authorized.

Presently historical and archeological data are covered. These bills would add scientific and prehistorical data.

Presently, only such data "which might otherwise be irreparably lost or destroyed" are covered. These bills change the coverage on pages 3 and 4 to data which might be "adversely affected."

The bills would authorize not to exceed one per centum of the total amount appropriated in connection with such project, activity or program to be transferred to the Secretary of the Interior to survey, investigate and preserve such data, or a larger amount as mutually agreed upon by the Secretary of the Interior and the responsible Federal agency for smaller projects which cause extensive damage to such data. H.R. 1880, and identical bills, also provide that an appropriate share of the costs would be borne by the grantee in cases involving Federal grant-in-aid programs.

Clarification is needed as to the intent of the provision on page 4 concerning the specified amount to be transferred for a project, activity or program for investigation, recovery and preservation of such data, with respect to the unit of activity which he one per centum specified in the bills would apply.

That part of the proposed amendment (item (2), page 2) specifically, "any alteration of the terrain caused as a result of any Federal, federally assisted, or federally licensed activity or program" needs clarification as to the areas of applicability. As written, this provision could be construed as applying to essentially every activity of the Federal Government—defense, space, natural re-

sources, agriculture, commerce and transportation, community development and housing, health, education, etc.—wherein Federal assistance, directly or indirectly, result in action altering the terrain.

Clarification is needed on the definition of "responsible agency," particularly in regard to cases involving (a) multiagency assistance or (b) indirect Federal assistance.

These bills would authorize the operating Federal agency to make the surveys and investigations relating to the archeological and other data and to take recovery and preservation action on other than major dam construction projects. We agree that in those cases where agencies have or can obtain the capability of evaluating archeological and related data they should have the opportunity to do so directly. This will enable these agencies to better plan and control the timing and progress of programs and projects affecting such data and at the same time fulfill their responsibilities as to the quality of the environment. The Forest Service presently has the capability to perform archeological investigations on the National Forests and to take action to preserve archeological data. In other situations, the Department works with the Department of the Interior local historical and archeological associations and universities in evaluating the impact of projects and programs on historical and archeological data.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

J. PHIL CAMPBELL,
Under Secretary.

THE GENERAL COUNSEL OF HOUSING AND URBAN DEVELOPMENT,
Washington, D.C., August 1, 1973.

Subject: H.R. 296 (Bennett), H.R. 538 (Fuqua), H.R. 1880 (Saylor), H.R. 2121 (Price of Illinois), H.R. 2607 (Mills of Arkansas), H.R. 3222 (Annunzio), H.R. 3555 (Dulski), H.R. 3582, 3583, 3584, 3585, 3586 (Bennett, et al), 93d Congress.

HON. JAMES A. HALEY,
*Chairman, Committee on Interior and Insular Affairs,
House of Representatives,
Washington, D.C.*

DEAR MR. CHAIRMAN: This is in further response to your request for our views on the above-listed bills, each of which would broaden the Act of June 27, 1960, which provides for the preservation of historical and archeological data exposed to loss from dam construction.

This Department endorses the general objectives of this legislation to preserve historical, archeological and other significant data which might be lost as the result of Federal or federally assisted construction activities. We defer to the Department of the Interior concerning the specific merits of these bills. However, there are a number of clarifications and changes which we believe should be made in the bills.

First. A broad range of Federal, federally assisted, and federally licensed activities and programs may be affected by this legislation. However, nowhere in any of the bills is there a definition of what is a "federally assisted" or "federally licensed" project, activity or program. Accordingly, we are unclear as to whether, for example, projects, activities and programs which are assisted by guarantee or insurance, such as private new community or housing projects financed with the aid of HUD loan guarantees or mortgage insurance, would be encompassed by those terms. The reference in Sec. 3(b) of the bills to "the total amount appropriated" for projects, activities or programs might indicate an intent not to include the guarantee or insurance programs since these programs are not financed by appropriated funds, but this is the kind of issue which we think should be dealt with specifically.

Because of the broad wording of the bills, there is also the possibility that some might interpret them as applying to projects and activities undertaken by States or localities with funds made available through revenue sharing. We believe that the result of such an interpretation would be highly undesirable and again suggest the desirability of some clarification as to coverage.

Second. Related to our concern over just what programs might be affected by these bills is their apparent potential for delaying various kinds of projects. As written, the bills are unclear as to whether an actual cessation of project activi-

ties is required pending completion of a survey and related activities. Each bill now merely provides that the Secretary of the Interior keep the instigating agency notified of the progress of these activities, and, except for H.R. 538 and 2121, that he initiate action within a specified time after notification.

We realize the difficulty of imposing a specific time limit of general applicability where the length of time required for survey and recovery work is likely to vary greatly, depending upon the nature of the activities to be undertaken. However, if the existing Act is to be expanded to cover federally assisted projects, we feel that measures to avoid excessive delay and uncertainty resulting from survey and related activities should be specifically addressed. Otherwise, the potential delay could add greatly to project costs, impede or perhaps prevent the completion of a project and in some cases discourage owners of property containing data that might be preserved from seeking the Federal assistance which would result in such preservation.⁷

One possible provision for dealing with this kind of problem might require the Federal agencies involved to enter into an agreement with assisted private parties or State or local public bodies specifying a reasonable time in each case for completion of the survey and recovery effort. Also, consideration might be given to providing for compensation in appropriate cases where assisted public or private parties would otherwise bear in whole or substantial part the cost of long interruptions in project activities.⁷

Third. It is unclear as to whether the determination as to the practicability of undertaking a survey and related activity in the case of already authorized projects is to be made by the Secretary of the Interior or the instigating agency. We feel that this determination should be made by the Federal agency responsible for the project, and would be opposed to having the Secretary of the Interior make this determination in the case of programs administered by this Department.

Fourth. All bills, with the exception of H.R. 538 and 2121, would, as presently drafted, result in a possible duplication of effort by the instigating agency and the Secretary of the Interior where the instigating agency undertakes a survey and other activities directly. In these instances, the instigating agency would still be required to notify the Secretary of the Interior who, in turn, is also required "upon notification by any such agency" to undertake a survey or investigation if he determines that the data in question may be adversely affected, whether or not the instigating agency has undertaken a survey.

Fifth. In connection with those provisions of the bills regarding transfer by the instigating agency to the Secretary of the Interior of funds to enable him to undertake the survey and related activities, H.R. 1880 specifically provides that the cost of these activities shall be considered project costs to be shared accordingly by the local grantee. With respect to the remaining bills, the effect of the reimbursement provisions on local grantees in cost sharing programs of this Department is unclear, and some clarification of intent would be in order. In our opinion, rather than conditioning an otherwise desirable project on a grantee's ability or willingness to share in costs of the investigation and recovery, reimbursement should be made to the Secretary of the Interior entirely from Federal funds since the resulting preservation of data could, depending on its disposition, benefit other localities or the Nation as a whole rather than the grantee locality.

Sixth. As to the amount of funds that can be transferred to the Secretary of the Interior, the one percent limitation on the amount "appropriated" for a project, activity or program should be modified in the case of federally assisted projects, since funds ordinarily are not appropriated for specific federally assisted "projects". Funds are appropriated for federally assisted "programs", but the provision would not be meaningful as a limitation on what can be done with respect to specific projects if the one percent figure were applied to program appropriations. In this regard we also feel that a limitation of reasonableness should be imposed on survey and other expenses for which the Secretary may request reimbursement from other agencies.

Consideration should also be given to specific provisions covering the source of funding such reimbursement in those projects involving grant assistance given in terms of an interest subsidy and, if the bill is intended to encompass these activities, new community, housing or other projects financed by loan guarantees or mortgage insurance. In the case of interest subsidy programs the Federal payment is not based on project costs. The loan guarantee and mortgage insurance projects, as previously mentioned, are not financed by appropriated funds.

Assuming changes are made to reflect the above comments, we would have no objection to enactment of any of the bills.

The Office of Management and Budget has advised us that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

ROBERT R. ELLIOTT
(For James L. Mitchell).

DEPARTMENT OF THE ARMY,
Washington, D.C., August 20, 1973.

HON. JAMES A. HALEY,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives.

DEAR MR. CHAIRMAN: This is in reply to your request for the views of the Secretary of Defense on H.R. 296, 538, 1880, 2121, 2607, 3222, 3582, 3583, 3584, 3585, and 3586, 93d Congress, bills "To amend the Act of June 27, 1960 (74 Stat. 220), relating to the preservation of historical and archeological data." The Department of the Army has been assigned responsibility for reporting on these bills.

H.R. 538 and H.R. 2121 are identical bills; H.R. 296, 2607, 3222, 3555, 3582, 3583, 3584, 3585, and 3586 are identical bills; and H.R. 1880 is similar to the provisions of the latter bills.

The Act of June 27, 1960 (74 Stat. 220), which the bills would amend, provides for the salvage of historical and archeological remains being flooded or destroyed by dams constructed or licensed by the Federal Government. It requires that before any agency of the United States undertakes or issues a license for the construction of a dam, it must give written notice to the Secretary of the Interior setting forth the site of the proposed dam, and the approximate area to be flooded. The Secretary of the Interior is directed to conduct a survey of the area to be flooded to ascertain whether the area contains historical and archeological data which should be preserved, and if so, to perform work to collect and preserve the data. The Act provides for similar surveys and work in connection with any dam authorized prior to the date of enactment.

These bills would amend the Act in two respects. First, they would extend the scope of its coverage. Second, they would authorize the project agency to expend its own funds to recover or preserve archeological data or to transfer these funds to the Secretary of the Interior for this purpose. However, the provisions of these bills differ in several significant ways.

First, H.R. 538 and 2121 would amend the Act to expand its scope to include Federal, federally assisted or federally licensed activities or programs. They would then authorize the project agency to either expend its funds to recover and preserve archeological data or to transfer these funds to the Secretary of the Interior for this purpose. The funds authorized to be transferred could not exceed one per centum of the total amount appropriated in connection with the agency's activity or program. H.R. 296 *et al.*, and H.R. 1880, though similar to H.R. 2121, would include "project" within the phrase "Federal, federally assisted, or federally licensed activity or program." Since the Civil Works program of the Department of the Army includes surveys and investigations, construction, operation and maintenance in connection with many individual projects, without the addition of the term "project", Section 3 of these bills could be construed to authorize the transfer of one per cent of the total funds appropriated for the entire Civil Works program in connection with the recovery and preservation of archeological data at any one project. For this reason, the Department of the Army prefers the provisions of H.R. 296 and 1880, which precludes this broader interpretation.

A second significant difference is the distinction that H.R. 296 *et al.*, and H.R. 1880 makes between large and small projects. For small projects which cause extensive scientific, prehistorical, historical, or archeological data threatened with extensive damage. The specific amount, however, is subject to the mutual agreement between the project agency and the Secretary of the Interior that such amount is necessary to effect adequate protection and recovery. The Department of the Army believes that the approach taken by H.R. 296 and 1880 is superior to that of H.R. 538 and 2121 in that H.R. 296 and 1880 would provide more adequate protection for archeological data which might not otherwise be recovered because of the inadequacy of available funds for that purpose.

Finally, these bills differ with respect to their treatment of the costs of investigating, recovering, and protecting archeological data at public works project sites. H.R. 296 *et al.* would provide that such costs be nonreimbursable project costs. H.R. 1880 would provide that such costs be allocated among the several project purposes, so that if any of these purposes are reimbursable, some of the costs associated with the recovery of archeological data would be transferred to the local interests. H.R. 538 and 2121 are silent on this point. With regard to these differences, the Department of the Army notes that the cost of salvage, recovery, analysis, and publication should be considered project costs and allocated to the several project purposes. Accordingly, the Department of the Army recommends that H.R. 296 be amended to incorporate this feature of H.R. 1880, in lieu of its provision to make such costs nonreimbursable.

It appears that the bills' application to federally licensed projects, activities, or programs would apply to the Department of the Army's permitting authority. Under Section 10 of the Act of March 3, 1899 (33 U.S.C. 403) and Section 404 of the Federal Water Pollution Control Act Amendments (P.L. 92-500) any dredging, filling, or erection of structures in the navigable waters of the United States is prohibited unless authorized by the Secretary of the Army. However, we feel that the permittee, and not this Department, should properly bear the cost of recovering and preserving archeological data as part of the cost of being allowed to perform work in the navigable waters of the United States. Accordingly, the Secretary of the Army would impose such a requirement as a condition to the granting of a permit.

Subject to the above comments, the Department of the Army recommends the enactment of H.R. 296. We suggest, however, as a technical amendment, that in Section 1, the phrase "Federal, federally assisted, or federally licensed project, activity, or program" be substituted for the phrase "Federal, federally assisted, or federally licensed activity or program." This change would provide internal consistency between Section 1 and Section 3, and thereby assure the uniform interpretation of its provisions.

The Office of Management and 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,

(Signed) HOWARD H. CALLAWAY,
Secretary of the Army.

Mr. TAYLOR. I now recognize the gentleman from California for any remarks he may wish to make.

Mr. JOHNSON. Thank you, Mr. Chairman.

In the interest of time, I do want to make a statement on my behalf in support of the legislation before us, H.R. 296 or H.R. 538 or the Senate bill, whichever one is going to be finally marked up.

Mr. TAYLOR. There being no objection, it is so ordered.

[The statement of Hon. Harold T. Johnson, follows:]

STATEMENT OF HON. HAROLD T. (BIZZ) JOHNSON, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF CALIFORNIA

Mr. Chairman:

I appreciate this opportunity to speak in behalf of the need for new legislation to protect and preserve historical and archeological data located on Federal project sites. I have long supported the initiative to broaden the scope of our Federal statutes in this area and am pleased to appear before this Committee today to lend my support, as I have in the past.

The Congress has taken an increasingly active role in historical preservation. The Congress first enacted the Antiquities Act of 1906. This was followed three decades later by the Historic Sites Act of 1935. In recent years we have enacted the Reservoir Salvage Act of 1960 and the National Preservation Act of 1966. The last Act was just extended and expanded by this Committee in recent months.

In spite of this record of interest in our past, our ever expanding population, led on by a swiftly advancing technology, continues to destroy valuable resources buried beneath the earth as new ground is continually broken across the country. A comprehensive effort must be made now to establish a procedure for the protection of such historical data.

It has been estimated that nearly one half of our archeological sites will be destroyed in the next twenty-five years as Americans continue to occupy greater stretches of land. In the next fifty years very little American soil will be untouched. Now is the time to act—now is the time to plan future approaches for the preservation of this non-renewable resource.

The face of the continent is far different from that seen by our early pioneers. We have seen great technological changes all across the land. Efforts to develop the country and improve the life of our people has resulted in a major change of our land surface.

Modern people learn much from early predecessors. Places such as the Mesa Verde cliff dwellings are of special interest to many of us. Knowledge of the past is a part of everyone's basic heritage and much information about the past still lies buried in the ground awaiting discovery. Some remnants of the past will survive, of course, but unless we take appropriate steps now, the scattered evidence which will remain will not be enough to permit scientists to recreate a full and meaningful picture of the past. To date, much of the archeological work has been done in an emergency and ad hoc fashion—responding primarily to discoveries on the verge of falling to destruction by the construction shovel. A great majority of the effort has been supported financially by private organizations and individuals and carried out by dedicated volunteers.

The legislation introduced by my colleague, Mr. Bennett, which I proudly cosponsored, would amend the Reservoir Salvage Act of 1960. The measure was drafted with the consultation and assistance of, and has the support of the Society for American Archeology and the Committee on the Recovery of Archeological Remains. Furthermore, the executive agencies have expressed their support for the concepts embodied in the bill.

This measure would extend the Federal salvage archeological programs to all Federal activities rather than limiting them to reservoir and dam construction. The bill would permit archeologists to select sites and concentrate their efforts on the basis of scientific need, not on what is being destroyed.

The bill would broaden the 1960 act by permitting all Federal agencies whose programs are endangering or destroying scientific, prehistorical, historical or archeological data to spend program funds to protect or recover any of the above resources prior to their destruction. Because there would be no required administrative procedures set forth, the effected agency may carry out the recovery program by the administrative means which are most compatible with its operations.

Any Federal agency which does not wish to undertake direct responsibility for threatened archeological resources would be required to notify the Secretary of the Interior whenever archeological resources are threatened by its programs. The Secretary would then begin a survey to evaluate the situation and determine how best to protect the public interest. The Federal agency whose program would be responsible for the possible destruction, would be authorized to transfer up to one percent of its project funds to the Secretary of the Interior for use by the Secretary in preserving those evidences of past societies which have remained untouched.

On previous occasions, extremely valuable scientific data have been lost due to insufficient funds and a lack of available personnel at the critical time. With the enactment of this legislation, it would be possible to act without significant delay and to relate the level of needed support directly to the amount of destruction, the scientific needs, and to the availability of trained personnel by authorizing the expenditure of necessary funds directly from the program responsible for potential destruction of the data.

In conclusion, I thank the Committee for granting me the privilege of expressing my strong support for this legislation. My colleagues are to be commended for holding these hearings and bringing this legislation up for discussion. I am hopeful that the Committee can soon take action and report this legislation for consideration by the full House. The sooner we can enact protection for our yet unknown historical and archeological treasures, the sooner we can begin to use a coordinated and scientific approach to the excavation of potential sites.

Mr. TAYLOR. Congressman Don H. Clausen and Congresswoman Patsy Mink also have statements which will be placed in the record following the statement of Congressman Johnson.

[The statements follow:]

STATEMENT OF HON. DON H. CLAUSEN, A REPRESENTATIVE IN CONGRESS FROM THE
STATE OF CALIFORNIA

Mr. Chairman, I greatly appreciate having this opportunity to address the Committee regarding H.R. 296 which I co-sponsored and related bills concerning archaeological salvage.

As you know, existing law (P.L. 86-523) provides for the recovery of archaeological materials which might be affected by the construction of Federal water projects. However, this legislation before us today will broaden and revise the current program by making it applicable to all Federal construction programs and all programs licensed or otherwise assisted by Federal agencies.

A great deal of information about our past, which is essential to obtaining a clearer and more meaningful picture of the lives of those who lived before us, remains buried in the ground awaiting our discovery. The study of this information can bring the past alive for us and for all future generations. This legislation will provide the means for preventing the needless and irreparable destruction of these records.

For example, there are in my Congressional District a large number of sacred Indian burial grounds which are an important link to our past and a valuable record of our cultural heritage. These areas are particularly meaningful to our Native Americans as a means of realizing their cultural identity. In the past, many of these sites have been saved from destruction by public concern and pressure but many have also been forever lost.

I strongly support this legislation as a means of assuring the preservation of all historical structures and places of significance.

STATEMENT OF HON. PATSY T. MINK, A REPRESENTATIVE IN CONGRESS FROM
THE STATE OF HAWAII

Mr. Chairman, I appreciate this opportunity to speak on behalf of legislation which I am co-sponsoring to help preserve the archeological remnants of the United States.

My bill, H.R. 3584, is similar to others which have been introduced for the purpose of improving and expanding our Federal government efforts to protect the contents of archeological sites which are of great value in understanding and preserving our history.

Presently, archeological sites are disappearing at an increasing rate under the impact of growth and development. Frequently such sites are destroyed in connection with various Federal or Federally supported projects such as construction activities. All too often, the landscape is altered with no opportunity for professional archeologists to conduct prior inspections to see whether valuable sites are being affected.

Under the Reservoir Salvage Act of June 27, 1960 (74 Stat. 220), provision is made for the recovery of archeological material which might be affected by the construction of Federal water projects. The pending legislation would make this program applicable to all Federal construction programs and all programs licensed or otherwise assisted by Federal agencies.

Federal agencies would be directed to notify the Secretary of the Interior if their operations might adversely affect significant scientific, prehistorical, historical, or archeological sites. I might add parenthetically that this includes paleontological remains under the word "scientific."

The Secretary of the Interior, upon notification by any responsible authority that a Federal program is threatening, damaging, or destroying such data, would evaluate the situation and cause a survey or other investigation to be made to the extent necessary to protect the public interest.

Federal agencies whose programs are causing damage or destruction of scientific, prehistorical, historical, or archeological data would be authorized to transfer to the Secretary of the Interior a small portion of the program funds of the project to protect or recover such data prior to its loss.

This legislation envisions expansion of the close cooperation that has existed between the government and private organizations and individuals under the limited program applying to water projects. I feel this would encourage respon-

sible and efficient preservation of the maximum amount of our archeological resources, which otherwise face depletion and damage at a rapid rate.

As we approach the 200th anniversary of our nation, our appreciation of history and the past grows more meaningful. Certainly the new and coming generations of Americans will be interested in the origins of their country and in their heritage.

Unless Congress acts now on this crucial legislation, there will be precious little left for the enlightenment and edification of our people. All will have been swept away in the rubble of "progress" or covered by concrete. Unless we have the foresight to realize the need for preservation of our past, our roots to history will be destroyed and we will be left without a visible heritage.

I urge the adoption of this legislation.

Mr. TAYLOR. Another subcommittee is meeting today to mark up a very important bill, so we have got competition for members; however, we will proceed.

Our first witness is the Honorable Charles E. Bennett.

I know the Congressman has been interested in this matter for some time. I recall his testimony from last year.

STATEMENT OF HON. CHARLES E. BENNETT, REPRESENTATIVE FROM THE THIRD DISTRICT OF THE STATE OF FLORIDA

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

I deeply appreciate that during these busy times, you give us two hearings on this subject and the thought and attention that you have given to it.

I introduced H.R. 296, along with many other Members of Congress which had 118 cosponsors.

This legislation is to improve and expand the efforts of the Federal Government in protecting the contents of archeological sites which are of value in understanding our past.

My bill is identical to S. 514 which passed the Senate unanimously, on May 22 of this year. Senator Moss was the prime sponsor of this legislation in the Senate and 45 other Senators joined Senator Moss as cosponsors.

My bill amends a 1960 law which gave authority to the National Park Service to conduct archeological salvaging programs at reservoir sites. Under current law, the Secretary of the Interior is directed to determine whether historical or archeological material exists and should be preserved when found at reservoir sites. If this be the case, then the Secretary is authorized to collect and preserve the material. This program has been highly successful. Great cooperation has come to exist between the National Park Service and the professional archeologists throughout the country working under this 1960 law.

My bill would improve the current law in four important areas: (1) It would include all federally assisted or authorized construction projects; (2) it would permit the Secretary of the Interior to begin survey and recovery work based on information received from qualified professionals outside of the Federal Government, including universities, historical and archeological societies and State archeological surveys; (3) it authorizes the use of agency funds for archeological work; and (4) if the agency does not desire to do the work, it authorizes up to 1 percent of the total amount of funds appropriated for such project, activity, or program, to be transferred to the Secretary of the Interior

for the salvage and preservation of archeological, historical, and scientific material that otherwise would be lost or damaged by such projects.

The need for passage of this bill is clear. Without it, important archeological sites may be damaged or destroyed unless action is taken at this time. This legislation was originally suggested and developed by the executive committee of the Society for American Archeology and the Committee on the Recovery of Archeological Remains. Members of that committee, particularly Dr. Charles R. McGimsey, director of the Arkansas Archeological Survey, and Dr. Carl Chapman, director of the Archeological Research Activities of the University of Missouri, have spent hundreds of hours consulting with administrative officials and working out the details of this bill, which is fully supported in principle by the various administrative departments involved.

These gentlemen, and other experts, are witnesses here today and will provide answers to any questions or clarification of any points as needed.

This bill is a conservative measure. Its passage allows for the protection and recovery of one of America's greatest unrenewable resources—the evidence of the past—and it does so in a reasonable and attainable manner. } <

I regret that the reports of the various agencies on this bill were not available in preparing this statement. I understand some minor amendments will be suggested. I am perfectly willing to accept such amendments as the committee may find would improve this legislation and its chances of passage.

I hope that the committee will take prompt action on this legislation so it can be passed by the House and enacted into law in the current session of the Congress. I also want to congratulate the committee on holding hearings on this important legislation as I know of the tremendous workload of this committee and the hundreds of bills which are awaiting your consideration.

Thank you very much for giving me this opportunity to testify in support of H.R. 296.

Mr. TAYLOR. Thank you, Congressman Bennett.

Under existing law, under a program which you say works well, the construction agency notifies the Secretary of the Interior concerning a planned project. The Secretary makes a survey of the area. If significant values are found, he provides for their recovery out of a specific fund or appropriation made to him by the Congress.

How does this legislation improve on that? In other words, the question in my mind is should we broaden the existing law and continue the same procedure?

Mr. BENNETT. Mr. Hulett is sitting right here and he can tell me the response to that.

Well, I want you to understand that I am not an expert in this field.

Mr. TAYLOR. I am going to ask him the same question.

Mr. BENNETT. My knowledge of this thing is very much more limited than Mr. Hulett's and I would prefer that he sat here with me to advise me and on the basis of that judgment I can give you the answer. Otherwise, it will not be as helpful to you. They have had the experience in working in this particular field.

Mr. TAYLOR. I can wait until the Department witnesses testify. They should be in the best position to answer questions and give us detailed information on this.

Mr. BENNETT. I would recommend that, Mr. Chairman.

Mr. TAYLOR. The gentleman from California.

Mr. JOHNSON. No, I have no questions, Mr. Chairman, but I wanted to say my colleague, Mr. Bennett, has given us a very comprehensive statement. Certainly he has stated clearly what he would like to see in the bill. It pretty much covers every type of Federal project as I understand it.

Mr. BENNETT. It would and we are trying in this bill to use the past record as a portion of this bill. We ought to capitalize on that experience. I am not attempting to make any revolutionary changes in the procedures of doing this. If there is any ambiguity on that I hope you will opt in the direction of what we have done in the past.

Mr. TAYLOR. The present bill authorizes the agency that is doing the construction to conduct a survey or to contract with the Secretary of the Interior and to use up 1 percent of its appropriations for the project for that purpose.

Thank you, Congressman Bennett. We know of your interest in many projects and we appreciate it.

The Honorable William L. Hungate; we welcome you, our colleague, before our committee. You haven't been before the subcommittee as often as Congressman Bennett has, but we are glad to have the benefit of your thoughts on this legislation.

STATEMENT OF HON. WILLIAM L. HUNGATE, A REPRESENTATIVE FROM THE NINTH DISTRICT OF THE STATE OF MISSOURI

Mr. HUNGATE. It is always a pleasure when I am here, Mr. Chairman. I appreciate the courtesy and the opportunity to be here. I think my last appearance before you was on behalf of the same legislation last year and I think my statement is the same basically, except that I know similar legislation has passed the Senate. I am a cosponsor of H.R. 3583, which is identical to Congressman Bennett's bill. He has cosponsored H.R. 3582 through H.R. 3586. I suppose that the reason I am here again is my belief in the concept. As far as mechanical procedures are concerned. I would ask leave of the committee to submit this statement for the record and state that if any legislative repair work which needs to be done. I would have great confidence in this subcommittee doing that. Dr. Carl Chapman, who will testify later, a fellow Missourian, is eminent in this field of archeology and it is because of his interest and support, as well as that of Congressman Bennett, that I felt this is worthwhile legislation.

Mr. TAYLOR. Does that complete your statement?

Mr. HUNGATE. Thank you.

Mr. TAYLOR. Without objection, your entire statement will be placed in the record.

Mr. HUNGATE. Thank you very much.

[The full statement of Mr. Hungate, follows:]

STATEMENT OF HON. WILLIAM L. HUNGATE, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF MISSOURI

Mr. Chairman and Members of this Subcommittee: I appreciate the opportunity to testify on legislation which I have co-sponsored, H.R. 3583, which would provide for the preservation of historical and archeological data.

This is a conservation bill designed to facilitate and promote the protection and recovery of one of America's non-renewable resources—evidence of the past. Action is urgently needed since it is estimated that a majority of our archeological sites will be damaged or destroyed within the next 25 years.

There has never been adequate provision for the recovery of archeological and historical data lost as a result of Federal programs other than through dam and highway construction. Total losses from other Federal programs far exceed those resulting from dam and highway construction.

A similar measure to this bill was passed by the Senate, S. 514, on May 22, 1973. The scope of this legislation is most necessarily broad to incorporate interpretation to cover the many diverse federal agencies involved. We most certainly cannot legislate the future, but rather, we must lay the ground work necessary to preserve our culture for future generations.

The bill I propose would broaden existing laws as follows:

- (1) Coverage is extended to all Federal and Federally assisted or licensed programs which alter the terrain and thus potentially cause loss of scientific, prehistorical, historical, or archeological data.
- (2) Federal agencies are directed to notify the Secretary of the Interior if their operations adversely affect significant scientific, prehistorical, historical, or archeological data.
- (3) The Secretary of the Interior, upon notification by any responsible authority that a Federal program is threatening, damaging, or destroying such data, shall evaluate the situation and cause a survey or other investigation to be made to the extent necessary to protect the public interest.
- (4) Federal agencies whose programs are causing damage or destruction of scientific, prehistorical, historical, or archeological data are authorized to transfer to the Secretary of the Interior a small portion of the program funds to protect or recover such data prior to its loss.

Private organizations and individuals, up to now, have put forth the greatest effort to preserve our cultural past. A Missouri state society, organized in 1934, has been instrumental in recording over 8,000 sites. Graham Cave in Missouri is one of the most important sites in the south-central United States and was investigated through the landowner's cooperation with the University of Missouri. Subsequently, it became a state park when the landowner donated the cave and adjacent land to the State.

Knowledge of the past is a part of everyone's basic heritage and much information about the past still lies buried in the ground awaiting investigation. But technical achievements over the past 50 years and the great increase in population have enabled us, in fact have forced us, to alter drastically much of the earth's surface. At the rate the landscape is changing, there is reason to believe that within another 50 years very little land in the United States will remain totally untouched. Some remnants of the past will survive, of course, but unless we take appropriate steps now, the scattered evidence which will remain will not be enough to permit scientists to recreate a full and meaningful picture.

It is time for the Federal government to expand its efforts. Publicly supported programs and agencies which represent the indirect support of everyone are essential if we are to accomplish the amount of research necessary to recover a significant amount of information before it is destroyed forever.

Thank you for your time and the courtesy you extended in granting me this opportunity to appear here today.

MR. TAYLOR. Several members have submitted statements for the record. They will be included following the statement of Mr. Hungate.

[The statements follow:]

STATEMENT OF HON. ROBERT H. MOLLOHAN, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF WEST VIRGINIA

The preservation of America's historical and archeological data is a need that we must not lose sight of as our country continues to grow and prosper. This consideration is particularly important to my home state of West Virginia. In fact, it has only been in the last decade that funds have been made available to begin an organized program of archeological research and excavation in West Virginia.

My state is rich in unexplored archeological and historical information that should be and must be explored. For example a major archeological find was made in St. Albans, West Virginia, in the early 1960's. Scientists working with the West Virginia Geological and Economic Survey have reported that this site is of tremendous significance because of the layered record it provides of advancing cultures that have lived in that region. Some finds at St. Albans have been carbon-dated and are believed to be nearly 9,000 years old.

Unfortunately, a thorough excavation and exploration of the St. Albans site has been complicated by construction projects in the area, including new highways and the building of dams on the Kanawha River, along whose banks the site is located. In fact, when dams were built on the river earlier in this century, the water level was raised 15 feet. As a result, some of the site is now submerged by the corresponding rise in the water table at subterranean levels.

The St. Albans site offers timely and momentous proof of the need to balance the demands and requirements of growth and development against the value that can and must be gained from the exploration and preservation of historical and archeological sites.

The major thrust of H.R. 296 and related bills before this Subcommittee is not to thwart progress but to make certain development and construction projects compatible with the need to inventory and preserve in advance archeological and historical data that might be adversely affected by such projects.

I believe the need for making certain these steps are taken is illustrated eloquently in a statement made in a publication prepared by the West Virginia Geological and Economic Survey: "... There are uncounted numbers of small reservoirs and highway relocations, and, finally, man's propensity for constructing homes and factories in the same places as those chosen by prehistoric man for his settlements. Since it is highly unlikely that progress will cease, ... (we) ... must devote ... energies to salvaging as much as possible of man's past record before it is destroyed completely."

I support H.R. 296 because it offers a realistic approach to the problem of reconciling the need for continued progress and growth against the importance of salvaging valuable historical and archeological sites that may lay within the path of development.

In West Virginia we must have development work to provide flood control, water and land reclamation and commercial and residential growth. But in moving forward, I am confident that West Virginians do not want to inconsiderately destroy forever the valuable record of man's past that is preserved and is only now being explored in the West Virginia hills.

STATEMENT OF HON. DANTE B. FASCELL, A REPRESENTATIVE IN CONGRESS FROM
THE STATE OF FLORIDA

Mr. Chairman, I am grateful for this opportunity to come before you in support of H.R. 3583, and applaud you for holding these hearings. The nature of this legislation requires prompt approval which your scheduling of these hearings has facilitated.

I am honored to cosponsor, along with 90 of our colleagues in the House of Representatives, Congressman Charles Bennett's bill to preserve scientific, pre-historical, historical, and archeological data which might otherwise fall victim to the building and construction plans of Federal agencies.

The purpose of this legislation is to broaden the intent of Public Law 86-523, the Reservoir Salvage Act of June 27, 1960, which already provides for the preservation of historical and archeological data which might be endangered, damaged or destroyed as a result of dam construction.

The prehistoric and historic past of our country is hidden in the soil. The ways of the North American Indians and the first European settlers and

pioneers can only come alive through painstaking archeological studies and research.

Through modern technological techniques, it is possible for archeologists and scientists to detect almost any activity of man in the past that has disturbed the soil. By means of careful observation of color changes in the soil, by chemical analysis of the soil, by measuring differences in density and composition of the soil, and by special photography the past can be reconstructed. If past soil changes are altered before they have been investigated then the past is eternally lost.

Some who might oppose this legislation ask why preserve the past? What is the past's importance? For those that view history as a continuum of time as I do, a knowledge of the past is compulsory if one is to understand how man reached the present and what man's choices are for the future. In this same light, Sir Arthur Helps, the great 19th Century British essayist and historian saw the past as "the chart and compass for national endeavors." Without a knowledge of our nation's past we cannot understand America; we cannot plan for her future.

In recent years, due to the expansion of the Federal government, the volume of Federally sponsored construction has sharply risen. Federal programs and projects have required the construction of buildings across the breadth of the nation. As a result of this construction, evidence of much of our nation's prehistory and history has already been permanently destroyed.

It is the intent of this legislation, that historical and archeological data which might otherwise be endangered or destroyed by Federal building activity, now survive. We cannot continue to stand aside while with each new day, America's past is irrevocably bulldozed into nonexistence.

It is now within the power of our branch of the Federal government to preserve scientific, prehistorical, historical and archeological data which reflects our past. We, the Congress, can now commit ourselves to a respect for the past as an indicator of the present and the future. The cost of such an undertaking would be infinitesimal in relation to the immeasurable value of the results.

Mr. Chairman, I recommend that immediate and favorable action be taken on H.R. 3583, for each moment that passes represents the loss of unretrievable knowledge of our past.

STATEMENT OF HON. HENRY B. GONZALEZ, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. Chairman, today the Subcommittee is considering H.R. 3583, of which I am a co-sponsor, to preserve historical and archeological data which might otherwise be lost to future generations as a result of federal public works projects.

This bill is conservation legislation and it is designed to facilitate and promote the protection and recovery of one of America's great non-renewable resources—its history. I am sure that we all agree that these resources must be preserved.

In the past there has been much carelessness in regard to precious and irreplaceable documents which have resulted in their loss, or partial loss, to future generations. Our Constitution and Declaration of Independence are a good example. Due to damage from sunlight these precious documents are now barely readable. Of course, we do have copies, but the value of the originals cannot be replaced. This experience has taught us that we must not let valuable historical works or scientific data be lost due to lack of finances and available personnel at the critical time.

Historical and archeological data cannot always be placed in protected surroundings. Once an historical site has been torn down, it is gone forever. Not in form, of course, since it can be duplicated, but the impact on future generations will not be the same.

In this fast-paced and ever changing world we must stop to preserve the past from which our country grew. This past must be preserved not only for our self interests but for generations yet to come. Man's evolution goes hand-in-hand with the evolution of his society, and while man himself remains on this earth only a short time, the results of his productivity remain as evidence of his existence.

H.R. 3583 is very important legislation as it lawfully insures the protection of scientific, prehistorical and historical data which might otherwise be lost due to construction or other alterations of the natural terrain. In a time when the present seems to be moving so quickly that it is difficult to even keep up with

you said it Henry

daily events, the past becomes even more important as a reminder of our beginning. I believe H.R. 3583 is a very important and necessary measure, and I urge that it be favorably reported.

STATEMENT OF HON. JAMES R. MANN, A REPRESENTATIVE IN CONGRESS FROM THE
STATE OF SOUTH CAROLINA

Mr. Chairman and Members of the Subcommittee, I appreciate the opportunity to present my views on the bill H.R. 3584, relating to the preservation of historical and archeological data, which I co-sponsored when it was introduced by Congressman Bennett on June 27, 1973. This legislation, originally introduced on January 3, 1973 as H.R. 296, has widespread support among the membership of the House of Representatives as evidenced by the fact that it has been co-sponsored by more than one hundred of my House colleagues.

H.R. 3584 would amend the Act of June 27, 1960, under which the National Park Service now conducts archeological salvage programs at reservoir construction sites. The 1960 law provides that federal agencies responsible for dam construction or for issuing licenses for dams are required to notify the Secretary of Interior before starting construction or issuing the license. The Secretary is then required to survey the affected area to determine whether historical and archeological data exist which should be preserved. If an affirmative determination is made, the Secretary is authorized to collect and preserve the data.

The 1960 law, however, has two fundamental limitations: (1) it covers only reservoir construction projects; and (2) it does not allow construction funds for various projects to be used for archeological salvage work. The legislation under consideration by this Subcommittee would improve and expand the current law in this area in three important respects: (1) it would include all federal and federally assisted or authorized construction activities; (2) it would permit the Secretary of the Interior to begin survey and recovery work based on information received from qualified professionals outside the Federal Government, including universities, historical and archeological societies; and (3) it authorizes up to one percent of construction funds to be transferred to the Secretary of the Interior for archeological salvage work.

At a time when our nation is becoming increasingly aware and proud of our national heritage, it seems most appropriate that the Congress should act favorably on legislation committing the federal government to a more vigorous approach to the collection and preservation of historical, scientific, and archeological data that represent the heritage of our country. The increase participation of many federal agencies in the rapid pace of economic and technological development in recent years has led to considerable destruction of archeological data on the nation's heritage and posed a major threat to the evidence of the past that remains. As our population continues to grow and more areas are developed, the danger increases that we may lose scientific, archeological, or historical resources which we will not be able to replenish. Knowledge of the past is part of everyone's basic heritage and much information about the past still lies buried in the ground awaiting investigation. It is time for the federal government to expand its efforts in investigating and preserving this information. Federal programs which represent the indirect support of everyone can play an important role in accomplishing the research necessary to recover a significant amount of archeological information before it is destroyed forever. America's scientific, historical, and archeological sites constitute a non-renewable resource of evidence upon which a better understanding of the past can be based.

Mr. Chairman, I urge your Subcommittee to act as expeditiously as possible on this legislation in order that we may more adequately protect and preserve our historical heritage while we continue to prepare for the future. I believe H.R. 3582 represents a reasonable and effective approach to this matter.

STATEMENT OF HON. JAMES R. MANN, A REPRESENTATIVE IN CONGRESS FROM THE
STATE OF TENNESSEE

Mr. Chairman, I wish to express my sincere appreciation to you and this Committee for conducting hearings on H.R. 296, which I have cosponsored as H.R. 3581. I strongly support the authorization of federal agencies to expend one percent or more of proposed project costs for archaeological investigations as is provided in this legislation. Such an authorization has been sorely needed, since

thousands of sites have already been disturbed by federal projects before adequate study could take place. With massive and increasing federal expenditures for roads, dams, housing, water and sewer projects, and other public works programs, we must accelerate archaeological research before our most valuable sites are destroyed forever.

Unlike wildlife, our prehistoric evidence is a non-renewable resource. While adoption of this legislation would not bring back those sites already ruined, it would permit federal agencies to accept the responsibility for undertaking archaeological research on a project by project basis. I believe this a most equitable formula. The broad language of the act is needed to encompass all agencies without the necessity of future amendments to include new programs. Implementation of the act rests with professionals who will be able to work well in advance of project schedules. In Tennessee, hundreds of sites have been excavated in recent years, but thousands more have been laid waste. My own district contains a wealth of archaeological remains, but they are being erased daily. I can only hope that my children and my children's children will be able to see an Indian mound and learn who built it, when, why and for what. This legislation can make that possible. The time to act on H.R. 296 is now.

STATEMENT OF HON. ROBERT MCCLORY, A REPRESENTATIVE IN CONGRESS FROM THE
STATE OF ILLINOIS

Mr. Chairman, I appreciate this opportunity to submit a statement for the record on H.R. 296 and related bills, one of which, H.R. 3584, I am proud to cosponsor. These bills would provide for the preservation of a great deal of historical and archaeological data that might otherwise be lost in the midst of Federal construction projects.

The need for this type of legislation is quite apparent. Throughout the United States there are great numbers of historic sites which, due to the limited number of professional archaeologists capable of exploring these regions, have never been excavated or analyzed. To allow these sites to go uninvestigated and lost forever to a Federal construction project would be a disservice to the citizens of our country and could potentially cause gaps in our historical past.

Mr. Chairman, H.R. 296 would extend the scope of those Federal construction projects that could be investigated for archaeological and historical data. Although the legislation passed by Congress, largely through the excellent work of this committee in 1960, established the possibility of preserving archaeological and historical data that might otherwise have been lost in dam construction, it is now apparent, Mr. Chairman, that this type of protection must be expanded if we are to do an efficient job of archaeological and historical preservation. H.R. 296 and related bills, effectively allows for this by placing any Federally financed projects under the scope of the act.

At the same time however, this bill allows for the possibility that not every Federal project may be suitable for archaeological and historical protections and preservation. Even though these bills provide for a survey of the area in question should such a survey be requested by either the Federal agency or appropriate historical and archaeological societies concerned, only those areas in which the Secretary determines preservation is necessary will be excavated. This will eliminate many delays in construction that might otherwise occur due to over-extensive and relatively unnecessary archaeological work.

Mr. Chairman, the method by which the various archaeological and historical data will be financed seems to me another factor which should be considered in any legislation of this nature. H.R. 296 and the related bills such as H.R. 3584, provide what I believe to be a most equitable system of financing. Should any funds be needed for survey or data gathering work, it will be the responsibility of the agency concerned to provide sufficient monies for this purpose. However, should the agency concerned, for whatever reason, decide it not feasible for them to carry through on the data collection, a sum equal to a maximum of one percent of the total costs of the project will be deposited with the Secretary of the Interior specifically for this purpose. This seems to me to be a most equitable means to finance this archaeological excavation, yet still allows sufficient flexibility in the program to enable the agency concerned to determine their extent of involvement.

In conclusion, Mr. Chairman, I feel that the Federal government must continue to help our nation's archaeologists in their efforts to gather data that will en-

able us to reconstruct more of our historical past. H.R. 296 and the related bills on this subject will enable our country to do this more effectively and completely.

STATEMENT OF HON. BARBER B. CONABLE, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. Chairman, it is my privilege to sponsor H.R. 3582, a bill which would protect historic American sites and objects of national significance from destruction by federal construction projects. I support this measure without reservation and urge committee approval of it.

Today we seek homes in the spots which have been most beautiful and habitable in the past, as they are today. Thus we build where our predecessors built. As the population of our country continues to grow and more areas are developed or redeveloped, the danger increases that we may lose irreplaceable scientific, archeological or historical resources.

Local interests frequently take for granted the historical values which are significant when viewed objectively in relation to the total catalogue of national historic assets. I have long been interested in this problem and believe the federal government should share in the responsibility for preserving and protecting such resources. Many government agencies as well as private sources do exhibit an awareness of the need to preserve our historical treasures, but this legislation will require that these important values be protected against our relentless development of the land.

H.R. 3582, identical to H.R. 296, would expand a 1960 law which authorizes the National Park Service to conduct archeological salvaging programs at reservoir construction sites. Under this measure all federal, federally assisted or authorized construction projects would be similarly treated, thereby extending the protection of the law to airport, highway and public housing and many other construction sites. In addition, the bill permits the Secretary of Interior to begin survey and recovery based upon information received from qualified professionals from outside the federal government, such as trained professionals from universities, historical and archeological societies, as well as state archeological surveys. And lastly, the bill attributes the cost of the salvage work to the project fund of the construction which made the salvage necessary.

Mr. Chairman, every day that we do not recognize the need to concern ourselves about the preservation of the physical properties which are symbols of our national heritage and relics of those interesting tribal cultures from which we inherited this hospitable land of ours, we lose some valuable resource. Something which would be of interest to our children, something that would help them bridge the cultural gap which separates the generations and something that aids man's understanding of his place in civilization's time frame slips beyond our grasp because of our carelessness. No nation can afford to be so profligate with history.

As the Bicentennial nears, I sense an awakening of interest in archeological relics and historical structures that provides clues to the study of North American pre-history and to our forefathers' way of life. It is essential that by law we express new sensitivity to an unnecessary and irredeemable waste. I urge that the Subcommittee favorably report this measure.

STATEMENT OF HON. MARVIN L. ESCH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. Chairman and Members of this Subcommittee: I appreciate this opportunity to testify on legislation which I have sponsored, H.R. 6230, which would provide for the preservation of historical and archeological data.

The Act of June 27, 1960 currently provides for the salvaging of archeology to protect data from the construction of dams and subsequent flooding. The Secretary of the Interior determines whether historical or archeological data exists and if so, he is authorized to collect and preserve such data. The present law has provided greater cooperation between the National Park Service and professional archeologists, however, it is, I believe, in need of being expanded.

H.R. 6230 achieves this goal. It would not only preserve scientific, prehistorical and archeological data which might otherwise be adversely affected through the

construction of dams, but would also extend this authority to include all federally assisted or authorized construction programs such as those dealing with the building of access roads, the erection of workmen's communities, relocation of railroads and highways, and other alterations of the terrain which may destroy such data.

Upon notification of a threatening federal program to such data, the Secretary of the Interior shall evaluate and survey the operation within sixty days of notification. H.R. 6230 extends permission to the Secretary to consult interested qualified professionals outside the Federal Government as well as within. The bill also authorizes up to but not in excess of (unless otherwise agreed upon by the Secretary and responsible agency) one percent of the construction funds to be transferred to the Secretary of the Interior by the responsible agency sponsoring the operation for archeological salvage work.

H.R. 6230 will make additional federal funding and resources available to recover archeological and historical resources by expanding the salvage archeological programs to all federal activities rather than limiting it to reservoirs. This bill will also enable archeologists to select sites upon which to concentrate their interests and efforts on the basis of scientific need rather than being restricted in the selection solely to those sites being destroyed by dam construction or reservoir flooding.

H.R. 6230 is a conservation measure of one of America's greatest unrenewable resources—evidence of the past. Knowledge of the past is part of everyone's basic heritage and much of our past is still buried in the ground waiting for excavation. Up to now, private organizations and individuals have put forth the major effort to preserve our past. Now is the time for the Federal Government to expand their efforts. The need is clear and action now is urgent. It is estimated that the majority of our archeological sites will be damaged or destroyed within the next 25 years. We need to enforce conservation measures now—time is running out.

I hope that the Committee will promptly act on this proposed legislation so as it can be passed in the House and enacted into law in the current session of Congress.

STATEMENT OF HON. BILL D. BURLISON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MISSOURI

Mr. Chairman, I appreciate the opportunity to present a statement in support of the legislation before the Subcommittee today.

As a former Member of this Subcommittee, I participated in hearings last year that solidified my conviction that the salvation and preservation of significant historical and archeological remains would be a worthwhile objective of Congressional action. The legislation before the Subcommittee will amend a Public Law of 1960 that gave the National Park Service authorization to carry out all governmental historical and archeological salvage operations. The bills under consideration before the Subcommittee today will correct a very serious limitation of the 1960 law. Under that previous law archeological preservation work was limited to dams and reservoir sites. The legislation before us today will extend this type of work to all federal, federally assisted, or federally licensed construction projects.

Some may consider this legislation frivolous and ask why do we need a law to permit archeologists to excavate on land that will soon be a school, a VA hospital, or another such public building. Actually, this legislation is a conservation measure. It will conserve for future generations the memory of our past civilization, providing our scientists, historians, and archeologists with invaluable clues to the mystery of man and life itself.

Last year, Dr. Carl Chapman, Secretary of the Missouri Archeological Society, testified that a majority of America's most valuable archeological treasures will be destroyed within the next generation unless something is done soon. At last year's hearings I commended Dr. Chapman for his testimony and am confident he will again present relevant and persuasive evidence as to the need for this legislation.

In summary, I urge the Subcommittee to consider this legislation carefully, keeping uppermost in your minds the need for an expanded federal salvage and preservation program. We must preserve and protect archeological and historical data and refuse to allow such precious material to be wantonly destroyed by a federally-financed bulldozer.

Mr. Chairman, I again thank you for your kind courtesy in allowing me to submit my statement.

STATEMENT OF HON. JOHN M. ZWACH, A REPRESENTATIVE IN CONGRESS FROM THE
STATE OF MINNESOTA

Mr. Chairman, Members of the Subcommittee, I appreciate the opportunity to submit this statement in support of H.R. 3586 and similar legislation "to amend the act of June 27, 1960 (74 Stat. 220), relating to the preservation of historical and archaeological data."

This legislation would amend a 1960 law under which the National Park Service now conducts archaeological salvage programs at reservoir construction sites. Under the present law the Secretary of the Interior is authorized to collect and preserve historical and archaeological data on federal dam sites before construction begins. The intent of the present law is good, but its sphere is limited.

H.R. 3586 would expand the Secretary's inspection capacity to all Federal or federally assisted or authorized construction projects, whether it be for an airport, or a high-rise housing project.

The legislation is so drafted as to preclude unnecessary delay in construction, and allows the Secretary of the Interior to use information gathered by qualified professionals from outside the government, such as universities.

The intent of this legislation is desirable. American history and tradition are buried everywhere in our native land. It is our duty to protect this history and tradition for our children and grandchildren. As a life long history buff I believe we need to reflect on the past to guide us into the future. History holds the truth of all concerned. We must protect it.

I urge favorable consideration and action on H.R. 3586 by this subcommittee and the full Interior and Insular Affairs Committee.

STATEMENT OF HON. WILLIAM LEHMAN, A REPRESENTATIVE IN CONGRESS FROM
THE STATE OF FLORIDA

Mr. Chairman: I would like to express my support for H.R. 3584 by Congressman Bennett to preserve historical and archeological data.

This bill would amend an Act passed in 1960, which covered the preservation of historical and archeological data which might be destroyed by dam construction. The 1960 Act covered only dam construction and did not appear to permit construction agencies to use project funds for archeological salvage work.

The new bill, H.R. 3584, will cover all Federal or Federally assisted or authorized construction projects, rather than only damsites. Roads, public housing projects, and all other construction which results in alteration of the terrain would be covered.

With the enactment of this legislation there would be an opportunity to survey and recover data and specimens from those areas where significant archeological relics or historical structures may exist.

It has been claimed that construction might be slowed considerably by efforts to salvage historical and archeological data. However, it takes five to ten years to build a dam, for example, and a number of years to complete most other projects. So there would appear to be an ample amount of time to survey and salvage items of historical importance.

There are two provisions in this bill which deal specifically with this problem of time. Section three, part b directs the Secretary of the Interior to begin survey and recovery work at such time as may be agreed upon by the head of the construction agency. Section three, part c expresses the intent that there will be as little disruption or delay as possible in the carrying out of the functions of the construction agency.

There is a clear need to place all Federal projects under the scope of this Act. Last year, this subcommittee heard of the case in the Mississippi Valley which involved the destruction of Indian sites hundreds of years old for the extension of an irrigation project. "With proper funding, the important information contained in this site could have been recovered," said Dr. Charles McGimsey of the National Committee for Recovery of Archeological Remains.

Such events will continue to happen all over this land until we act to prevent the destruction of our links with the past. Our children will not be able to preserve the past for their children unless we preserve it now. We have an obligation both to ourselves and to those generations yet to come.

As a member of the Dade County School Board and now as a member of the Committee on Education, I believe in the importance of the past in educating us for the future.

What we learn of our past from the data we hope to save will give us a better perspective on our place in history. There are many lessons to be learned in studying the demise of past civilizations. Therefore, let us not fail to preserve all evidence of those civilizations which have preceded us so that we may better meet the challenges of our own future.

STATEMENT OF HON. FRANK ANNUNZIO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. Chairman and members of the committee, my bill—H.R. 3222—has been introduced to amend Public Law 86-523 of June 27, 1960, in such manner as to provide for the preservation of scientific, prehistorical, historical, and archeological data, including relics and specimens, which might otherwise be irreparably lost or destroyed as a result of flooding and other activities encompassed in the grand progressive process of altering the surface of the earth in these United States, for economic purposes.

Gentlemen, we all know that change and progress are essential to the economic welfare of our people, and we also know that change and progress have a price. But we can mitigate that price by establishing a policy looking to the preservation of our artifacts, in advance of the arrival of the tools and weaponry of progress.

In this regard we are in a position to have our cake and eat it, too.

The weight of expert opinion on the subject already has been brought to the attention of our committee at last fall's hearings, in which so many expert witnesses set forth their views to the benefit of all of us. I was especially impressed by the statement of Robert Williams, Director of the Division of the Archives of the Florida Department of State, who observed that, "This piece of proposed legislation will substantially bolster our effectiveness in stemming the tide of destruction facing all physical remains of our common heritage."

For that is actually the issue. With a National heritage extending back over so short a period, we have little enough in the way of artifacts to insure proper historical understanding by future generations; and we can ill afford to permit the destruction of archeological and historical remains for any reason short of a National calamity.

It is worth noting in this regard that the government of Syria is currently engaged in a dam-building operation on the Euphrates River, with the object of establishing a reservoir of gigantic proportions. In so doing, it will be necessary to inundate forever a land-area known as a major crossroads of the ancient civilizations. News of this impending development has resulted in the swift organization of fourteen foreign archeological expeditions. With only months to go until the waters begin to fill the alluvial flats through which the Euphrates winds in many channels, the archeologists are acting with a speed born of desperation, in the hope of salvaging the past.

In the vicinity of the Syrian city Thawra, where the dam was inaugurated early this month, a French mission is currently engaged in salvaging the minaret of a 13th century mosque in the Arab city built atop a Byzantine center, of which some 30-foot walls still stand. But the real discovery, by another French team from the University of Strasbourg, has been the remains of a town that existed around 2000 B.C. It is believed to have been Emar, peopled by Syrians under Hittite rule.

There is no guarantee that archeologists working on American soil could come up with anything so remarkable, in the historical sense—but surely not impossible. There is a school of thought once looked upon as fanciful, but now regarded with respect, which holds to the contention that these existed on this continent, centuries in advance of the arrival of Columbus, a civilization of European origin—English, German, Swedish, Irish, and all the rest. Archeological evidence has been found in support of this contention—weapons, eating utensils, building materials, and so forth, traceable only to European styles of the fifth century or thereabouts.

Archeological and historical investigation of such nature is of consequence to all of us, and we can hardly afford to go around flooding out the sites of possible evidence in this regard.

At the very least, before an area is purposely flooded in any kind of construction operation, there ought to be a topographical survey to provide us with a record of what the land was like in advance of its alteration; what buildings there were; what churches, what businesses, etc.

In answer to those who might inquire, in response to this effort, "whatever for?" we can only say, "For the sake of generations yet unborn, some of whose people will be curious as to what our world was like—yours and mine—what went on around here before everything went under water."

There is much to be said for the study of history and archeology. It is one of the few intellectual processes separating us from the lower animals. If we are to retain our true sense of identity we must retain our knowledge of the past, and the more of that knowledge we have the better.

For these reasons, I urge favorable action on H.R. 3222 and similar bills now under consideration to preserve scientific and archeological data in the United States.

STATEMENT OF HON. ROBERT A. ROE, A REPRESENTATIVE IN CONGRESS FROM THE
STATE OF NEW JERSEY

Mr. Chairman, as the Subcommittee on National Parks and Recreation of the Committee on Interior and Insular Affairs begins hearings on the various legislative proposals relating to the preservation of historical and archeological data, I welcome this opportunity to submit my statement in support of H.R. 5885, the measure I have introduced and joined with other concerned Members of Congress in sponsoring in this direction.

Mr. Chairman, at the outset, I believe it is necessary to point out that the issue before us today involves two major considerations. First, there is no legal provision now existing providing for the recovery or protection of archeological or historical data as the result of Federal programs and projects, other than dam or reservoir construction. Secondly, the ongoing process of Federally-licensed or Federally-assisted construction projects will inevitably destroy, within the next few decades, valuable scientific and historical information without Federally-imposed protections. Further consideration might be given to the fact that preserving our historical past through archeological data is not a lone Federal problem. The archeological profession, and the Federal, State, and private agencies through which they operate, must all develop their own approaches to the problem at this time. However, the Federal government is in the unique and preeminent position to take precedent setting approaches in order to bolster, among other activities, the efforts made, contemplated and planned by other levels of government and affiliated private agencies.

In 1960, the Government took a significant step in coming to grips with the issue and problem now under consideration. On June 27, 1960, Congress passed the bill to provide that before any agency of the United States undertakes the construction of a dam or reservoir or issues a license for that purpose, it will give written notice to the Secretary of the Interior. Upon receipt of that notice, the Secretary is directed to survey the affected area and ascertain whether historical and archaeological data exist and should be preserved, and if so, to collect and preserve that data. According to Nathaniel P. Reed, Assistant Secretary of the Interior, in a 1971 letter to Senator Henry M. Jackson, approximately \$1 million per year was spent by the National Park Service from 1960 to 1971 on historical and archaeological surveys and recovery of data located at proposed Federal or Federally-licensed dam and reservoir sites.

However, the Secretary went on to state: "A major problem in conducting an adequate program of salvage archaeology is the great increase in recent years of the number of small construction projects which are injurious to archaeological values. Many of these are outgrowths of construction of major dams and include such activities as land leveling and construction of irrigation systems. Others such as construction of roads and other developments on Indian lands, construction in connection with defense programs and others are also causing a greatly-increased need for salvage archaeology." I might add that a coincident problem to any archaeological survey and salvage project involves both the availability of funds to carry out the salvage activity and quickly obtaining the trained professionals and personnel to undertake the project when historical evidence is located and salvaging is considered appropriate or critical. The problem therefore is clearly before us—the present law should be expanded in scope to protect as much as possible and a more flexible means of financing should be found.

The bill that I have introduced along with other Members of this body, and which passed the Senate on May 22, 1973, with 45 Senate cosponsors assures that further destruction of archaeological and historical information will not be evidenced. The bill sets forth adequate, flexible but sound procedures rooted and based on the existing provisions of the 1960 Act. H.R. 5885 will amend the 1960 Act (74 Stat. 220) by re-enacting its major provisions, but significantly amended

to provide that any Federal, federally assisted or federally licensed activity will also be included; it authorizes the Secretary of the Interior to conduct a survey and salvage program upon notification not only by the instigating agency but upon notification by any other Federal or State agency or responsible private organization or individual; and lastly, it authorizes the instigating agency to expend program activity funds for recovery and preservation of data or, upon notice by the Secretary, to transfer to him up to one per cent of the amount appropriated for the activity in order to enable the Secretary to conduct the survey and salvage required.

Mr. Chairman, these are practical and sound managerial revisions to present law that are valuable, advantageous and necessary if we are to both build upon the successes of the past and develop the needed legal implements for the future preservation and conservation of archaeological and historical information.

I ask the Members of the Subcommittee to consider the specific problems of the North Eastern States where land is precious and the heritage of this nation is firmly rooted. The difficulties the States of the North East face, particularly New Jersey, the most urban State, to intricately balance commercial, living, recreation, transportation and wildlife demands while maintaining as appropriate a foothold on the antiquities and relics of the past is a severe and enormous task.

From 1963 to 1969, as Commissioner of Conservation and Economic Development for New Jersey under the Administration of Governor Richard Hughes, significant success was achieved through the Green Acres Program, an open space recreation plan, to meticulously combine the various human needs for recreation with historical areas of the State. Thousands of acres of land were preserved under this bold program for enjoyment, beauty and education in the midst of a densely populated State where land area, much of it historical with respect to the earliest colonists, was threatened with destruction stemming from 20th Century needs and demands. The basic premise of the program, Mr. Chairman, was that the State of New Jersey could provide its citizens with the necessities of modern life in an urban state but, at the same time, neither destroy nor blemish the character of the environment or permanently erase the heritage of the Third Colony of the original thirteen.

I firmly believe that had the State had the legal implements provided by this legislation our program, which still continues in New Jersey, would have been immeasurably assisted in the delicate considerations and problems with which we were faced. Mr. Chairman, we desperately need both the resources and the support of the Federal government to properly and substantially bolster, on the Federal level, the efforts the States are making in maintaining a decent and progressive quality of life, as free as possible from ugliness or unwarranted destruction, and ever mindful of the American heritage we are entrusted to protect for the entire nation.

STATEMENT OF HON. JAMES C. CORMAN, A REPRESENTATIVE IN CONGRESS FROM
THE STATE OF CALIFORNIA

Mr. Chairman: I appreciate this opportunity to include my statement in support of H.R. 296 which my colleague, Charles E. Bennett of Florida, has introduced and which I co-sponsored as H.R. 3582.

I believe this bill is necessary because it expands existing laws to include the protection of relics found on historical and archeological sites which might otherwise be endangered by Federally assisted or authorized construction programs. Current laws only provide protection for these remains if they are located in or near reservoir construction sites. I feel that the present laws are inadequate because they exclude from consideration the many areas throughout the country which are rich in information that is inestimably valuable in learning about our nation's past and preserving the many contributions of our ancestors.

Should this legislation be enacted, it would provide financial as well as moral support to the many universities, historical and archeological societies that are doing their best to preserve our country's heritage. I urge passage of this legislation before these remnants of our nation's past are irrevocably damaged by our government in the name of progress.

STATEMENT OF HON. JAMES W. SYMINGTON, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF MISSOURI

Mr. Chairman: I appreciate this opportunity to testify in support of H.R. 3586, The Archeology Preservation Act, which I have co-sponsored along with

118 Members of the House and 38 Members of the Senate. In recent years Americans have become more aware that many of our natural resources are non-renewable and need protection in the public interest. Although they are not fossil fuels or minerals, archeological sites are equally non-renewable resources which are being depleted. The objects and evidence of America's history which remain in the ground are important because they are our primary source of information about prehistoric man and early human settlement in this country. We need such information concerning man's past adaptations to and use of his environment as part of the input which influences future land use and resource allocation decisions.

Just as we are running out of time to find methods to conserve our fossil fuels, so are we running out of time with respect to conservation of archeological data. America is growing constantly; highway and reservoir construction, strip mining, irrigation projects and other agricultural activities contribute to land levelling and destruction of sites. While we continue to develop, we must make provision for claiming archeological data before it is destroyed by development projects.

H.R. 3586 is conservation legislation which expands PL 86-523, the Reservoir Salvage Act of 1960, by directing all Federal and federally-assisted or licensed programs which alter the terrain to notify the Secretary of the Interior if their investigations reveal or threaten archeological or scientific data. It further directs, that a small portion (1%) of the budget of such a project be set aside for the recovery of data which might be damaged or lost by the project. Prior to the introduction of this bill, there has been no such provision in Federal programs, save those related to dam construction. Surely in this day of urban sprawl and highway construction the losses of prehistoric and historic archeological material resulting from such activity surpass those resulting from construction of dams. H.R. 3586 also provides that any Federal agency which does not wish to assume responsibility for recovery of the threatened resources may transfer such responsibility to the Secretary of the Interior along with 1% of the total cost of the program so that the Secretary can act to protect the public interest.

This bill is a much-needed step toward protecting America's cultural heritage and I urge my colleagues in the House and Senate to support it. In an era when we have become concerned about the depletion of our energy reserves and the degradation of our environment, we should not neglect the cultural resources so important to our understanding of America's past lifeways and of ourselves. As Cicero said, "To be ignorant of what occurred before you were born is to always remain a child. For what is the worth of human life unless it is woven into the life of our ancestors by the records of history." Archeological sites provide an important part of those records, and no more of these historical and archeological resources should be lost due to inadequate funds for salvaging information from them.

STATEMENT OF HON. RAY THORNTON, A REPRESENTATIVE IN CONGRESS FROM THE
STATE OF ARKANSAS

Mr. Chairman, when archeologists attempt to piece together the story of a vanished American people, their success or failure rests largely upon the discovery of significant, material artifacts which once belonged to those prehistoric cultures. For, in the absence of written histories, the growth of their understanding is almost totally dependent on the examination and evaluation of new and varied objects which have escaped the destruction of time and its agents of decay.

At sheltered sites in the arid and semi-arid regions of our Western states, archeologists have been fortunate to find numerous artifacts of a perishable, as well as non-perishable, nature from which to reconstruct the cultures of the cliff-dwelling and basket-weaving peoples who preceded our American Indian tribes.

Although perishable finds are far more scarce in other areas, the exploration of a dry-cave district in the Northwest part of my home state some fifty years ago began to yield important prehistoric wood, fiber, feather and skin specimens, as well as objects constructed of stone, bone shell and other durable materials.

As a result of these and other excavations, archeologists are beginning to understand a great deal about the culture of the Ozark cliff-dwellers, as well as their mound-building neighbors to the south.

But, in Arkansas, as in states throughout the country, the growth of knowledge about the cultures of these peoples is needlessly threatened by development operations which are undertaken without protecting historical materials. Certainly this should be guaranteed when our federal government is undertaking a project.

As our population is shifting and growing, and, as technological advancements are altering our styles of life, the face of our nation is changing dramatically, and undiscovered clues to the cultures of our ancestors, unfortunately, are being destroyed.

In the years ahead, some remnants of prehistoric civilizations undoubtedly will remain, but we must not neglect our responsibility to take prompt action to preserve what specimens we can.

I believe that H.R. 3586 proposes effective and reasonable means of meeting the challenge of archeological and historical salvage. By expanding the Reservoir Salvage Act of 1960 to include all federal construction activities, we will promote the protection of one of our nation's most valuable, nonrenewable resources: the scientific, prehistorical and archeological clues which will lead us to a better understanding of our past.

STATEMENT OF HON. PAUL HAMMERSCHMIDT, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF ARKANSAS

Mr. Chairman, I am pleased to have the opportunity to submit a statement in support of H.R. 3583 to amend the Act of June 27, 1960, relating to the preservation of historical and archeological data. I am honored to cosponsor this bill, which takes a significant step in insuring that areas of historical and archeological significance will be protected from despoliation by construction projects which are directly or indirectly federally funded or associated.

At a time when we are so actually aware of the necessity and wisdom of preserving our natural resources, it seems only appropriate that we should also focus attention upon the protection of our great historical resources. Such an activity is equally vital in a different way. It is from such data that we learn about our contribution to the history of civilization and about the development of our own unique culture. The loss of such information is incalculable, but it happens and will continue to happen until the public is thoroughly educated about its value and until we can depend on legal safeguards.

Although an aura of glamor surrounds Old World archeology, the same study in the United States has never enjoyed a similar atmosphere of romance. Early settlers with scientific interests were initially disappointed by the apparent absence of previous splendid civilizations. Soon they were all involved in building a nation faster than any one had ever been built before and in the process, the archeological treasures, comparatively modest though they were, suffered the damage of ruthless progress.

The destruction continues for many different reasons. There is the problem of professional looters and amateur relic-hunters who scatter materials far and wide, virtually eliminating the possibility of analysis of context and reconstruction of the original site.

There is also the problem of public ignorance, the effects of which are so clearly evident in places like Stonehenge in England. Early farmers there found the massive monument a convenient source of building materials. This difficulty can be combated by education, as illustrated by a program directed by Charles R. McGimsey at the University of Arkansas. Due to such programs, land owners are more likely than before to be aware of the historical as well as the real estate value of property.

The inevitable technological destruction with which this bill is most directly concerned is best summarized by Stephen Williams, Professor of Anthropology and Director of the Peabody Museum of Archeology and Ethnology at Harvard University: "Population growth, urban sprawl, new roads and airfields, dams and the flooding of river valleys—all are bringing greater and greater pressure against the prehistory and art of the former inhabitants of this planet. We cannot make the entire world a museum, but we certainly must try to relieve this kind of relentless attack on our prehistoric resources, not to mention our environmental resources, through understanding and through attempts at preservation."

An occasional exciting discovery can emphasize the fact that there is still a vast wealth of undiscovered archeological treasures in our country. Two years ago, downtown Nashville, Tennessee was treated to such an event. Excavation for a new bank revealed a natural tomb of fossilized animal remains, including the skeleton of a saber-toothed tiger that died 9,500 years ago. The entire town reacted with fascinated enthusiasm, and since the discovery, at least one scientist regularly prowls the city construction sites in search of other findings. In this case, the response of the bank and the city in protecting and investigating the materials was admirable. The example should serve to illustrate, however, the

necessity of legislation which will more dependably preserve for scholarship such invaluable sources of knowledge.

H.R. 3583 does provide protection for similar sites of historical and archeological significance. Through the Department of the Interior, this bill prescribes not only a means of surveying the possibility of important data at the site of Federal, federally assisted, or federally licensed construction but also provides a means of recovering and preserving such data.

With the passage of this legislation, the depressing spectre of a bulldozer gnawing ravenously at a prehistoric Indian burial mound recedes somewhat. As additional side benefits, the public will be made more aware of the presence and importance of historic districts in the immediate environment, and the activities of the unscientific searchers will also be restricted through the identification and protection of such areas. I urge, therefore, that H.R. 3583 receive the favorable consideration of the Subcommittee.

Mr. TAYLOR. Mr. Ralph R. Bartelsmeyer, Deputy Administrator, Federal Highway Administration, U.S. Department of Transportation.

STATEMENT OF RALPH R. BARTELSMEYER, DEPUTY ADMINISTRATOR, FEDERAL HIGHWAY ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION

Mr. BARTELSMEYER. Thank you, Mr. Chairman. With me this morning is Mr. Robert Bee, location procedure specialist, Office of Environmental Policy, and Mr. Charles B. Hollis, Assistant Chief Counsel for Legislation and Opinions.

I was pleased, Mr. Chairman, to be asked to participate today in these hearings on H.R. 296 and the related bills providing for the preservation of historical and archeological data. The Department of Transportation and Federal Highway Administration endorse the general intent of these bills and we are proud that our Federal-aid highway program included one of the first historical and archeological preservation programs. Although preservation legislation was initiated as early as 1906, I believe that most attempts at preservation lacked any funding inasmuch as the 1906 act made no reference to or provision for use of Federal funds to preserve objects of historic or prehistoric significance on other than Federal lands. The Federal-Aid Highway Act of 1906 changed this lack of funding with respect to highway projects by providing that the costs of archeological and paleontological salvage, approved as necessary by a highway department of any State, were eligible for Federal aid in compliance with the 1960 act for the preservation of American antiquities.

Federal-aid highway funds participate in necessary preservation and salvage operations in the same proportion as on the highway project itself. Since the 1956 legislation, Federal highway funds devoted to archeological and paleontological salvage work have amounted to \$2,414,979—and that was in 265 separate projects.

Under our program, when a projected highway will pass through an area which may contain historical objects, the appropriate Federal or State authority can be advised of the proposed location of the highway so as to enable such authority to determine the likelihood of the highway construction destroying historical objects. Even when objects are not discovered until construction has begun, construction will be halted, appropriate authorities notified, and steps taken to excavate and preserve the objects. If preservation is not practicable, data con-

cerning the objects can be recorded. Archeological surveys are considered part of the costs for the projects and are eligible for Federal-aid reimbursement. Similarly, the cost of excavation or recordation of data is eligible for Federal-aid participation.

The highway salvage program is not by any means restricted to any geographical region. States in every part of the country have availed themselves of its provisions. It is not restricted to prehistoric and Indian sites; it has included salvage and recording of historic objects and buildings of more recent times as well. For the subcommittee's information, I submit herewith a listing of archeological and paleontological salvage work on Federal-aid highway projects which have been authorized from 1956 through 1972. Also, I wish to submit—and I think they're attached to copies of my testimony—the Federal Highway Administration's Policy and Procedure Memorandum, PPM 20-7, on such salvage projects. In addition, we have procedures which assure that in the preparation of environmental impact statements, historic preservation is considered.

Also, section 4(f) of the DOT Act provides that the Secretary may not approve any project requiring land from a recognized historic site unless there is no feasible and prudent alternative to the use of these lands and all possible planning has been done to minimize harm to the site.

Further, the Department must comply with section 106 of the Historic Preservation Act of 1966 which establishes procedures for consultation with the Advisory Council on Historic Preservation and appropriate State historic officials, and these procedures must be met prior to the approval of any project which affects a site listed on the National Register of Historic Places Executive Order 11593 concerning "protection and enhancement of the cultural environment" extends the procedures of section 106 to certain other sites not listed on the National Register.

Finally, section 102(2)(C) of the National Environmental Policy Act, concerning preparation of environmental impact statements, has been constructed by the Department as requiring detailed consideration of impacts on historic and archeological sites whenever our projects will affect them.

Our preservation program has been gathering headway for several years with increases in activities in the Federal-aid highway field. As of 1972, 37 States have participated in this work. The salvage work includes reconnaissance surveys, meaning any work for the location of sites of historic objects on or along proposed routes during or after the route selection of a State highway project; preliminary site examination, which includes work for the inspection, preliminary testing, and evaluation of known or suspected sites of historic objects to determine the necessity of salvage work; and actual salvage work which includes excavation, removal and preservation and/or the collection of data relating thereto, and may include the preparation and issuance of a report to the participating agencies covering the salvage work.

Having outlined our experience in this preservation area, now I would like to comment briefly on the bills which are being considered by the subcommittee.

As we understand the bills, an agency would either use project funds for its own efforts in the recovery, protection, and preservation

of data, or it could notify the Secretary of the Interior and transfer to him, not to exceed 1 per centum of project funds, so that he may conduct such activities. We note this authority is permissive and would not require that Federal-aid highway funds or the funds of any other program administered by this Department be transferred to the Secretary of the Interior for this purpose.

H.R. 296, section 3(b), has a provision on page 5 which considers survey, recovery, analysis, and publication costs are nonreimbursable project costs. The word "nonreimbursable" is not clear in this provision. Under the Federal Highway Administration program, a non-reimbursable project cost implies nonparticipation with Federal funds. We do not believe this is intended to be the meaning of this provision.

Therefore, the Department recommends adding the following as it appears in H.R. 1880, section 3(b), to all three bills:

An appropriate share, as determined by the responsible Federal agency, of the costs of the survey, recovery, analysis, and publication shall be borne by the grantee in the case of projects, activities, or programs funded under Federal grant-in-aid programs.

This is fundamental to the financial arrangements of the Federal-aid highway program, and would help to clarify any misunderstanding on reimbursable or nonreimbursable terminology used in H.R. 296. Under such a provision, we assume Federal participation could be set at 100 percent if deemed appropriate.

H.R. 296 and H.R. 1880 should also be modified to agree with H.R. 2121, section 3(a), which would require advance notification to the Department of the Interior only where the agency does not intend to recover, protect, or preserve significant scientific, prehistoric, or archeological data. This provision together with submission of archeological reports and environmental impact statements to the Department of the Interior should be sufficient interagency coordination in cases where an agency chooses to conduct its own preservation activities.

H.R. 296 and H.R. 1880 require the Secretary of the Interior to initiate action on archeological activities within 60 days of notification. H.R. 2121 has no similar requirement. The Department supports the 60-day time limit since it will help minimize any construction delays during salvage operations.

As a final comment, I would presume that it is the intention of section 3(b) of H.R. 296 that the Secretary of the Interior would make the final decision with respect to whether or not the historical or archeological data is significant and worthy of recovery and preservation. We do foresee that State or other local agencies could unjustly delay Federal or federally assisted projects when there is controversy between the Federal agency and the State or local agency over the merits of certain data. We believe that the language in section 3(b) of H.R. 296, page 4, lines 11-13, which states that the Secretary shall cause data to be recovered "which, in his opinion, are not being but should be recovered and preserved in the public interest" means that the Secretary of the Interior shall have discretion to make such final determination of the merits of any data. Perhaps, this could be clarified in the bill or the report on the bill.

The Department of Transportation intends to continue its active archeological preservation activities in the highway field and we would support such activities in our other Federal and federally aided programs.

Subject to the comments I have made, the Department of Transportation endorses the enactment of the subject bills.

Thank you for this opportunity to appear and I shall be glad to answer any questions.

Mr. TAYLOR. Well, thank you very much for your very informative statement. You suggested one specific amendment to the bill which is "an appropriate share, as determined by the responsible Federal agency, of the cost of the survey, recovery, analysis, and publication shall be borne by the grantee in the case of projects, activities, or programs funded under Federal grant-in-aid programs." By grantee, you mean State?

Mr. BARTELSMEYER. Yes, in our Federal-aid highway programs there has to be a share of participation by the States and we think that in order to carry that concept on through, it would be best to have some financial support by the local agency.

It isn't mandatory.

Mr. TAYLOR. Your statement refers to "grantee", does this language fit in with existing language in the Highway Act?

Mr. BARTELSMEYER. No, they don't use that word in the act.

Mr. TAYLOR. I wonder why the word "grantee" is used?

Mr. HOLLIS. I think it was drawn that way so it would apply to all Federal-aid programs of this type.

Mr. TAYLOR. Does the Department of Transportation have any reservation or objections to provisions of the legislation which would require project money to be used for this purpose?

Mr. BARTELSMEYER. No, we do not.

Mr. TAYLOR. Under your existing act didn't you state project money is now being used for historic salvage programs.

Mr. BARTELSMEYER. Yes. I presume that is what you asked me in the previous question. Now, project money is being used so we would hope we could continue to do that.

Mr. TAYLOR. As far as the Department of Transportation is concerned, why is this additional legislation needed? In other words, you seem to already have the responsibility to do these things and are doing what is being proposed in the bill.

Mr. BARTELSMEYER. I would say we are doing what is in the bill and we will continue to do so. So I guess the answer to your question is that we're not opposed to the legislation. We don't need it to continue the way we are. We think we are doing a pretty good job.

Mr. TAYLOR. Now, under the highway salvage programs, suppose that grading is being carried on on a highway project and a historical object or objects are discovered. What procedures do you follow?

Mr. BARTELSMEYER. The work is usually stopped at that point and an evaluation is made of how the artifacts can be saved and how the record can be kept of what is there and the grading operations could be moved to another location.

Mr. TAYLOR. Who makes that evaluation as to the values that are there?

Mr. BARTELSMEYER. It would be done, I think, by the State highway department and the Federal Highway Administration field office.

Mr. TAYLOR. At this stage, the Secretary of the Interior would not be called in?

Mr. BARTELSMEYER. No.

Mr. TAYLOR. This does make a change in regard to that?

Mr. BARTELSMEYER. As I understand it, we still continue doing it in this manner only if we would make a determination in the field not to assume responsibility for saving these artifacts. Then the Secretary of Interior should be notified. So he would be aware that they're not being saved and he could provide some other means of saving them.

Mr. TAYLOR. The gentleman from California.

Mr. JOHNSON. Thank you, Mr. Chairman.

I know that under the 1956 Highway Act in our State, you do a pretty good job and your policy and procedure pretty much spells out the intent to the "nth" degree at the present time what you are to do.

Mr. BARTELSMEYER. Yes, it does. I might say from my own experience, as a former head of the State Highway Department in Illinois, we did much salvage work during the 10 years that I was there. I thought it was most interesting and most rewarding.

Mr. JOHNSON. Now, in this legislation, I am wondering if you fear that some of the provisions in the legislation that the Office of Transportation could be taken to court and progress on the project delayed or halted. Are you afraid of some of the language that is in the bill presently?

Mr. BARTELSMEYER. We think we can live with it.

Mr. JOHNSON. I notice in California with respect to the money, the total funds were \$268,300 and Federal funds were \$238,783. Now, in your suggested change here, about the grantee, would that make any differential in the ratio of Federal funds as to the total funds?

Mr. BARTELSMEYER. No, it would not. Looking at the California situation, I am assuming that most of this was on the Interstate System, so it had a 90-10 matching provision.

Mr. JOHNSON. Much of the historical past of California was built in many areas and the other types of Federal-aid highway programs come into contact with many of the historical sites in California as well as the interstates.

I would just wonder about the small amount of money that is put in by the State here. This is less than \$30,000 out of \$268,300.

Mr. BARTELSMEYER. As I said before—

Mr. BEE. There may be other reasons besides that. California and some of the other States—Texas, and I am not sure just how many—have their own archeologists on the staff of their highway department. Many times they do not request Federal assistance. They handle the project themselves and, while there may be many more projects than are reflected that have actually been done in California, this reflects only Federal participation projects. They may have handled, for instance, all of the work on primary projects on a 50-50 basis or as their own State projects.

Mr. JOHNSON. Very good, Mr. Chairman.

Mr. SKUBITZ. What you are proposing is an expansion of the program. In the past you carried on exploratory work in the reservoir areas and now it is to be expanded over the Federal highway systems and soil conservation projects, and so forth; is that correct?

Mr. BARTELSMEYER. No; we have been carrying on this kind of work on highway projects since the middle of the fifties and we are hoping that we can keep on carrying on our work as we have carried it on in the past. But we would certainly live with any legislation that might

be passed concerning it. But it isn't anything new to us in the highway field.

Mr. SKUBITZ. How would you dispose of the artifacts?

Mr. BARTELSMEYER. I can speak only for myself, the personal experiences that I had in one State when I was head of that State highway department. We worked very closely with the archeological group from the University of Illinois and they packaged the material and were going to reconstruct it, and I presume they have done that or are still going to do it. I think that varies in other States.

Mr. SKUBITZ. That is all.

Mr. TAYLOR. Any other members have any questions at this time? The gentleman from Texas?

Mr. KAZEN. Sir, I notice in this list that Texas is not included. Do you have any projects at all on any of the highways connected or concerning Texas?

Mr. BEE. I think I will have to probably give the same answer to that question as I gave the gentleman from California and that is that Texas is well equipped with archeologists in their own State Highway Department. Since this is a permissive program, it is a program that they wish to handle themselves, they can do it. They are very active undoubtedly because of the amount of professional talent they have there and that is why they apparently wanted to take care of the programs themselves. They are not requesting funds.

Mr. KAZEN. The absence from this list does not necessarily mean that they have not done any work in this field.

Mr. BEE. That is correct.

Mr. KAZEN. Thank you, Mr. Chairman.

Mr. TAYLOR. The gentleman from Georgia.

Mr. STEPHENS. Mr. Chairman, I would like to ask this question and I am not sure that the witness would be one to answer it, but you have in your statement that when the highway is put through a certain planned route, then you say the historical objects obtained or found—you immediately stop the work and notify the proper authority and determine what should be done. I wonder if that is always true when it comes to the work of the Corps of Engineers, how do they operate when they are building a reservoir and find part of a project which is of historical value, they flood certain sites or they discover certain things, would it also apply to the Corps of Engineers, that same procedure?

As I say, I don't know if this witness has any knowledge, but, Mr. Chairman, I understand the Corps of Engineers will have a witness later and maybe that would be the proper time to ask that question.

Thank you very much.

Mr. TAYLOR. The gentleman from Kansas.

Mr. SEBELIUS. I only have one question basically, and that is if someone is brought in from the outside, who is entitled to the salvage under your present operation? Do you have any designation? Say you have an archeological group or say a college that is interested, who is entitled to the salvage when you get through?

Mr. BEE. As long as it is turned over to the public authorities in our program, that is all we are concerned with.

Mr. SEBELIUS. In other words, federally you don't get into it as far as who gets the salvage; the State would make the decision?

Mr. BEE. The State university, museums, et cetera, but the contractor is not allowed to keep the artifacts found within the prism of the roadway, they must be turned over and be used for public use.

Mr. SEBELIUS. Have you set up any guidelines? Say there is competition between two schools and they were both there with the State archeologist, you don't make any decision federally as to who got this?

Mr. BEE. No, we haven't.

Mr. BARTELSMEYER. We generally let the State make that decision.

We would then concur or nonconcur in the decision that they would make.

Mr. SEBELIUS. Keeping from getting in the middle.

Mr. BARTELSMEYER. Well, we're in the middle.

Mr. SEBELIUS. That is all, Mr. Chairman.

Mr. TAYLOR. As you interpret this bill before us, would that action on your part be changed, would you still let the State make the decision as to what would be done with the salvage?

Mr. BEE. It would seem to me that there is a question, I think on the last part of the testimony, Mr. Bartelsmeyer raised it, that is the determination as to the significance of these artifacts. We would wish and hope that the legislation as it is now written could be clarified in that respect. It should be in the discretion of the Secretary of Interior to make the decision on these artifacts. I suppose it could be expanded to include the determination whose property they are.

Mr. TAYLOR. Take care of the disposition of it.

Mr. BEE. Right.

Mr. TAYLOR. That might be a good suggestion.

Thank you very much for your testimony, it has been helpful.

Stanley W. Hulett, Associate Director, National Park Service, U.S. Department of Interior.

STATEMENT OF STANLEY W. HULETT, ASSOCIATE DIRECTOR, LEGISLATION, NATIONAL PARK SERVICE, ACCOMPANIED BY DR. ERNEST A. CONNALLY, ASSOCIATE DIRECTOR, PROFESSIONAL SERVICES, AND DR. ROBERT H. LISTER, CHIEF ARCHEOLOGIST

Mr. TAYLOR. Mr. Secretary, we are glad to welcome you before our subcommittee.

Mr. HULETT. I would like to have Dr. Ernest A. Connally, Associate Director of Professional Services and Dr. Robert H. Lister, Chief Archeologist of the National Park Service, join me.

Mr. TAYLOR. We will be glad to have Dr. Connally and Dr. Lister join you.

Mr. HULETT. Mr. Chairman, as indicated in our departmental report to your committee, we recommend the enactment of H.R. 296 or any of the identical bills which are pending before your committee. Also pending is S. 514, a similar bill which passed the Senate on May 22, 1973.

This legislation would amend a 1960 law under which the National Park Service now conducts archeological salvage programs at reservoir construction sites.

Under the 1960 law, Federal agencies responsible for dam construction or for issuing licenses for dams are required to notify the Secretary of the Interior before starting construction or issuing the

license. Upon receiving such notice, the law directs the Secretary to survey the affected area to determine whether historical and archeological data exist and should be preserved. If so, the Secretary is authorized to collect and preserve the data.

The 1960 law has two basic limitations: (1) It covers only reservoir construction projects; and (2) it does not, in the view of the construction agencies, permit construction agencies to use project funds for archeological salvage work.

As amended by H.R. 296, the 1960 law will be broadened in three ways:

First, it will cover Federal or federally assisted or authorized construction projects, rather than only dam sites. Thus, for example, before construction is begun on a major airport in the Southwest where significant archeological relics or historical structures may exist, an opportunity would exist to survey and recover data and specimens. Roads, public housing projects, reservoir projects, and other construction which results in "alteration of the terrain" would all be covered.

It is well to note at this point that the bill is so drafted to preclude unnecessary delay in construction. The bill directs the Secretary to begin survey and recovery work within 60 days of notification in some cases and at a time he and the construction agency agree on in others. In addition, the bill states that "there will be as little disruption or delay as possible in the carrying out of the functions of such agency."

The second way in which H.R. 296 would broaden the 1960 law is that it permits the Secretary of the Interior to begin survey and recovery work based on information he receives from qualified professionals from outside the Federal Government such as universities, historical and archeological societies, and State archeological surveys. Thus, if the Secretary were notified by the Department of Anthropology at the University of Florida, for example, that planned construction of a dam or airport, with matching Federal funds, may adversely affect an archeological site, the Secretary would give reasonable notice to the construction agency. Thereafter, he could make a survey or cause one to be made and recover any significant data in accordance with the mutual agreement of the Secretary and the construction agency.

Third, at present, construction agencies such as the Corps of Engineers, are of the opinion that funds appropriated for project purposes may not be transferred to the Secretary for archeological salvage work. Under H.R. 296, the construction agency would be authorized to use project funds to do the work itself or to transfer up to 1 percent—or more in the case of small projects—to the Secretary for that purpose.

We believe this provision of H.R. 296 is very important, since it properly attributes the cost of salvage work to the project that makes the work necessary. Along this same line, the first amendment recommended in the Department's report would require an appropriate share of any salvage work to be borne by the grantee in the case of Federal grant-in-aid programs.

The other amendments are of a technical and clarifying nature.

On a program basis, the National Park Service spends approximately \$1.2 million annually for salvage work on reservoir projects alone under the existing 1960 law. With the construction activities of

other agencies included in the program, as would be the case under H.R. 296, it is expected that the amount needed for this program will increase to about \$6.5 million within 5 years. This would require additional staffing of 10 man-years if the maximum effort were achieved under H.R. 296.

Mr. Chairman, as noted at the beginning of my statement there is also pending before your committee, S. 514, the companion bill to H.R. 296, which passed the Senate on May 22. Except for one minor difference in usage (page 5, line 1 of H.R. 296 uses "prehistorical," whereas page 4, line 25 of S. 514 uses "prehistoric" in the same clause), the two bills are identical. We therefore recommend the enactment of either bill, if amended as suggested in the Department's report.

Mr. Chairman, in closing, I would like to take an opportunity to address several of the concerns that were expressed by members of the committee at the 1972 hearing on this legislation:

We look upon this legislation as a positive opportunity, rather than as a roadblock to construction projects.

Mindful of the more than 10-year record of cooperation between the National Park Service and the dam building agencies under the 1960 Act, representatives of the archeological profession proposed early in the 92d Congress that we jointly support legislation to broaden the salvage program to cover other major Federal or federally assisted construction programs.

The pending bills reflect this joint effort. In carrying out the expanded program, it is our intention to maintain our past record of 13 years whereby not one water impoundment project has been thrown off schedule due to salvage operations. To the contrary, the construction agencies have been able to plan for orderly surveys in advance so that recovery work can be completed by the time construction takes place.

Advance knowledge and salvage of archeological sites, which this legislation will provide to all construction agencies, will enable construction to proceed without the possibility that all work will be stopped if a significant find is unearthed. In other words, we look upon this legislation as a means of preventing roadblocks rather than as a means of creating them.

It is our intention to apply the expanded program so that any salvage work will be carried out (1) only in accordance with the plans of the construction agency, and (2) only for significant projects affecting areas where there is substantial reason to suspect that archeological data exist and should be salvaged. We do not intend that this legislation become a device for blocking projects that must stand or fall on their own merit, nor will it be administered in such a way as to affect construction that is only marginally associated with a Federal program such as construction under an individual's FHA-insured mortgage.

Mr. Chairman, I should also add that representatives of the Indian tribes have asked the Department to make sure that, in administering this legislation, we consult with the proper Indian tribe or group when we seek to determine ownership of specimens recovered from any Indian lands or lands acquired from Indians for a project. We believe such consultation is proper, and we intend to do so.

This concludes my prepared remarks, Mr. Chairman. We will be pleased to answer any questions you or members of the committee may have.

Mr. TAYLOR. Thank you, Mr. Hulett for your statement.

I will ask you the same question that I asked Congressman Bennett. Under the 1960 Act, the construction agency notifies the Secretary of the Interior concerning the proposed project. The Secretary then proceeds to make a survey of the area. If values are found, the Secretary provides for their recovery. He does this out of a specific appropriation made each year to the Department of the Interior.

Now, why not expand this legislation to cover all projects and proceed along this same line as far as funding is concerned?

Mr. HULETT. Mr. Chairman, it is the firm belief of the administration and of the National Park Service in this regard that these costs should be properly borne by the project itself. In other words, they become a portion of the project cost. With the myriad of Government agencies that would be involved under the expanded program, it would be extremely difficult not to allocate those costs to the project that has caused the necessity for conducting salvage work. If I might add, too, Mr. Chairman, many Federal agencies have the capability of performing certain archeological work themselves. The bill does make provision that they can proceed with this work, with their own people. We feel it is quite appropriate that they do so.

I believe there are some 17 Federal agencies that have this type of capability and we would not want to take the programs away from them, but rather want to allow them to continue where they are capable of performing such work.

[A clarifying letter received on this point follows:]

U.S. DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE,
Washington, D.C., August 3, 1973.

Hon. ROY A. TAYLOR,

Chairman, Subcommittee on National Parks and Recreation, Committee on Interior and Insular Affairs, House of Representatives, Washington, D.C.

DEAR MR. TAYLOR: In response to a question during the Subcommittee hearings on H.R. 296, relating to the preservation of historical and archeological data, I stated that 17 Federal agencies have the capability to conduct archeological investigations. This was in error. I misinterpreted the question and referred in my answer to the number of Federal agencies that cooperate with the National Park Service in archeological programs. To my knowledge, only three Federal agencies have the capability of conducting archeological research, the National Park Service, the Forest Service and the Bureau of Land Management.

I trust this will clarify the matter.

Sincerely yours,

STANLEY W. HULETT,
Associate Director.

Mr. TAYLOR. Is it your opinion that most of the agencies for most projects would do the work themselves or would they turn it over to the Secretary of the Interior?

Mr. HULETT. I think it would depend a great deal, Mr. Chairman, on the complexity of the work involved. If the data to be recovered is rather minor, I think the agencies would probably do it themselves. If a very significant find was unearthed, I would suggest that they would probably seek the advice and counsel of the Department of the Interior and request the National Park Service to conduct the work.

Mr. TAYLOR. You estimated that the cost of the program would perhaps be \$6½ million within 5 years. We need a spending ceiling placed on this, a limit on this in the legislation?

Mr. HULETT. Well, that would be up to the discretion of the committee, Mr. Chairman. We would be hopeful that a limitation not be placed on it. We would be happy to work with the committee and establish some sort of a viable figure should the committee decide to place a limitation on the program.

Mr. TAYLOR. We customarily do place a limitation on spending on the different bills. This is sort of a unique situation which we're authorizing money which is appropriated for various certain amounts, and certain amount of it is to be used for this purpose.

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

Mr. TAYLOR. Has the Secretary of the Interior succeeded in getting appropriations for the program under the 1960 act?

Mr. HULETT. Yes, sir; we feel we have been rather successful. We are now at a level of about \$1.2 million for the program. Obviously, you can always use more money in a program. We do not feel we have lost any archeological data of great significance due to a lack of the funds that the administration put in there.

Mr. TAYLOR. That was my next question, but you already answered it.

Now, the legislation places a burden on the constructing agency to secure the appropriation on an individual, haphazard basis. You say you prefer this approach to coordinating the programs under the present procedure, under the 1960 act.

Mr. HULETT. Yes, sir; we do, simply because it would require a tremendous administrative staff for the National Park Service to oversee individually each one of the area projects that are going on. It is estimated that the Federal Government would spend somewhere in excess of \$60 billion a year on construction programs which alter the terrain. We do not feel we want to create another bureaucracy to oversee all of these projects. We feel the constructing agencies have sufficient people to handle this. It would seem to be duplicative to add an additional burden of bureaucracy on the program.

Mr. TAYLOR. Now, maybe, if we take an example, explain how the legislation would be administered.

Mr. HULETT. Well, let's take an example perhaps of an airport project in the Southwest. The Federal Aviation Administration would notify the Secretary of the Interior that a project is to begin and that there is sufficient evidence to indicate that there are archeological data of some significance that will be disturbed by the project. The Secretary of the Interior, in cooperation with the Federal Aviation Administration, would commence a survey within 60 days. Assuming archeological values are found to be present, then jointly the Secretary of the Interior through his representative and the Federal Aviation Administration would determine whether the FAA, through contract or through their own resources, or the National Park Service could carry out the actual salvage of the archeological data.

The Federal Aviation Administration would request the funds through their budgetary processes in order to carry out the necessary salvage operations. They could either then use those funds themselves or they could transfer those funds to the Secretary of the Interior for his use.

Mr. TAYLOR. Would the Secretary be brought in to assist in the survey in all cases where values were discovered?

Mr. HULETT. Not necessarily, Mr. Chairman.

In many cases, as was suggested by Mr. Bartelsmeyer, we would be notified that the agency doing the construction had made a survey, determined that there was certain data present and indicated whether or not they intended to proceed with the work themselves or whether they would want to transfer the funds to the Secretary of the Interior for his use.

Mr. TAYLOR. Under this legislation, would not the agency go ahead and handle the matter entirely itself without even referring it to the Secretary of the Interior?

Mr. HULETT. We would hope that this would not be the case. We hope we can establish a clearinghouse for information on the recovery of archeological data. One of the problems that is now facing the archeological community is that there is really no close coordination of the various archeological programs being undertaken by the Federal Government.

We would hope that we could gather these together and provide a central clearinghouse whereby knowledge could be exported on how to collect data and the types of data that are collected at various parts of the country.

Mr. TAYLOR. Is there any need to amend the bill to provide the Secretary will be in all cases notified where values are found?

Mr. HULETT. We would hope that in the vein or the spirit of cooperation that Federal agencies would undertake it upon themselves to provide us with that information. Section 3(a) already requires agencies to give the Secretary such notification.

Mr. TAYLOR. What I'm getting at, it seems to me that the Department of the Interior should have more experts in this field than some of the other agencies might have.

Mr. HULETT. We would certainly hope so, Mr. Chairman, because that is one of the charges that has been given to the Department of the Interior by the Congress.

Mr. TAYLOR. The gentleman from California.

Mr. JOHNSON. Thank you, Mr. Chairman.

I notice that you did not mention the 1956 act and the procedures that are carried out by the Department of Transportation. What has been your experience, do you recognize they have been doing a good job?

Mr. HULETT. Mr. Johnson, I would defer to one of the experts in the field on this question.

Dr. CONNALLY. Mr. Johnson, surveys have been made, but part of the problem as we understand it, with the work done under that act, is that the funds do not always or often provide for the analysis and publication of the data. The object in an archeological investigation is to preserve information. The artifacts themselves in any store-room are not meaningful. They have to be analyzed by a competent archeologist and then those results made available to the scholarly community before we really know what has been found there.

Mr. JOHNSON. That is lacking in their program, there has not been enough money to provide that expertise.

Dr. CONNALLY. I do not know if there has been enough money or not, but it is my understanding that the funding of the salvage opera-

tions has often not included sufficient funds for the analysis and publication. The job is not done until the reports are made available.

Mr. JOHNSON. Now, if this act were passed, would it provide for that?

Dr. CONNALLY. We attempted to do that as Mr. Hulett has described and those funds could, of course, be used by the agency or transferred to the Department of the Interior.

The figure that is suggested in the act, up to 1 percent of the cost of the project, would allow, in our judgment, a complete job.

Mr. HULETT. There would be nothing to preclude the possibility of another Federal agency providing a portion of the funding to the Department of the Interior and the Department of the Interior's carrying out the analysis and the publication that Dr. Connally was referring to.

In other words, it is not on an all or none basis. We might participate in some small way. We might not go out and do the field work. We might be involved in the analysis and publication of the data.

Mr. JOHNSON. When an initial survey is made and agreement is reached upon a certain alinement or route of the highway, are you people brought into it at all to start with?

Mr. HULETT. Under the present program, we're not brought in at all. That is one of the purposes of the legislation. As I understand the way the work is undertaken, when they are in the preplanning processes, laying out the route, the archeological surveys are made at that point before the bulldozers are standing ready to tear up the ground. So that there is sufficient time to do whatever salvage is necessary prior to the actual construction. This is the way that we would see the program expanded throughout the Federal Government.

Mr. JOHNSON. Then you're satisfied with that program as it now is being carried out.

Mr. HULETT. Yes, sir, with the exception as noted by Dr. Connally on the analysis and publication.

Mr. JOHNSON. That is the construction.

Dr. CONNALLY. They should not run into problems unless there are unusual circumstances.

Mr. JOHNSON. There are finds, there have been finds under this program?

Dr. CONNALLY. Yes, sir, as Mr. Bartlett has testified sometimes discoveries are made where the survey had not suggested that anything would be found. In those cases they move the grading off to someplace else while they make the investigation. That is always a possibility in archeological work, of course.

Mr. JOHNSON. Now, there are two other areas here. Does this relate to all sorts of programs such as rights-of-way under the oil and gas leasing provisions?

Mr. HULETT. We would assume that it would, yes. We realize that with the amount of money that we're talking about for this program, Mr. Johnson, we simply cannot carry out the business of looking into each and every individual project that goes on with a Federal license or with Federal funding because, as I mentioned earlier, the amount of Federal construction programs is somewhere in the neighborhood of \$60 billion a year. So by necessity and practically it would be impossible for us to involve ourselves. We are talking here about major projects.

Mr. JOHNSON. I realize that there are a lot of so-called small ones as we look at them today. We're putting more underground every day.

Mr. HULETT. That is true.

Mr. JOHNSON. It is getting to be a big business. When you get into putting things underground, and we are putting a lot of things underground, we're going to put a lot more I imagine as time goes on, that is, there will be many of those findings made in excavations in various types of projects that go underground.

Now, another thing, how does this apply to your national park and national forest wilderness areas and wild river areas? We're setting those aside and I do not know whether you make a real survey there to note just what is inside of those, this type of consideration.

Mr. HULETT. Well, we have archeologists on the staff of the National Park Service that work and determine that data are present in the areas of the National Park System. It is my understanding that the Forest Service has the same kind of a program, and in answer to your question about wilderness, the committee probably noted in a couple of areas we're recommending for wilderness, we have left out certain archeological areas where we intended to go in and by mechanical means salvage whatever data is present. So, we are very cognizant of that when we develop our wilderness proposals.

Mr. JOHNSON. Everything that is National Park Service and I presume Forest Service too, under their lease, the wildlife refuges, which is sometimes taking a previous piece of real estate, and your wild rivers and as time goes on, quite a bit of real estate goes along the rivers, the early settlers settled there, along the rivers.

Dr. LISTER. May I add something, Mr. Johnson, at this point. One of our purposes in setting aside these areas is to preserve archeological remains, and it is our philosophy that we do not excavate sites unless we need to excavate them for research purposes, to better interpret the area or if absolutely necessary, because of some kind of facility development, like a visitor center or a pipeline or sewer system. We attempt in every case to avoid archeological sites in any sort of construction program. We feel our park areas are the last reserves of archeological remains and we're losing so many of them outside of the park areas. So we are very, very careful to preserve those remains left in the park areas.

Mr. JOHNSON. Now, how about the Federal Power Commission, are they pretty much regulated under the acts, do they clear with you people?

Mr. HULETT. On a major dam project, they would continue to be required to give notice to the Secretary in every case, as they are now. Smaller dam projects would be treated like other Federal projects, where notice to the Secretary is required only where archeological data is known to be threatened.

Mr. JOHNSON. That is all.

Mr. TAYLOR. The gentleman from Kansas.

Mr. SKUBITZ. Mr. Hulett, if I understand your statement correctly, under the 1960 act, when Federal agencies begin construction of a dam, the authority must contact the Secretary of the Interior and the Department then determines whether the potential archeological values involved should be studied. Is that a correct statement?

Mr. HULETT. Yes, Mr. Skubitz, it is.

Mr. SKUBITZ. Now, under this proposal, the authority is expanded to cover all Federal projects?

Mr. HULETT. Correct.

Mr. SKUBITZ. Soil conservation projects, highways, or anything else?

Mr. HULETT. Yes, sir.

Mr. SKUBITZ. I asked the last witness who testified a similar question and he indicated that such broad studies have been carried on in the past on highway construction projects. Do you know by what authority such studies were carried on in the past?

Mr. HULETT. They were carried on under the Federal Highway Administration. I think the citation is 23 U.S.C. 305, which allows them to use project funds for this purpose. They are, however, to our knowledge, the only other Federal agency that has this specific authority and we would not intend to interfere with their program in any way. They could continue their programs exactly as it is today. But, we would hope that they would keep us advised, that is the purpose of the legislation, to let us know what they're doing, how they're going to do it and what they come up with.

Mr. SKUBITZ. This is under the act of 1956 to which Mr. Johnson referred?

Mr. HULETT. Yes; it is.

Mr. SKUBITZ. I see. Now, if this legislation is enacted into law, does that mean that every agency engaged in any project, for example, the Department of Agriculture or the Public Housing Authority, must advise and consult with the Department of the Interior and your agency makes the determination as to whether or not archeological studies should be made.

Mr. HULETT. Well, Mr. Skubitz, the bill as it is written is purely permissive as to whether the surveys are made. The agency is directed to give the Department notice it is aware that one of its projects adversely affects archeological data. But there are no sanctions in there, for instance, if the Department of Housing and Urban Development, in funding urban renewal projects, decided it did not want to contact us. We can only depend on a Federal agency and its cooperation. We do not, as I suggested to the chairman, want to create another Federal bureaucracy to oversee all these activities.

Mr. SKUBITZ. You do not believe that eventually you would be given that authority?

Mr. HULETT. This is a possibility, Mr. Skubitz. My suggestion to the committee would be as you have done in the past, perhaps to establish a 3-year limitation on the first phase of the program with a funding level that would be worked out, perhaps 2 years hence we could come back to the committee and explain to you what has gone on in the program, how it is working and the other Federal agencies come up and indicate any problems with it. The archeological community would have had a couple of years experience under the act at that time and I think it could work out. This would give us a much better idea how it would work. This would be similar to what your committee did under the Historic Preservation Act in 1966.

The first authorization was for a 3-year period.

Mr. SKUBITZ. And if we followed that policy it would lead to a greatly expanded program in the Department of the Interior, or delay the construction projects?

Mr. HULETT. In the bill you have before you, there is nothing that would create a roadblock to the completion of a project. As a matter of fact, if early on in the game we can find out what archeological finds are present, we can preclude a roadblock, rather than waiting until the bulldozers are right there and begin to tear up the earth and discover something.

Mr. SKUBITZ. I understand, but actually under the legislation before us, the studies must begin within 60 days, is that not correct?

Mr. HULETT. Correct, sir.

Mr. SKUBITZ. That does not mean that it could be completed in 60 days?

Mr. HULETT. I would like to ask Dr. Lister to give you an idea, he is our chief archeologist and he has been involved in these surveys. He can tell you how long it takes to make a survey and how long it takes to recover whatever data might be present.

Dr. LISTER. Once the agency notifies the Secretary of the Interior that a construction project will take place as the bill states, we will have 60 days to negotiate an agreement with that agency as to how fast we need to do a survey. The survey will require a varying length of time, depending upon the complexity of the survey, the area to be covered, or the time that the project will require, but this is a negotiable thing that we work out with the agency. We then contact the proper institution, a historical society, a museum, a university, to actually perform this activity. Any kind of State agency that we feel competent to do the work could also take the contract and then the cooperative arrangement worked out between the Park Service, agency, and the State agency or institution goes into effect. To my knowledge, working in the Southwest over many years on contract salvage work, we have always been able to get a decent agreement with the agency so we do not hold up their activity.

Frequently, knowing this in the planning stages, we can get our work completely finished before they even start moving any earth. So it is a cooperative kind of program, sir.

Mr. SKUBITZ. I want to see archeological artifacts preserved, but by the same token, I do not want the program to become a playground for archeologists.

Dr. LISTER. It has not.

Mr. HULETT. No, sir.

Mr. SKUBITZ. It has not and I hope it does not expand widely into other areas. I do want a reasonable program.

Mr. HULETT. In 13 years, as I mentioned earlier in my statement, we have not held up any project in order to do the archeological survey.

Mr. SKUBITZ. I would be in favor of a program that is justified. I am fearful of possible abuse of the program resulting in the study of every public housing project, every soil conservation program.

Mr. HULETT. This is exactly what we do not want to have and what we do not intend to do under this legislation.

Mr. SKUBITZ. You are expressing the attitude of the Department of the Interior?

Mr. TAYLOR. Will the gentleman yield?

Mr. SKUBITZ. Yes.

Mr. TAYLOR. How significant are reservoir projects in having an archeological recovery program?

Dams → Dr. LISTER. I think we responded last time that it would be about 70 or 80 percent of the archeological values, when we get to a reservoir of any size. Some of the small water impoundments will not have any, but a reservoir of any size is apt to have archeological remains because these are the water courses upon which people settled in the old days. These were the ideal places to make camp, to develop habitation. This is where game was funneled in, the ideal place to live in the old days as it is in many cases today. So we are very apt to find in river valleys occupations by prehistoric people.

Mr. TAYLOR. The gentleman from Texas.

Mr. KAZEN. Thank you, Mr. Chairman.

Mr. Hulett, under the legislation, the construction agency would be authorized to do the work itself with the project funds or transfer up to 1 percent to the Secretary for that purpose.

Mr. HULETT. Yes, sir.

Mr. KAZEN. Now, usually projects which have been authorized carry a provision which limits the amount of the appropriation.

Mr. HULETT. Yes, sir.

Mr. KAZEN. Under this bill, up to 1 percent can be used for archeological surveys and so forth and this is not included in the project authorization. Where will that money come from?

Mr. HULETT. Well, in those cases where the projects are already authorized and construction has not begun, it would be up to the construction agency to attempt to make the funds available. And now, many of them, particularly the Corps of Engineers and I am sure General Kelly can testify to this, include within their planning processes sufficient funds to carry out this type of work.

Mr. KAZEN. Well, does the Reclamation Bureau do the same thing?

Mr. HULETT. Yes, sir, they do.

Mr. KAZEN. In other words, if we authorize a project, say one of my projects, one that is before the committee now that when that final authorization figure comes out, would that 1 percent be included?

Mr. HULETT. The 1 percent would not necessarily be included. It would be covered under the Reservoir Salvage Act of 1960, the existing act. We would be getting the funding directly through our appropriations processes for that project.

Mr. KAZEN. Will you do that simultaneously with getting the authorization for the project?

Mr. HULETT. Yes, sir; we would have our money in hand prior to the beginning of construction, so we could carry out whatever archeological salvage work is necessary prior to the physical construction beginning.

Mr. KAZEN. Well, does the Department of Transportation do the same thing?

Mr. HULETT. As far as we understand, yes, sir, they do.

Mr. KAZEN. And suppose there are no archeological funds in the surveys made and no more money has to be spent, what happens to that extra money?

Mr. HULETT. It's really not extra money per se. It is a permissive thing that allows them to use up to 1 percent of the project cost. In

most cases it would not be 1 percent. In many cases it would be sufficient to have less than 1 percent. The bill merely allows a construction agency to use up to 1 percent of the project's funds for the purpose of archeological salvage.

Dr. CONNALLY. That would be in the planning processes.

Mr. KAZEN. I see.

Now, you said there are 16 or 17 agencies with capabilities to undertake archeological salvage work. You spend \$1.2 million.

Mr. HULETT. Yes, sir.

Mr. KAZEN. Transportation spends \$2.4 million.

Mr. HULETT. Yes, sir; that was a period from 1956 to present, I believe.

Mr. KAZEN. All right and how much do the other 15 agencies spend?

Mr. HULETT. We really do not have a good estimate on that amount. Each one of them work their own projects and they do not under the existing law report to us how much they have spent. I would suggest the committee would have to go to the other agencies to provide the figures. I do not know what the figure would be, Mr. Kazen.

Mr. KAZEN. I am very pleased with the way it has been handled. I do not think there has been any abuse of the law and with the assurances that you have given Mr. Skubitz on these projects, housing and so forth, that you do not intend to go into every little bitty project that will help us get this legislation through and I am in favor of it.

Mr. HULETT. Thank you, sir.

Mr. KAZEN. Thank you, Mr. Chairman.

Mr. TAYLOR. The gentleman from Kansas.

Mr. SEBELIUS. Thank you, Mr. Chairman.

Now, the Bureau out in my district, the Bureau of Reclamation built a reservoir and prior to the construction, the University of Nebraska came in with archeological teams and did some excavating and finds even before any dirt was moved; they were there for a couple of summers and they had college students. Now, who would have funded that?

Mr. HULETT. The only project within recent memory in your district has been the Glenn Elder Reservoir which we funded approximately \$2,000 back in 1968.

Mr. SEBELIUS. There was a statement made earlier, we find some group that might be interested, whether it is the University of Nebraska responding to something that you might have said in your survey of the area, it doesn't have anything to do with exact guidelines of the bill, but I am trying to get guidelines and so forth.

Mr. HULETT. We do not seem to have anything on that particular project. We will be happy to check into it and provide something later.

Mr. SEBELIUS. When you contact a historical society or a university archeological department, do you ever give them grants to do this work?

Mr. HULETT. Yes, sir, and, as a matter of fact, the majority of our work is carried out by contractors such as universities or recognized State agencies.

Mr. SEBELIUS. Now, in the salvage department, do they get to keep the salvage as part of their work?

Mr. HULETT. The salvage items, if they are on Federal property, belong to the Federal Government. In many cases, the museum or the university or whoever has done the work will maintain the objects for public view.

Dr. LISTER. That is on an indefinite loan, Mr. Sebelius. They need the objects for the analysis.

Mr. SEBELIUS. I just wondered if the State of Nebraska has made off with any of our remains.

I have two other real brief questions. Now, why is the legislation not to include paleontology?

Mr. HULETT. It does—

Mr. SEBELIUS. That is included in the definition?

Mr. HULETT. Yes, sir.

Mr. SEBELIUS. I believe that is all, Mr. Chairman.

Mr. TAYLOR. The gentleman from Georgia.

Mr. STEPHENS. Mr. Chairman, this is not quite clear to me, when you say that "I do not prefer to have a sum of money set up which eventually would reach over \$6 million, \$61½ million for the cost of projects and the supervision." How would you go about estimating the financing of a project when you do not know beforehand that you are going to make an "archeological finding"? If it is not included in the project claimed, how can you claim something which you do not know will be there? How would you take care of an emergency situation in that project when a project would not include it?

Mr. HULETT. Mr. Stephens, we can almost tell certainly whether or not there will be archeological findings of any significance in any particular area and we would know whether funds were needed in the planning process or not.

Mr. STEPHENS. Then in the planning processes for the construction of a dam, for example, when the Corps of Engineers recommends that it is going to cost so much and the Public Works Committee has asked for so much, you make a recommendation as to what the project cost will be for the archeological survey and make that recommendation to the Corps of Engineers and it is money appropriated through the Public Works.

Mr. HULETT. Under the current act, the Reservoir and Salvage Act of 1960, we would request the funding through our own budget to do this work. Now, under the act which is now before you, the corps would request it through its own budget process and as part of the project cost. That is one thing we're attempting here to establish, that the salvage of all archeological data is as much a part of the project cost as building an access road to that project.

Mr. STEPHENS, we noted a great spirit of cooperation, particularly by the Bureau of Reclamation and the Corps of Engineers in the 13 years we have been under the program. The cooperation has been excellent, and we have not had any significant problems whatsoever.

Mr. STEPHENS. The 13 years that you refer to and in your statement, you say that you never lost any programs, I think that is commendable. Because of that desire to cooperate, has there been loss of any appreciable archeological sites because of the fact that you want these projects to proceed?

Mr. HULETT. Not that I am aware of.

Dr. LISTER. In many cases, we have done a complete and thorough job of excavating the site. But, we cannot do this on all sites. We do require as a result of a survey and selective excavations a cross section of materials in that particular area. That is to give us enough information about the cultural history of that region, yes, sir.

Mr. KAZEN. Would the gentleman yield?

Mr. STEPHENS. Yes, I will yield to Mr. Kazen.

Mr. KAZEN. I hate to come back to this question of ownership of funds, but in your statement you deal with the Indian lands.

Mr. HULETT. Yes, sir.

Mr. KAZEN. Lands that have been acquired from Indians for projects. In that case you will have the determination of ownership.

Mr. HULETT. Yes, sir.

Mr. KAZEN. What happens on private lands since this bill expands the authority to all types of projects? Suppose you're building a dam out in my area for which land was condemned, what is the situation there as far as ownership?

Mr. HULETT. The land in question would then be owned by the Federal Government and the archeological resources that would be present would belong to the Federal Government.

Mr. KAZEN. And the State would become owner entirely?

Mr. HULETT. Not necessarily. If the State agency were to do the salvage work, if we contracted with the proper Texas authority and they went in and did the salvage work, they could retain and display whatever was developed from that salvage program and it would not be taken away from them.

Mr. SKUBITZ. Will the gentleman yield?

Mr. KAZEN. Yes.

Mr. SKUBITZ. The title, however, would be that of the Federal Government?

Mr. HULETT. Yes. However, the loan would be on a long-term basis.

Mr. SKUBITZ. The people of the United States in fact own what they have paid to have salvaged.

Mr. TAYLOR. Would the gentleman yield?

Mr. SKUBITZ. Yes.

Mr. TAYLOR. You have never used the value of the salvage as a method of reducing the cost of the excavation?

Mr. HULETT. No, sir.

Mr. TAYLOR. In other words, you would not contract to sell it to somebody?

Mr. HULETT. No, sir.

Mr. TAYLOR. Or even turn it over to a State, if the State would take it out, if that is the case?

Mr. HULETT. They might have it on a long-term loan basis. Title to these items would still rest with the people of the United States as a whole.

Dr. LISTER. The collections go to an institution, a museum, a State agency where they will be properly displayed and have proper security. If that institution were to go out of existence, those things would be brought into the Smithsonian.

Mr. KAZEN. This is the way it has worked in the past?

Mr. HULETT. Yes, sir.

Mr. KAZEN. And do you see any change under this legislation?

Dr. LISTER. It would be the same policy.

Mr. KAZEN. I might ask this, has there ever been a question raised on this particular point between you and State agencies?

Dr. LISTER. No, sir; this is done in the first negotiations. In fact, we give a permit to the institution to conduct this work. It stipulates where the data will be deposited and who will be preparing the reports and results and this is the initial stage of the negotiations.

Mr. KAZEN. That is negotiations that have been satisfied?

Mr. TAYLOR. Would the gentleman yield?

Do you have any information in which the value of the salvage became an issue in a condemnation proceeding?

Mr. HULETT. The National Park Service has had no land acquisition experience where archeological remains were considered as an element of value. At Florissant Fossil Beds National Monument there was one case relating to a deposit of fossil leaves, insects, and petrified redwood stumps. The landowner claimed a value increment due to these deposits; however, a stipulated settlement precluded a court ruling on this issue.

Mr. TAYLOR. The gentleman from Pennsylvania.

Mr. SAYLOR. Mr. Hulett, I am delighted to see you here.

My mind goes back to the days when we authorized a project in the Department of the Interior over my objection, that was known as the Colorado River Storage Act, over which they would flood out certain of the irreparable or irreplaceable—areas and so forth of the Indians, of the tribes that lived in that area of the Colorado River. Of course, at that time, I can remember some people in the Government that laughed at me because I thought they were valuable. For some reason, 1 year or 2 years later, it seems another country decided to build a dam in Egypt, later known as the Aswan Dam and lo and behold, not only the people of the United States were concerned but people all over the world became concerned that the Aswan Dam would flood out certain of the features that had been carved in the rock over in Egypt. For the first time we finally got some people down in the Interior Department to wake up as to what we were doing and what we were flooding out, and to realize that what the Corps of Engineers was flooding out might have some value for the history of this country; that is how we got the act back in 1960.

Mr. HULETT. Yes, sir.

Mr. SAYLOR. We have lost a lot in the Colorado River because of the two big reservoirs that we built there on the mainstream. Now, my next question has to do with whether or not you had any good cooperation with the various agencies of Government?

Mr. HULETT. Under the Reservoir Salvage Act?

Mr. SAYLOR. Under the Reservoir Salvage Act.

Mr. HULETT. Our experience, and I would like to ask Dr. Lister who has developed our program, but our experience, as far as we know, has been good, particularly with the Corps of Engineers and the Bureau of Reclamation on these projects.

Bob, would you like to explain further on that?

Dr. LISTER. Mr. Saylor, I was involved in the Colorado River program and the Aswan Dam program. I think in both cases we did a very adequate job of salvaging the remains in Egypt and also along the Colorado River. We have enjoyed over the years excellent cooperation with the Corps of Engineers on our reservoir salvage program. Now, we haven't always been able to work out changes in priorities where they push a particular project up. This gives us a problem, but by and large, we have negotiated our archeological salvage work with the corps on very excellent terms.

Mr. SAYLOR. Most of the reservoirs that are built begin, of course, with the breasting in the area immediately adjacent to it, the area

is exploited, is always upstream from it, and is usually not disturbed or even cleared until your breast is in the final stages of completion.

Mr. HULETT. This gives us sufficient leadtime to do the archeology.

Mr. SAYLOR. One of the things that my discussions with some people in the Corps of Engineers indicated is that since many of our reservoirs are being built in flood plains, that it is not just important to go in and examine the surface but you have got to go back and make a study of the floods that have occurred in that area and go down through the deposits of myriads of floods until you find what you want, and I gather from reading certain of your reports, certainly in some places you have gone down two and three different civilizations that lived in the same area.

Mr. HULETT. Correct, sir.

Mr. SAYLOR. And none of this is discernible until after you get an archeological team to go in and actually do the work?

Mr. HULETT. Correct; and sometimes only after the construction has dug trenches and exposed cuts deep into the ground.

Mr. SAYLOR. And as they—as they make cuts into it, they get down to bedrock for your reservoirs, you will be able to determine there the number of floods that might have occurred in that flood plain, is that correct?

Mr. HULETT. Yes, sir.

Mr. SAYLOR. And your people have been able to get in and work with the contractors to determine how long it might take you to get in and do that work?

Mr. HULETT. Yes, sir, correct.

Mr. SAYLOR. And I am happy to see one has developed from our early beginnings a few years ago in 1960. I certainly hope that this bill can pass and we continue with what you're doing.

Mr. HULETT. Thank you.

Mr. TAYLOR. One quick question. Someone may contend that the Environmental Protection Act offers sufficient protection to these valuables, what would your response be?

Mr. HULETT. We did not feel that it is necessarily true, Mr. Chairman, simply because the need goes beyond an impact statement. We do not feel there is sufficient protection in that act with regard to other areas. It still does not provide the constructing agency with the funding to do the salvage work. Certainly, they can identify it, but there is nothing in there to salvage it. That is what we are trying to do, we're trying to salvage it.

Mr. TAYLOR. Thank you very much for your testimony.

Mr. HULETT. Thank you.

Mr. TAYLOR. William B. Davey, Deputy Administrator for Water Resources, Soil Conservation Service, U.S. Department of Agriculture.

STATEMENT OF WILLIAM B. DAVEY, DEPUTY ADMINISTRATOR, SOIL CONSERVATION SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Mr. DAVEY. Thank you very much, Mr. Chairman. I am accompanied by Mr. Gordon Sanford on my right, of the Forest Service.

We appreciate the opportunity to appear before you to present the views of the Department of Agriculture on H.R. 296 and other sim-

ilar bills relating to the preservation of historical and archeological data.

Mr. TAYLOR. A copy of your entire statement will be placed in the record, and you may read it all or portions of it or just comment. [The statement follows:]

STATEMENT OF WILLIAM B. DAVEY, DEPUTY ADMINISTRATOR FOR WATER RESOURCES,
SOIL CONSERVATION SERVICE, DEPARTMENT OF AGRICULTURE

Mr. Chairman and Members of the Subcommittee: Thank you, Mr. Chairman and members of the subcommittee. We appreciate the opportunity to appear before this subcommittee to present the views of the Department of Agriculture on H.R. 296 and other similar bills relating to the preservation of historical and archeological data.

H.R. 296 would amend the act of June 27, 1960, which provides that the Secretary of the Interior will survey and arrange for the preservation of historical and archeological data which might otherwise be irreparably lost or destroyed as a result of the construction of Federal dams or federally-licensed dams. H.R. 296 would broaden the existing act in the following ways:

In addition to the presently covered dams, arrangements for the preservation of scientific, prehistorical, historical, and archeological data would be extended by Section 1 to any alteration of the terrain caused as a result of any Federal, federally assisted, or federally-licensed activity or program. Section 3(d) makes provisions of the bill retroactive insofar as practicable, in connection with any dam, project, activity, or program previously authorized.

Presently, historical and archeological data are covered. Section 1 of this bill would add scientific and prehistorical data.

Presently, only such data "which might otherwise be irreparably lost or damaged" are covered. Section 3(a) of this bill changes the coverage to data which might be adversely affected.

Section 3(b) of the bill would authorize not to exceed one per centum of the total amount appropriated in connection with such activity or program to be transferred to the Secretary of the Interior to survey, investigate, and preserve such data, and would authorize a larger amount as mutually agreed upon by the Secretary of the Interior and the responsible Federal agency for smaller projects which cause extensive damage to such data.

Section 3(a) of the bill would authorize the operating Federal agency to make the surveys and investigations relating to the archeological and other data and to take recovery and preservation action on other than major dam construction projects.

We agree that in those cases where agencies have or can obtain the capability of evaluating archeological and related data as stipulated in section 3(a), they should have the opportunity to do so directly. This will enable these agencies to better plan and control the timing and progress of programs and projects affecting such data and at the same time fulfill their responsibilities as to the quality of the environment.

The Forest Service presently has the capability to perform archeological investigations on the national forests and to take action to preserve archeological data. In other situations, the Department now works with the Department of the Interior, local historical and archeological associations, and universities in evaluating the impact of projects and programs on historical and archeological data.

The Department of Agriculture supports the objective of recovering and preserving scientific, prehistorical, historical, and archeological data. However, in view of the broad language of H.R. 296 we are concerned about the impact it would have on certain of the Department's servicing of individual landowners and land users.

While supporting the objectives of H.R. 296, we feel that the bill should be clarified with respect to: The area of applicability, the "responsible agency," the 1-percent transfer proviso, and the time frame for investigating, surveying, and determining the existence of, and recovering scientific prehistorical, historical, and archeological data.

1. Area of applicability

The bill applies as stated in section 1(2) to "any alteration of the terrain caused as a result of any Federal, federally assisted, or federally licensed ac-

tivity or program." Conceivably, this provision would apply to every activity of the Federal Government that directly or indirectly results in any action that alters the terrain. To administer such provisions of law would be difficult indeed. A farmer repairing or improving a building under a Farmers Home Administration or a Federal Housing Administration loan could be subject to the bill. The construction of a nature trail on a Boy Scout camp under a conservation plan developed by the Soil Conservation Service could be subject to these provisions. A farmer excavating a manure pit, using plans developed by the Extension Service, could be subject to the bill.

If the provisions of this bill were applied literally to all federally-assisted endeavors that directly or indirectly modify the terrain, it would be applicable to the operations of over 3 million farmers, ranchers, rural residents, and even suburban and urban residents who are receiving cost-sharing, technical, credit, and educational assistance from the Department. In many cases the bill would be applicable to the activities of a single individual several times during a 12-month period. The administrative requirements of the responsible federal agency and the amount of archeological surveillance required would be substantial.

2. *Responsible agency:* Much of the work that farmers and ranchers do is influenced by a variety of Federal programs and agencies. For any given operation, how is the "responsible agency" determined—and who is to make the determination? The following example may illustrate the difficulty in determining the "responsible agency". A local agency (State or county) orders a farmer to reorganize his operations so animal wastes will not wash from his property into a nearby stream. This requires immediate action for pollution control. He seeks help from a number of USDA agencies. The Extension Service may provide information on the layout of a complete waste management system for recycling animal manures back onto the land. The Soil Conservation Service may provide him with layout and designs for a storage pond, diversion ditches, and a pump back pipeline for spraying liquid wastes back onto the land. The Farmers Home Administration may make him a loan to complete his financing. The Agricultural Research Service may agree to monitor operation of the system to evaluate its effectiveness in preventing pollutants from getting into the stream. A permit for the storage pond may be required from the Environmental Protection Agency. Since each of the agencies mentioned above is financed wholly or in part with Federal funds, the assistance they provide could be considered a Federal assistance. In view of the many thousands of recipients involved in multi-agency program assistance administered by this Department, the question of "responsible agency" becomes very pertinent.

3. *Fund transfer provisions:* Section 3(b) of the bill provides in part " * * * The responsible agency is hereby authorized to transfer to the Secretary such funds as may be necessary, in an amount not to exceed one per centum of the total amount appropriated in connection with such project activity or program, to enable the Secretary to conduct such survey or other investigation and to recover and preserve such data. * * * " It is not clear to us as to what the "one per centum" applies to and what constitutes an "activity."

The transfer of 1 per centum of the Federal cost of a structure in a watershed or RC&D project would usually be in amounts large enough to justify the administrative action and may be sufficient to defray reasonable costs of Archeological survey, recovery, and preservation. However, the administrative costs of transferring 1 per centum of the assistance to individual land users for practices such as terracing, farm drainage, cover cropping, crop rotations, and windbreaks would, in many cases, exceed the amount of funds transferred. The accounting required for servicing hundreds of thousands of small jobs could make operations under this bill expensive and cumbersome indeed.

4. *Time frame for action.* Section 3(b) would authorize the Secretary of the Interior to take action to investigate, determine the existence of, and recover and preserve scientific, prehistorical, historical, and archeological data if he determines such action to be in the public interest. Section 3(c) would require the Secretary to keep the responsible agency notified of progress. We have no question with these requirements other than the problem of identifying the "responsible agency." However, we are concerned that the bill does not establish a reasonable time frame for completing actions by the Secretary of the Interior. We feel that equity and fairness to individual land users that might be subject to the bill indicate a need for the bill to establish reasonable time limits on delays to their activities. Other programs administered by the Department of Agriculture which would be subject to the bill involve a goodly number of construction contracts. We are concerned that undue delay by the Secretary of the Interior would

result in successful claims by such construction contractors because of delays and ultimately be reflected in increases in contract bid prices and construction costs. If a reasonable time frame for completion of action were established by the bill, the contracts could be drafted to offset somewhat the likelihood of increasing bid prices.

SUMMARY

We have expressed some of our areas of concern regarding the impact of the bill on the Department's programs.

The Committee may wish to consider some modifications to alleviate these concerns, such as:

- (a) Excluding those activities where only technical and educational assistance is provided.
- (b) Excluding small jobs.
- (c) Excluding normal arming practices that disturb the terrain such as plowing, discing, harrowing, drilling, listing, and cultivating.
- (d) With respect to "responsible agency" defining this as the agency which provides construction funds.
- (e) With respect to the fund transfer provision, providing for funding the Secretary of the Interior to carry out the purpose stated in the Act.
- (f) With respect to the time frame, a time for completion of action by the Secretary of the Interior.

Mr. Chairman, Mr. Gordon Sanford, Forester, U.S. Forest Service, has accompanied me. We would be pleased to respond to any questions which you or members of the Subcommittee may have.

Mr. DAVEY. Let me skip to the bottom of page 2 then.

The Department of Agriculture supports the objective of recovering and preserving scientific, prehistorical, historical, and archeological data. However, in view of the broad language of H.R. 296, we are concerned about the impact it would have on certain of the Department's servicing of individual landowners and land users.

While supporting the objectives of H.R. 296, we feel that the bill should be clarified with respect to:

The area of applicability;

The "responsible agency;"

The 1-percent transfer proviso; and

The time frame for investigating, surveying, and determining the existence of, and recovering scientific prehistorical, historical, and archeological data.

1. *Area of applicability.*—The bill applies as stated in section 1(2) to "any alteration of the terrain caused as a result of any Federal, federally assisted, or federally licensed activity or program." Conceivably, this provision would apply to every activity of the Federal Government that directly or indirectly results in any action that alters the terrain. To administer such provisions of law would be difficult indeed. A farmer repairing or improving a building under a Farmers Home Administration or a Federal Housing Administration loan could be subject to the bill. The construction of a nature trail on a Boy Scout camp under a conservation plan developed by the Soil Conservation Service could be subject to these provisions. A farmer excavating a manure pit, using plans developed by the Extension Service, could be subject to the bill.

If the provisions of this bill were applied literally to all federally assisted endeavors that directly or indirectly modify the terrain, it would be applicable to the operations of over 3 million farmers, ranchers, rural residents, and even suburban and urban residents who are receiving cost-sharing, technical, credit, and educational assistance from the Department. In many cases the bill would be applicable to

the activities of a single individual several times during a 12-month period. The administrative requirements of the responsible Federal agency and the amount of archeological surveillance required would be substantial.

2. *Responsible agency.*—Much of the work that farmers and ranchers do is influenced by a variety of Federal programs and agencies. For any given operation, how is the responsible agency determined—and who is to make the determination? The following example may illustrate the difficulty in determining the responsible agency. A local agency—State or county—orders a farmer to reorganize his operations so animal wastes will not wash from his property into a nearby stream. This requires immediate action for pollution control. He seeks help from a number of USDA agencies. The Extension Service may provide information on the layout of a complete waste management system for recycling animal manures back onto the land. The Soil Conservation Service may provide him with layout and designs for a storage pond, diversion ditches, and a pump back pipeline for spraying liquid wastes back onto the land. The Farmers Home Administration may make him a loan to complete his financing. The Agricultural Research Service may agree to monitor operation of the system to evaluate its effectiveness in preventing pollutants from getting into the stream. A permit for the storage pond may be required from the Environmental Protection Agency.

Since each of the agencies mentioned above is financed wholly or in part with Federal funds, the assistance they provide could be considered a Federal assistance. In view of the many thousands of recipients involved in multiagency program assistance administered by this Department, the question of responsible agency, becomes very pertinent.

3. *Fund transfer provision.*—Section 3(b) of the bill provides in part “* * * The responsible agency is hereby authorized to transfer to the Secretary such funds as may be necessary, in an amount not to exceed 1 per centum of the total amount appropriated in connection with such project activity or program, to enable the Secretary to conduct such survey or other investigation and to recover and preserve such data. * * *” It is not clear to us as to what the “1 per centum” applies to and what constitutes an “activity.”

The transfer of 1 per centum of the Federal cost of a structure in a watershed or R.C. & D. project would usually be in amounts large enough to justify the administrative action and may be sufficient to defray reasonable costs of archeological survey, recovery, and preservation. However, the administrative costs of transferring 1 per centum of the assistance to individual land users for practices such as terracing, farm drainage, cover cropping, crop rotations, and windbreaks would, in many cases, exceed the amount of funds transferred. The accounting required for servicing hundreds of thousands of small jobs could make operations under this bill expensive and cumbersome indeed.

4. *Time frame for action.*—Section 3(b) would authorize the Secretary of the Interior to take action to investigate, determine the existence of, and recover and preserve scientific, prehistorical, historical, and archeological data if he determines such action to be in the public interest. Section 3(c) would require the Secretary to keep the responsible agency notified of progress. We have no question with

these requirements other than the problem of identifying the responsible agency. However, we are concerned that the bill does not establish a reasonable time frame for completing actions by the Secretary of the Interior. We feel that equity and fairness to individual land users that might be subject to the bill indicate a need for the bill to establish reasonable time limits on delays to their activities. Other programs administered by the Department of Agriculture which would be subject to the bill involve a goodly number of construction contracts.

Mr. Chairman, we have expressed areas of concern in the impact on the Department's programs and the committee may want to consider some modifications to alleviate these concerns. The first would be excluding those activities where only technical and educational assistance is provided. This is a Federal program that causes alterations of the terrain. We would point out that perhaps this should be excluded.

Second, we wonder if small jobs should be excluded. There should be some limit on the size of small jobs in the proposed legislation otherwise we could be getting into great numbers of activities.

Third, we wonder if normal farming practices that disturb the terrain such as plowing, discing, harrowing, drilling, listing, and cultivating should not be excluded. If the Extension Service advises on how to farm, that is Federal assistance; therefore, plowing, discing, harrowing, drilling, listing, and cultivating could be construed as alterations of the terrain.

With respect to responsible agency, consider defining this as the agency which provides construction funds. With respect to the fund transfer provision, consider providing for funding the Secretary of the Interior to carry out the purpose stated in the act.

Last, we wonder if a time for completion of action by the Secretary should not be brought into the bill also.

Mr. Chairman, that completes my statement and Mr. Sanford and I would be pleased to respond to any questions which the committee may have.

Mr. TAYLOR. Well, we thank you for your statement.

You have raised some points that need to be considered. Now, the bill, as I interpret it, is applicable to all Federal construction programs and all programs licensed or otherwise assisted by the Federal Government.

Mr. DAVEY. Well, we do not view the bill as being limited to construction programs. Section 1 amends it to "any alteration of the terrain caused as a result of any Federal, federally assisted, or federally licensed activity or program." That is a quote from the bill and the bill I have does not say construction programs.

Mr. TAYLOR. All right. You would exclude normal farm practices which would disturb the terrain, I had not thought of those as being covered.

Mr. DAVEY. Well, any alteration of the terrain is not defined, neither is there defined Federal, federally assisted, or federally licensed activity or program.

Mr. SKUBITZ. Would the gentleman yield?

Mr. TAYLOR. Yes.

Mr. SKUBITZ. In the enactment of any law, we always assume the law would be reasonably enforced. Do you think it would be reason-

able for the Interior Department to stop every farmer that is plowing his field, or building a pond?

Mr. DAVEY. No, I do not. I think that it would not be a reasonable approach. Our concern here merely was with the language and we were suggesting perhaps it could be clarified so there would be no doubt.

Mr. TAYLOR. I hope Counsel is listening to this. We may need to direct some questions to you.

Mr. SKUBITZ. May I suggest that the Department itself, its Counsel try to prepare legislation to meet all of the issue discussed. It seems to me that any effort by any department of government to interpret the law in such a way that it could apply to a farmer tilling the soil or building a pond, would be unreasonable. It would bring the wrath of the people down upon us.

Mr. DAVEY. Our concern was reinforced by some guidelines that were prepared by the Arizona Archeological Center, National Park Service, on June 12, 1972, and were sent to a number of our State offices saying here are the ground rules for implementing the National Environmental Policy Act insofar as the National Park Service was concerned. In the document, they cited, of course, the National Environmental Policy Act, and this specific act that we're dealing with here today, as part of national policy. In their definitions they included plowing as an earth disturbing activity. They included as a major Federal action any Federal action resulting in a disturbance or change in the natural surface of the land or that results in alteration of the soil composition. In another section they included the phrase "prior to the start of any earth-disturbing action whatsoever." Now, we understand that these were not authorized guidelines that were released and they since have been withdrawn, but those kind of guidelines reinforced our conviction that perhaps the language in the bill should be clarified.

Mr. SKUBITZ. Mr. Chairman, in my judgment I would say that such broad guidelines are stupid; its author should be fired.

Mr. KAZEN. But they do unfortunately.

Mr. SAYLOR. Will the gentleman yield?

Mr. SKUBITZ. I am pleased to yield.

Mr. SAYLOR. All I can tell you is here is a Forest Service out of the Agriculture Department. They have drawn up asinine rules and regulations with regard to the wilderness. I want to tell you, if you ever have seen what this outfit from the forest service has done with regard to the wilderness, you would stand up and pull your hair out. I thought I knew what I was writing when I wrote the wilderness act. When I see what the forest service said I meant, I don't belong in this outfit of trying to draft legislation because their rules and regulations are no more in line with what was intended by the Congress when they passed it than they can fly. They come to conclusions that clarify what I maintain here all along, about every 10 years, regardless of who is the President, we ought to walk down every executive branch and fire everybody except those who do the typing. Fire even the file clerk and start a whole new system. Give them about 10 years to catch up, burn about everything else involved down there because God knows what they have done in accordance with what we intended.

Go ahead, Mr. Chairman.

Mr. TAYLOR. Now, the legislation would apply to projects assisted by Federal agencies. I perceive how this would cover ordinary plowing by a farmer in his field.

Mr. SAYLOR. We finance his tractor or we bought the gasoline, we bought the gasoline for the pipeline that came across the Federal lands. Let's reduce this to complete asininity.

Mr. TAYLOR. Well, is the legislation applicable to services of the Soil Conservation Service to a farmer? You aid him in spading out and building a pond, is the legislation applicable to that? I couldn't say that it might not be. It is privately owned land. It is a different situation from all of this digging on the Government land.

Mr. KAZEN. They are assisted by a Federal agency as far as education and direction is concerned and the people out in the rural areas expect all these extension services for a lot of these things, as I understand it.

Mr. DAVEY. That was our point, it could be so construed. Admittedly, it is stretching the spirit and intent of it.

Mr. TAYLOR. That is right.

Mr. DAVEY. What we are raising here perhaps are questions that need clarification in the bill. Maybe a definition section.

Mr. SAYLOR. Mr. Chairman, if you yield to me?

Mr. TAYLOR. I yield to the gentleman from Pennsylvania.

Mr. SAYLOR. They do not do a very good job on their own land. I do not know why they worry so much about private land and I will give you a shining example.

During the Fourth of July recess, I took my good wife and we took a trip down the middle of the Salmon River and I do not know if anybody knows anything about Indian culture, but those who know anything about Indian culture know that the Indian tribes in this area lived in those great canyons that go down through there and there are long areas where there are nothing but sheer cliffs. You come to a gravel bar, maybe a mile or so down the river. You will come to a nice sand bar, and nature in its way has deposited a little sand along the side. You don't have to be an archeologist to walk along there, that is, if you know anything about Indian culture, you find certain places where the Indians built their tepee. There is a circle that is still there in the ground, very evident where it was and right in the center of one of them, the forest service has built a privy. They sure took care of the Indian artifacts right there. I mean that is on their land. I do not know what they were doing on any private land. I have no objection to them building it, I commend them for having the foresight to put one there.

Mr. KAZEN. I think the gentleman needed one about then.

Mr. SAYLOR. I used it. All I can tell you is that underneath they had no more foresight or anybody in that area that knew what Indian culture was, to build one there and I understand—I am certain the Forest people have gone down there—and their interpretation of the Wilderness Act is that they are going to take them all out. I do not know what you are going to do when you take a 5-day trip down the middle fork of the Salmon. I am a little lost to understand their philosophy. They're regulating the number of people that get on in fine fashion. But there are certain things that you have just got to do,

the same as far as their trails through certain parts of the forest are concerned. Now, they come along and you cannot put a horse in there, he does more damage than a man. There is no doubt that a horse would do more damages than a man; he has shoes on, you cannot expect to stop the horses from going up—everybody cannot put the pack on their back and carry it. Also, as my friend from Kansas said, you have to use a little common sense. We might accomplish a few things as Congress intended them without trying to pick the pepper apart.

Mr. TAYLOR. Will the gentleman yield?

I have seen other illustrations in which the governmental agencies drew guidelines which went far, far beyond the intent of Congress. Some have well intended legislation to create unnecessary burdens and troubles. I would suggest, Mr. Davey, that you draft some prepared amendments in line with your thinking as safeguards on any efforts that to apply this legislation to privately owned property and submit them to our counsel.

Mr. DAVEY. Yes, sir.

[The information supplied follows:]

SUGGESTED CHANGES TO H.R. 296, A BILL TO AMEND THE ACT OF JUNE 27, 1960 (74 STAT. 220) RELATING TO THE PRESERVATION OF HISTORICAL AND ARCHEOLOGICAL DATA

We suggest that the bill be amended as follows:

(a) In Section 3(b) of the Bill, page 4, line 8, insert after the word "for" the following language, "funding or licensing" so that line 8 reads "for funding or licensing such project activity or program, conduct or cause to be".

(b) In Section 3(b) of the Bill, page 4, line 16, strike the words "responsible" line 16 reads "the head of the agency responsible for funding or licensing in all other cases."

(c) In Section 3(b) of the Bill, page 4, line 17, strike the words "responsible agency" and substitute the words "agency responsible for funding or licensing" so that line 17 reads "agency responsible for funding or licensing upon request of the Secretary is hereby".

(d) In Section 3(c) of the Bill, page 5, line 7, strike the words "responsible agency" and substitute the words "agency responsible for funding or licensing" so that line 7 reads "The Secretary shall keep the agency responsible for funding or licensing".

Amend by adding.

"Sec. 6. When used in this Act:

(1) the term "alteration of the terrain" shall not include normal farming practices such as plowing, discing, harrowing, drilling, listing and cultivating. Amend by adding.

"Sec. 7. This Act shall not apply to any program, project or activity which—

(1) involves a Federal financial construction contribution of twenty-five thousand dollars (\$25,000) or less, unless the Secretary makes a specific written finding, forwarded to the agency responsible for funding or licensing, that scientific, prehistorical, historical, or archeological data is of unique significance and would be adversely affected by the program, project or activity;

(2) involves only Federal technical or educational assistance.

Mr. TAYLOR. For projects of the Soil Conservation Service on privately owned property. I do not think any intent is to cover that, but we might want to spell it out.

Mr. DAVEY. Yes, sir, we would be pleased to work with the subcommittee on this bill.

Mr. TAYLOR. Any other questions of this witness?

Thank you very much, Mr. Davey.

Our next witness is Brigadier James L. Kelly, Deputy Director of Civil Works, Office of the Chief of Engineers, U.S. Department of Defense.

STATEMENT OF BRIG. GEN. JAMES L. KELLY, DEPUTY DIRECTOR OF CIVIL WORKS, OFFICE OF THE CHIEF OF ENGINEERS, DEPARTMENT OF THE ARMY, U.S. DEPARTMENT OF DEFENSE

General KELLY. Mr. Chairman and members of the committee, I am Brig. Gen. James L. Kelly, Deputy Director of Civil Works, Office of the Chief of Engineers, Department of the Army. It is a pleasure to appear before the committee to discuss H.R. 296, 538, and 1880 and identical bills, which would amend the act of June 27, 1960, relating to the preservation of historical and archeological data.

The current act requires every Federal agency which undertakes or issues a license for the construction of a dam, to first give notice to the Secretary of the Interior setting forth the site of the proposed dam and the approximate area to be flooded. It further provides for the salvage of historical or archeological remains that could be irreparably lost or destroyed by these dams. The Secretary of the Interior is directed to investigate and survey the area to be flooded and to ascertain whether it contains historical or archeological data which should be preserved. If the Secretary determines that the site does contain such data, he is authorized to recover and preserve this data.

The bills would amend the present act in two respects: First, they would extend the coverage of its provisions, and second they would authorize the agency involved to expend its own funds to recover or preserve archeological data or to transfer these funds to the Secretary of the Interior for this purpose. However, the provisions of these bills differ in several significant ways.

First, H.R. 538 would amend the act to expand its scope to include other Federal, federally assisted, or federally licensed programs or activities as well as dam and reservoir construction. It would then authorize the agency involved to use or transfer to the Secretary of the Interior funds up to but not exceeding, 1 percent of the total appropriation for the agency's activity or program. H.R. 296 and 1880, though similar, would include the term "project" within the phrase "Federal, federally assisted, or federally licensed activity or program." Without this addition, section 3 of these bills could be interpreted as authorizing the expenditure of 1 percent of the total funds appropriated for our entire civil works program rather than 1 percent of the funds appropriated for an individual project. Therefore, the Department of Army prefers the provisions of H.R. 296 and 1880, which would preclude this broader interpretation.

A second significant difference is the distinction which H.R. 296 and 1880 make between large and small projects. For small projects, these bills would allow an amount greater than 1 percent of total project appropriations to be spent for the investigation and the recovery of any archeological data threatened with extensive damage. The amount, however, must be mutually agreed upon by the project agency and the Secretary of the Interior as being necessary to effect adequate protection and recovery. The Department of the Army believes that

the approach taken by H.R. 296 and 1880 is superior to that of H.R. 538, in that they could provide more adequate protection for archeological data which might not otherwise be recovered because of inadequate funds.

Finally, these bills differ in their treatment of the costs of investigating, recovering, and protecting archeological data at our project sites. H.R. 296 would provide that these costs be nonreimbursable. On the other hand, H.R. 1880 would allocate such costs among the several project purposes, so that if any of these purposes are reimbursable, some of their costs would transfer to local sponsors. H.R. 538 does not treat this issue. With regard to these differences, we note that the cost of survey, recovery, analysis, and publication should be considered project costs and allocated to the several project purposes. Accordingly, we recommend that H.R. 296 be amended to incorporate this feature of H.R. 1880, in lieu of its provision to make such costs nonreimbursable.

Under section 10 of the act of March 8, 1899, and section 404 of the Federal Water Pollution Control Act, any dredging, filling, or erection of structures in the navigable waters of the United States is prohibited unless authorized by the Secretary of the Army. We recognize the application of these bills to our permitting authority; however, we feel that the permittee, and not the Department of the Army, should properly bear the cost of being allowed to perform work in the navigable waters of the United States. Accordingly, we would impose such a requirement as a condition to the granting of a permit.

In accordance with these comments, the Department of the Army recommends the enactment of H.R. 296. We suggest, however, a technical amendment to H.R. 296, by adding the word "project" to the phrase "Federal, federally assisted, or federally licensed activity or program," found at the bottom of section 1 of the bill. This change would provide internal consistency between section 1 and 3, and thereby assure the uniform interpretation of its provisions.

Mr. Chairman, that concludes my statement. I will be pleased to answer any questions that you may have.

Mr. TAYLOR. All right, if we mark up H.R. 296, do you recommend any specific amendments?

General KELLY. Yes, sir, it would be the inclusion first of a rather small point in section 1 by simply adding the word "project" which would make it track with section 3, and the second more significant part would be the inclusion of the language in the bill H.R. 1880 on reallocation of the costs as opposed to treating them as nonreimbursable costs.

Mr. TAYLOR. Any other questions?

Well, thank you, Mr. Kelly.

General KELLY. Thank you, Mr. Chairman.

Mr. TAYLOR. Dr. Raymond H. Thompson, National Committee for the Recovery of Archaeological Remains.

STATEMENT OF DR. RAYMOND H. THOMPSON, NATIONAL COMMITTEE FOR THE RECOVERY OF ARCHEOLOGICAL REMAINS

Dr. THOMPSON. Mr. Chairman, with your permission, I would ask that my comments be made a part of the record.

Mr. TAYLOR. Without objection, it is so ordered.

[The full statement of Dr. Thompson follows:]

STATEMENT OF DR. RAYMOND H. THOMPSON, DIRECTOR OF THE ARIZONA STATE MUSEUM, PROFESSOR OF ANTHROPOLOGY AND HEAD OF THE DEPARTMENT, UNIVERSITY OF ARIZONA; CHAIRMAN OF THE ARIZONA HISTORICAL ADVISORY COMMISSION, AND A MEMBER OF THE NATIONAL COMMITTEE FOR THE RECOVERY OF ARCHAEOLOGICAL REMAINS (CRAR)

Mr. Chairman, it is my privilege to urge the passage of HR 296, on behalf of the several thousand archaeologists in this country who, for more than a quarter of a century, have looked to the Committee for Recovery of Archaeological Remains for leadership in setting policy and establishing procedures for protecting and salvaging the nation's prehistoric heritage. The CRAR, a national committee supported by the American Council of Learned Societies, the American Anthropological Association, the Society of American Archaeology, and the Society for Historic Archaeology, considers the passage of HR 296 to be of utmost importance to the preservation, recovery, interpretation, and management of the archaeological resources of the United States.

The CRAR, with its responsibility for archaeological policy at the national level, believes that the passage of HR 296 would be an important contribution to the development of a system of nation-wide planning with respect to archaeology, as well as a means of providing funding for archaeological salvage. The 1960 legislation which this bill amends provides only partial protection for a small fraction of the non-renewable archaeological and historic resources of our country. The enormously increased pace of economic and technological development that has characterized recent years, and the increased participation of many federal agencies in these developments, have led to considerable destruction of these non-renewable resources. Of immediate significance is the fact that these same developments now pose a major threat to the fraction of the non-renewable evidence of the past that remains.

With the passage of this amendment, all federal agencies will be authorized to spend project funds to do a more effective job of meeting their responsibilities under the Federal Antiquities Act of 1906, the National Historic Sites Act of 1935, the National Historic Preservation Act of 1966, the National Environmental Policy Act of 1969, and Executive Order 11593. The lack of consistent funding has led to temporary and inefficient efforts to protect and preserve the nation's past and has therefore prevented the development of long-range and coordinated planning. As a result of these half-way measures, the intent of Congress in passing this important cumulative series of legislation concerning the country's archaeological and historic resources has, in large measure, been thwarted. H.R. 296 provides the authorization and establishes the mechanisms that are necessary to carry out the congressional mandate first set forth in 1906 and reinforced several times during the intervening 67 years. This important amendment will help diminish the emergency and ad hoc character of much of the federally sponsored archaeological work currently being carried out. In addition, it will provide the Secretary of the Interior with the necessary information to formulate a more satisfactory national policy for the management of our threatened resources in archaeology and history.

The CRAR believes that the National Park Service has already accomplished a great deal toward this goal. The expertise and experience already exists within the Park Service for the development of a fully national approach to the salvage and conservation of the nation's dwindling archaeological evidence. It is essential that the increased federal support that HR 296 would make available be coordinated at the national level. The National Park Service should continue the program of interagency agreements whereby it carries out archaeological work for agencies that request such help. Both the resulting planning and the transfer of funds should be managed at the national rather than the regional level in order to promote the concepts of national leadership just outlined.

However, it is important that while the program should be managed and directed at the national level, it should be implemented and carried out at the local level. Only by drawing upon the resources of the universities, museums, and other research organizations throughout the country will it be possible to marshal the properly trained specialists with the knowledge of the local prehistoric culture and the experience in the research techniques and interpretative methods peculiar to the different regions of the country. These goals can be accomplished by continuing the successful cooperative program that the National Park Service has developed with State and regional organizations and institu-

tions. Experience has shown that this approach to salvage archaeology has resulted in major economies because of the significant contributions made by the cooperating institutions. Throughout the country, archaeologists in such institutions have been attempting in recent years to carry out some salvage activities in the face of increased federal construction programs, even though the 1960 Act provides funding for only certain kinds of salvage archaeology. Despite the level of responsibility which these activities demonstrate, state and local institutions do not have the resources to make more than a modest beginning in meeting the challenge. Only the passage of H.R. 296 can assure that there will be adequate support for the salvage and conservation of our archaeological heritage.

HR 296 is based upon two important philosophical premises: 1) that the agency causing the destruction of the evidence of the past should bear the major cost of salvage, and 2) that the community of professional archaeologists should be responsible for identifying and interpreting the remains to be salvaged or protected. In many regions of the country, the archaeological community is always deeply involved in activities of this kind and is fully prepared to meet the increased level of archaeological work that HR 296 would require. For example, in the State of Arizona, both the Arizona State Museum at the University of Arizona, which I represent, and the Museum of Northern Arizona, a privately funded research organization, have long participated in research programs. Both institutions have responded to the needs of the National Environmental Policy Act of 1969 by greatly expanding their programs. Both institutions are not only meeting the needs of federal construction agencies in Arizona, but are also training a significant number of young specialists who are now available for employment in programs in other parts of the country. Archaeologists recently trained in these Arizona programs are now employed in salvage activities in a dozen other states. I mention these local experiences in Arizona not only to indicate that the archaeological profession is capable of responding to the greatly increased work which HR 296 will require, but also in order to make the point that the archaeological profession already has the capacity to train and deploy the specialized manpower needed. At both Northern Arizona University and the University of Arizona courses in archaeological resource management are being enthusiastically received by students who are anxious to prepare themselves for careers in the recovery and conservation of the nation's past.

The passage of H.R. 296 will lead to 1) better planning at the national level for prudent use and reasonable preservation of archaeological and historic resources, and 2) continued cooperation between federal agencies and state and local institutions for implementation of the new and improved policy. In fact, the continued cooperation of federal and local agencies in accordance with nationally designed policies would be one more example of the great tradition of federal-state partnership that is so characteristic of the American system of democracy. Throughout the years, Congress has been a major force in perpetuating this system by consistently up-dating and refining the means for carrying out the partnership and by providing the necessary resources.

Almost 70 years ago, the Congress responded to the desire of the American people that the nation's archaeological and historic heritage be preserved for future generations by passing the Antiquities Act. Several times since, the Congress has passed other important pieces of legislation which have greatly increased the level of federal responsibility for conservation and salvage of that heritage. H.R. 296 provides the Congress with an opportunity to authorize and make available the federal resources needed both nationally and locally to fulfill these responsibilities.

Dr. THOMPSON. I would like to have an opportunity to expand on those comments.

I think that several of the witnesses this morning already and several of the questions from members of the committee focused upon a very important aspect of this bill; namely, the national policy, planning, and coordinating possibilities that would be made possible by the present legislation. We have had several observations already about the inability of the Nation to provide adequate policy development and planning for the preservation and management of the total resources of the people of the country with respect to the national patrimony. I think one of the major advances of the present legislation is

that it provides mechanisms whereby that division of our Government which has already developed the major expertise in this direction, the Secretary of the Interior, acting through the National Park Service, would be able to have an overview of these resources in the Nation and provide an opportunity for providing the guidance to those of us in the various States and regions in the country where the major work inevitably has to be done.

I think that I could speak very definitively to a number of the questions that have been imposed this morning from the point of view of the implementation of existing policy, imperfect though it is. In the States and regions to the extent that the Southwestern United States has long been an area recognized for its archeological resources and the State of Arizona being part of that region is an area where a great deal of salvage archeology has been carried out. Much of it, I might say, under the Department of Transportation programs and I think that all of us in the archeological profession want to congratulate the Federal Highway Administration and the various State highway departments for the work that has been accomplished. We hope that will continue under the present legislation.

In all of the work that has been done in the Southwest region and I think in many ways this is the area that has been most intensively affected by existing legislation. We have had an extremely good record of salvaging archeological remains in the area affected by the legislation and more importantly, a very good record of cooperation with State and Federal agencies such that we have not in any case come anywhere near interfering with the construction activities of a given agency or in no case have we caused the difficulties which would cause the construction contractor to feel that it would be necessary for them to hedge in their bids against possible delays by the archeological profession.

I think that two of the most important aspects of this legislation are that it attempted to place the responsibilities for the salvaging of the archeological and historical heritage of the Nation on the very agency which are causing the destruction. Secondly, it further emphasizes the necessity of leaning very heavily upon and drawing, in fact, upon resources of the archeological-professional in the State and regional portions of our country for carrying out what under this legislation would be a fully coordinated national policy for the archeological heritage. I think also with respect to the funding programs that would be inevitable in a situation like this, it is worth noting that the Government of Great Britain, through its Department of Environment recently proposed that 500 to 800 new archeologists be trained to handle this kind of problem in that nation and their budget be increased from \$300,000 to a half of a million pounds annually. That is worth also noting that the Soviet Union, the other largest nation of the world, has for most of this century, exercised an interest in salvaging its archeological heritage. Also, they expend enormous moneys and in fact put more money in the salvaging of archeological materials than any other nation in the world beginning back in the 1920's.

So I think we represent in constance with Congressman Saylor's comments about the activities that we have seen in the S-1 dam area, were representatives in our efforts to achieve this kind of legislation, not just a parochial view of the citizens of the United States, but, in

fact, an urge on the part of the citizens of the world to preserve these materials in all areas.

Thank you.

Mr. TAYLOR. Thank you very much.

The gentleman from Pennsylvania.

Mr. SAYLOR. Dr. Thompson, my understanding is that a well-trained archeologist, after studying an area and knowing something of the history of the peoples that lived in that area, can with a fair degree of accuracy almost pick out the places where you would find archeological deposits.

Dr. THOMPSON. Yes, particularly in those regions where we already have somebody of knowledge to lean upon. There are many portions of our country, however, where extensive archeological work has not been carried out and obviously, the degree of success on the part of the archeologist would be somewhat less in those areas. But, we do have on past experiences considerable experiences to predict locations of archeological sites. I think Dr. Lister pointed out this is what enables us to provide planning information to the respective construction agencies so that we can efficiently and adequately provide budgetary information in the early stages of the development of the project.

Mr. SAYLOR. Well, the reason I asked that question, is you were here in the room when you heard people from the Agriculture Department say they wanted to know whether or not this bill affected plowing, whether harrowing, discing, and anything else that might disturb the surface of the soil. Most of those things occur in areas even though they might be on private land, they do occur and everybody knows you are not going to find archeological deposits. If there might be an area where you knew that, then you might be able to go to the Forest Service and or to apply to the Agricultural Service and ask them to help you in your research.

Dr. THOMPSON. The comment I would make to that, Mr. Saylor, is that the question here applies in a different way according to the amount of land that is involved. For example, the reference to the guidelines of the Arizona Archeological Center, it has to do with not really the individual farmer plowing his 40 acres, but this has to do with an agricultural development company that takes over several sections of land in a river valley where we do know there has been extensive occupation by prehistoric people. With earth-moving machines, it moves the surface of the land in an enormous extent of acreage to provide a great deal of irrigation for example. I think we in the archeological profession look upon these two kinds of plowing activities as being very different enterprises. If Federal funds are to assist huge land-moving operations for ultimate agricultural purposes, that is the kind of plowing where we would expect to have a requirement that the archeological remains that would be disturbed should be in some way protected. On the other hand, there is no intent on the part of the archeological profession, nor I believe as we heard from the testimony of Mr. Hulett or on the part of the Secretary of the Interior to apply this kind of thing at the level of individual farmers who receives a few words of advice from an extension service. I think there is a difference between the kinds of land alteration activities in the agricultural realm.

Mr. SAYLOR. And the fears—the kind that you are worried about—are the kind that would be basically a one time operation before the plowing took place.

Dr. THOMPSON. Yes, sir.

Mr. SAYLOR. Before the plowing took place. In other words, a leveling of great areas of land so that the water can flow into irrigation ditches.

Dr. THOMPSON. Right.

Mr. SKUBITZ. Factually, what the Department of Agriculture appears to be talking about is an irrigation project rather than the plowing of soil?

Mr. THOMPSON. Yes, true, although I am trying to relate to the very specific reference that was made by the representative from the Department of Agriculture in the sense that the machinery that is used for developing lands for an irrigation project often is plowing machinery. So that if we're talking about plowing, discing, and so forth, and using it in its little sense, then we happen to include that activity. I would agree that we are talking about the development of all lands rather than the plowing of individual fields.

Mr. SKUBITZ. I have never seen a big bulldozer plowing a field.

Dr. THOMPSON. I am sure this would differ very much from region to region.

Mr. TAYLOR. What other circumstances would this legislation apply to privately owned land?

Dr. THOMPSON. Well, I think in a great many cases as Dr. Lister indicated, the kind of concerns we have in the archeological profession would deal with the private land that ultimately passes into Federal ownership.

However, I am sure there would be instances of substantial Federal assistance to programs which would deal with the alteration of the lands, that would remain in private hands. Perhaps large housing projects, for example, whereby there would be major Federal assistance to a project that would remain in private ownership.

Mr. TAYLOR. Suppose I get a loan from the Small Business Administration for a business or industry and I excavate the land for my buildings, does this apply to the excavation job?

Dr. THOMPSON. I should think that it might. Although, I think we in the archeological profession are prepared as other witnesses have indicated to see here a difference between small projects and large projects.

Mr. TAYLOR. Would it apply to the Soil Conservation Service programs generally?

Dr. THOMPSON. I think it should.

Mr. TAYLOR. Would it apply to small watershed projects?

Dr. THOMPSON. I think it should.

I think the archeological profession takes the position that we cannot predict in advance that all of these projects which may well result in considerable modification of the land are not going to take place in portions of the country where there are important archeological remains. We would like to have the opportunity to have some input into the planning of these projects. So we could either have salvage of the archeological remains involved or as is it possible in many kinds of

projects, relocation of the project to avoid the prehistorical and paleontologic remains.

Mr. TAYLOR. Let me go back to another illustration. I own a piece of land and I had a loan from the Small Business Administration. I am going to level the ground and construct a building. It appears that there are some archaeological values located in the area, what agency of the Government would then do the surveying and the removing?

Dr. THOMPSON. Well, I think this would have to be handled through the Secretary of the Interior because I understand the interpretation of the legislation by the Interior Department, loans and mortgage approval and things of this sort would not be covered by the proposed legislation.

Mr. TAYLOR. That is the question, are they covered by the proposed legislation?

Dr. THOMPSON. My interpretation, perhaps we should ask the representatives of the Interior Department. My interpretation of the Interior Department's present position is that this would not be covered.

Mr. TAYLOR. Should this legislation give more oversight authority to the Secretary of the Interior?

As I understand the legislation before us, it is different from existing law. If governmental agencies like the Corps of Engineers or the FAA locates archeological values on a project, they then can do the surveying and remove the remains without consulting with the Secretary of the Interior under this legislation; is that correct?

Dr. THOMPSON. I believe so.

Mr. TAYLOR. Well, now, should the Secretary be notified when values are discovered? Should he be consulted with in regard to the removal procedures?

Dr. THOMPSON. I think one of the advantages of the present legislation is that it will provide for a notification whereby the Secretary of the Interior would be aware of what is going on in other Federal agencies.

Mr. TAYLOR. You recommend that type of an amendment to the bill?

Dr. THOMPSON. I think the bill as it stands would provide for notification procedures and I think given the present level of cooperation between the various Federal agencies, this would be adequate for policy and planning development. I would certainly be happy to see a stronger arrangement for the development of a capacity at the national level for planning the use and management of our archaeological resources.

Mr. TAYLOR. I would like to ask counsel to give his interpretation of the bill from the standpoint of notification to the Secretary of Interior.

Mr. McELVAIN. Mr. Chairman, it is my understanding that the bill provides that the Secretary would be notified if the other Federal agency does not intend to conduct the survey and salvage work itself. Apparently, if they intend to do it, then they would provide the Secretary with appropriate information concerning such work.

Mr. TAYLOR. That is helpful. It was on that premise that I was asking you the question.

Dr. THOMPSON. Speaking from the point of view of the Committee for the Recovery of Archaeological Remains, which has been greatly

concerned in recent years about the need for the national planning of these resources, I think some provision would strengthen the requirement for the kind of clearinghouse action that Dr. Connally mentioned would be very appropriate. I think in terms of practical matters, however, should such legislation be enacted, there would be considerable pressure from the professional archeologists of the various regions of the country to see to it that a greater level of coordination were effected in the regions between the various Federal agencies and since much of this work is contracted to the archeological professions within the museums and the universities of this country, I think a great deal of clearinghouse and coordinating action would take place through their intervention.

Mr. TAYLOR. Any other questions of Dr. Thompson?

Well, thank you very much, sir.

Dr. THOMPSON. Thank you.

Mr. TAYLOR. I would like to ask the witnesses for the Interior Department to come back.

Dr. CONNALLY. Yes, sir; Mr. Chairman.

Mr. TAYLOR. Would this act apply to the soil conservation projects, generally, with respect to assistance on privately owned land?

Dr. CONNALLY. It is our general view, as Mr. Hulett explained, we would like to have legislation as broad as possible. Based on our previous experiences with the Reservoir Salvage Act of 1960, under which we negotiate with the agencies and there have not been any instances or delays.

However, at the same time as Stan Hulett pointed out, when he was here, that we do not envision the program generally as affecting small owners with small projects, with the exception of where there is something very important that is discovered. It seems to me the legislation provides for that rather well, Mr. Chairman, in the provisions of notice given by appropriate archeological authorities in States. Now, the university, State archeological surveys, and the rest would apply. In that case, then there would be consultation and negotiation between the Secretary of the Interior and the agency about the salvage of unusual remains that were anticipated and were not discovered. I think that exception is a good point, Mr. Chairman, and this would be the only way that we would see that operating.

Mr. TAYLOR. Now, the specific answer to the question, does the legislation apply to soil conservation projects generally, is your answer yes or no?

Dr. CONNALLY. It would be yes, Mr. Chairman.

Mr. TAYLOR. Do you favor making them applicable?

Dr. CONNALLY. Yes, sir; with the understanding in the legislative history of this act, that it is our view that the small projects normally do not qualify, that we're talking about larger, more significant operations that disturb the surface of the earth. We would like to have it broad so that this rare exception can be taken care of when the circumstances require.

Mr. TAYLOR. Let us go back to an example of a small business loan. Would it apply in his situation?

Dr. CONNALLY. It seems to me that would be the same thing, Mr. Chairman, that it would.

Mr. TAYLOR. All right. I am getting a—

Dr. CONNALLY. In the exceptional case, of course.

Mr. TAYLOR. I am getting a FHA insured mortgage on the house that I am going to build. I am grading my lot, does it apply?

Dr. CONNALLY. I would like, you know, as the French say, in theory yes, in principle no. I cannot imagine many lots in a large subdivision development where they are likely to be things that are not already known when the overall layout is determined. So if you talk about an individual lot, this would be an extremely rare circumstance. We would prefer to have the language broad. We would assure you the way we intend to operate the program, we would be willing to come back and report to you on its success.

Mr. TAYLOR. Really your intent is to make it applicable to Federal projects on federally owned land, that is land acquired for Federal purposes?

Dr. CONNALLY. Yes; indeed.

Mr. TAYLOR. That is your main intent?

Dr. CONNALLY. Yes, sir.

Mr. TAYLOR. What would your reaction be to an amendment that provides that this not be applicable to privately owned land?

I see several heads shaking.

Dr. CONNALLY. Mr. Chairman, we will stand by the Department's report and by Mr. Hulett's statement that the Federal projects can affect quite a lot of things. The Federal Government affects many programs of all kinds in our daily lives. I would suggest that it ought to be consistent with other enactments and executive orders that have had to do with the preservation of cultural property which do include what happens on privately owned land with Federal assistance or Federal licenses.

Mr. SAYLOR. Will the gentleman yield?

Mr. TAYLOR. I yield.

Mr. SAYLOR. I happen to agree with the witness. Take some examples of things following the Civil War when the attitude was not to keep Federal land, but to give it away. The Federal Government, in an effort to encourage the development of the West, went out and gave railroads rights-of-way and they gave them 20 miles on every other section of land, 20 miles on each side of the railroad and then if you had a good enough legman back here, you would come back and they would give you 20 miles more and you got an 80 mile swath going across a number of our Western States and every other section is to private land. Some of it was sold and some of it was right in the middle of these development areas that are taking place. So you cannot say that it should not apply to private lands because of the areas we are talking about—that caused the bill originally to be introduced to include private holdings and some of the finest recoveries have been on private lands taken for public use.

Mr. TAYLOR. Does the bill contain sufficient provisions for administering the situations in which it applies to private lands? I get an FHA loan, I get a Small Business loan, who is going to administer this law as applicable to my property?

Dr. CONNALLY. As I understand the wording of the bill, Mr. Chairman, it is the agency that insures the loan, or grants the loans, or funds the project. Now, I perceive that the Chair's concern about a rather in court program that might lack some central cohesiveness,

maybe it is true that the Secretary of the Interior through the National Park Service—the National Park Service runs the central program in archeological surveys now. However, the problem is so large, Mr. Chairman, we cannot do it alone. I am not sure we could administer all of these projects that would come up.

However, I can add to what Mr. Hulett said here earlier this morning that the Secretary of Interior would be willing to establish standards the surveys should be. You know, including analysis and publication and this kind of thing and be a clearing house so that all reports could be made to the Secretary. This would not be that great of an administrative burden on them and there would be one place that we would know where all of this kind of work is going on. For the small projects, again, I would simply repeat that we prefer the language be broad and inclusive and we would give the committee our assurances again of our intention in administering the program.

On that point, Mr. Chairman, I would like to reemphasize because I think it is extremely important, the value of the State archeological agencies, many of which have authority within their States to conduct archeological salvage. We do not need to duplicate that kind of accurate effort. The universities, museums and other sources of competent knowledge on archeological matters in this country, so this law provides for their sounding the alert that in those instances which I believe will be extremely rare when a very important find does turn up on private land, that it is being developed by federally guaranteed loan or something of that kind. I hope that is a satisfactory answer, Mr. Chairman.

Mr. TAYLOR. The gentleman from Kansas.

Mr. SKUBITZ. Suppose the farmer was plowing his field and he told you just to go hang yourself, get off my land. What do you do to this farmer? No sanctions are provided in the bill as a penalty?

Dr. CONNALLY. No, sir, it is like the Historic Preservation Act, the authority rests with the heads of the agencies to conduct these programs and projects.

Mr. TAYLOR. Well, thank you very much, Dr. Connally.

We have here several statements for the record. Without objection, they will be turned over to counsel and placed in the record or in the file, if he deems it more appropriate, after the statements of the witnesses who testify.

Hearing no objection, it is so ordered.

[The statements for the record have been placed in the appendix at the end of the hearing.]

Mr. TAYLOR. The subcommittee stands adjourned until 9:45 in the morning.

[Whereupon, at 12:35 o'clock p.m., the subcommittee was adjourned.]

HISTORICAL AND ARCHEOLOGICAL DATA PRESERVATION

TUESDAY, JULY 31, 1973

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON NATIONAL PARKS AND RECREATION
OF THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10 a.m., in room 1324, Longworth House Office Building, Hon. Roy A. Taylor (chairman of the subcommittee) presiding.

Present: Representatives Taylor (presiding), Saylor, Meeds, de Lugo, Skubitz, Sebelius, and Ketchum.

Also present: Lee McElvain, consultant; Clay Peters, consultant, and Marsha DeGon, clerk.

Mr. TAYLOR. The Subcommittee on National Parks and Recreation will come to order.

Our first witness this morning is Mr. Warren H. Butler, Deputy Assistant Secretary for Community Development, Department of Housing and Urban Development.

Mr. Butler, we welcome you before the subcommittee.

STATEMENT OF WARREN H. BUTLER, DEPUTY ASSISTANT SECRETARY FOR COMMUNITY DEVELOPMENT, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Mr. BUTLER. Thank you, Mr. Chairman.

I appreciate this opportunity to present the views of the Department of Housing and Urban Development on H.R. 296 and other bills related to the preservation of archaeological and historical data.

The Department has statutory responsibility for a wide variety of housing and community development programs.

Mr. TAYLOR. A copy of your entire statement will be placed in the record at this point and you can summarize it or read it as you see fit.

Mr. BUTLER. Thank you, Mr. Chairman.

[The entire statement of Mr. Butler follows:]

STATEMENT OF WARREN H. BUTLER, DEPUTY ASSISTANT SECRETARY FOR COMMUNITY DEVELOPMENT, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

I appreciate this opportunity to present the views of the Department of Housing and Urban Development on H.R. 296 and other bills related to the preservation of archeological and historical data.

The Department has statutory responsibility for a wide variety of housing and community development programs. In view of the study of Federal housing

programs now approaching completion and community development legislative proposals already introduced, these programs in the future are likely to differ substantially in at least some respects from those which we have administered in the past. Accordingly, it is difficult at this point to determine precisely how the bills now before the Committee will relate to all the operations of this Department in years to come. However, we have reviewed these bills from the standpoint of our past and current programs and hope that our comments on the basis of that review will be helpful in the Committee's consideration.

The Department of Housing and Urban Development supports the objectives of this proposed legislation. We have had considerable experience in the past with the preservation of historic structures pursuant to section 106 of the Historic Preservation Act, and we are currently proposing legislation which would expand our authorities to insure property improvement loans covering historic residential properties. We are, of course, subject to and fully endorse the policies set forth in Executive Order 11593 for preserving, restoring and maintaining our Nation's historic and cultural environment. We have just promulgated new uniform environmental review procedures that should assist us in carrying out those policies.

Our comments on these bills relate basically to clarity and the mechanics of how they would work. The bills would expand mandatory provisions of existing law to cover a wide variety of new situations, and it is important that specific problems or questions that may arise from such an extension be identified and considered in advance so far as is possible.

An initial consideration, we believe, pertains to program coverage. The bills all refer, without definition, to any "Federal, federally assisted or federally licensed" project, activity or program. Although this language, in our opinion, does not cover revenue sharing, it is very broad and gives rise to at least one specific issue of special interest to the Department of Housing and Urban Development—whether programs that involve only mortgage or loan insurance or guarantees are to be covered. Examples of these programs, which generally involve projects of private sponsors, are FHA insurance and guarantees of new community obligations pursuant to title VII of the Housing and Urban Development Act of 1970. Under other statutes referring to Federal assistance programs, mortgage insurance and guarantee programs have sometimes been specifically excluded and sometimes specifically included.

(In the present case, testimony given last year in support of similar legislation suggests that inclusion is intended. The proposed statutory language, however, can be read as contemplating only programs which involve assistance from appropriated funds, in which event guarantee and insurance programs would be omitted. Should the bills be modified to resolve the difficulties connected with data discovered after construction has begun, a problem which is discussed below, we would see no inherent difficulty in including guarantee and insurance programs within the scope of the bills. In any event, this point ought to be clarified.)

Another aspect of the operation of the bill which is of interest to us is the matter of timing and the prospect of delays. Generally, in the case of projects with a long lead time for planning—such as major highways, dams, and conventional urban renewal—there should be little difficulty in applying any of these bills, so long as the concern over data preservation is made known at an early point. However, not all federally assisted projects have long lead times and there are some which involve emergency situations, such as those that may be undertaken in anticipation of or immediately after a natural disaster. We believe that a specific exception for these emergency situations would be most desirable, at least in the case of disaster relief efforts for which this Department has government-wide responsibilities.

A further problem may arise if data is discovered after final approval or even after construction has begun, for here there is a particular potential for delays that could add to costs, impede completion, and generally frustrate the objectives of the program in question.

There was testimony last year which suggested that a cessation of work necessary to survey and recovery would not be required in such cases, but we do not read the bills as providing such an exception. Accordingly, we suggest that the bills be modified specifically to exclude from the mandatory operation of the bills cases where data is not discovered, or its existence made known, until after a project is fully approved and construction commenced or about to commence. This modification would provide discretion for handling what may otherwise be very difficult situations. If such a modification is not made, we

suggest that there be a means of providing compensation in cases where assisted public or private parties would otherwise bear in whole or substantial part the cost of long interruptions in project activities.

Another matter to which we believe the Committee should give attention is the question of whether reimbursement to the Secretary of the Interior for survey and recovery work is, in the case of cost sharing programs, to be made entirely from Federal funds, or whether a grantee locality will be required to share these expenses to the same extent as other project costs. H.R. 1880 specifically provides that the cost of these activities shall be considered project costs to be shared accordingly by the local grantee. The remaining bills are unclear in this regard, and we believe some clarification of intent is desirable. In some programs the local share may be substantial—from 25 to 50 percent of project costs. In view of this and the fact that the benefits of recovery work may in some cases be of greater significance to the Nation as a whole than to the grantee, we feel that it would probably be desirable if reimbursement to the Secretary of the Interior should be made entirely from Federal funds.

A related matter involves the manner of funding survey and recovery efforts. The bills provide that funds appropriated for a project, activity or program may be used for survey and recovery or, subject to a one percent limitation, transferred to the Department of Interior for its use in these efforts. These provisions apparently would not permit use of program funds for survey and recovery in the case of new community housing or other projects financed by loan guarantees or mortgage insurance, since these are not financed by appropriated funds. Thus, costs of survey and recovery in these cases would presumably have to be paid from special appropriations to the agency, or from funds otherwise available to the Secretary of the Interior. We have no objection to this result but believe the Committee should be aware of this feature of the bills.

A final point pertains to the degree of flexibility afforded the Secretary of Interior in determining that data will be adversely affected. The finding under section 3(a) of the bill on the part of other Federal agencies relates to *significant* data. However, the determination on the part of the Secretary of the Interior would not, under the bills as drafted, as we read them allow the Secretary any discretion in determining whether the data is of sufficient significance to justify his undertaking a survey and investigation.

Especially in situations where historical data may be affected, we feel that this seeming lack of discretion in the Secretary may unnecessarily present problems of delay, particularly in view of the broad description of persons upon whose notification the Secretary must take action. Some modification of the existing language is needed so as to permit the Secretary discretion in terms of the significance of the data to be surveyed and we so recommend.

This concludes my prepared remarks. I would be happy to answer any questions the Committee may have.

Mr. BUTLER. In view of the study of Federal housing programs now approaching completion and community development legislative proposals already introduced, these programs in the future are likely to differ substantially in at least some respects from those which we have administered in the past. Accordingly, it is difficult at this point to determine precisely how the bills now before the committee will relate to all the operations of this Department in years to come. Our comments are based, Mr. Chairman, if I may paraphrase my statement, on a review of our past and current programs, and we hope this will be helpful to the committee.

The Department of Housing and Urban Development supports the objectives of this proposed legislation. We have had considerable experience in the past with the preservation of historic structures pursuant to section 106 of the National Historic Preservation Act of 1966, and we are currently proposing legislation which would expand our authorities to insure property improvement loans covering historic residential properties. We are, of course, subject to and fully endorse the policies set forth in Executive Order 11593 for preserving, restoring, and maintaining our Nation's historic and cultural environ-

ment. We have just promulgated new uniform environmental review procedures that should assist us in carrying out those policies.

Our comments on these bills relate basically to clarity and the mechanics of how they would work. The bills would expand mandatory provisions of existing law to cover a wide variety of new situations, and it is important that specific problems or questions that may arise from such an extension be identified and considered in advance so far as is possible.

An initial consideration, we believe, pertains to program coverage. The bills all refer, without definition, to any "Federal, federally assisted or federally licensed project, activity or program." Although this language, in our opinion, does not cover revenue sharing, it is very broad and gives rise to at least one specific issue of special interest to the Department of Housing and Urban Development—whether programs that involve only mortgage or loan insurance or guarantees are to be covered. Examples of these programs, which generally involve projects of private sponsors, are FHA insurance and guarantees of new community obligations pursuant to title VII of the Housing and Urban Development Act of 1970. Under other statutes referring to Federal assistance programs, mortgage insurance, and guarantee programs have sometimes been specifically excluded and sometimes specifically included.

Mr. TAYLOR. What is your recommendation?

Mr. BUTLER. We recommend that, if they are included, that it should be made clear to the committee that these programs do not have funds to carry out preservation activity, and do not have any program funds that could be transferred to the Secretary of Interior. Under these circumstances either special appropriations would have to be made to the Secretary of this Department for the cost of survey and recovery work, or such costs would have to be paid from funds otherwise available to the Secretary of the Interior. We have no objection to the inclusion of the mortgage insurance, new community obligations, and similar type activities under the bill. We do think the funding problem should be made very clear, however.

Another aspect of the operation of the bills which is of interest to us is the matter of timing and the prospect of delays. Generally, in the case of projects with a long leadtime for planning—such as major highways, dams, and conventional urban renewal—there should be little difficulty in applying any of these bills, so long as the concern over data preservation is made known at an early point. However, not all federally assisted projects have long leadtimes and there are some which involve emergency situations, such as those that may be undertaken in anticipation of or immediately after a natural disaster such as in the case of Hurricane Agnes, the Rapid City floods, last year's Hurricane Camille, and similar situations.

A further problem may arise if data is discovered after final approval or even after construction has begun. Here there is a particular potential for delays that could add to costs, impede completion, and generally frustrate the objectives of the program in question.

There was testimony last year which suggested that a cessation of work necessary to survey and recovery would not be required in such cases, but we do not read the bills as providing such an exception. Accordingly, we suggest that the bills be modified specifically to exclude

from the mandatory operation of the bills cases where data is not discovered, or its existence made known, until after a project is fully approved and construction commenced or about to commence. This modification would provide discretion for handling what may otherwise be very difficult situations. If such a modification is not made, we suggest that there be a means of providing compensation in cases where assisted public or private parties would otherwise bear in whole or substantial part the cost of long interruptions in project activities.

Another matter to which we believe the committee should give attention is the question of whether reimbursement to the Secretary of the Interior for survey and recovery work is, in the case of cost sharing programs, to be made entirely from Federal funds, or whether a grantee locality will be required to share these expenses to the same extent as other project costs. H.R. 1880 specifically provides that the cost of these activities shall be considered project costs to be shared accordingly by the local grantee. The remaining bills are unclear in this regard, and we believe some clarification of intent is desirable. In some programs the local share may be substantial—from 25 to 50 percent of project costs. In view of this and the fact that the benefits of recovery work may in some cases be of greater significance to the Nation as a whole than to the grantee, we feel that it would probably be desirable if reimbursement to the Secretary of the Interior should be made entirely from Federal funds.

A related matter involves the manner of funding survey and recovery efforts. The bills provide that funds appropriated for a project, activity or program may be used for survey and recovery or, subject to 1 percent limitation, transferred to the Department of Interior for its use in these efforts. These provisions apparently would not permit use of program funds for survey and recovery in the case of new community housing or other projects financed by loan guarantees or mortgage insurance, since these are not financed by appropriated funds. Thus, costs of survey and recovery in these cases would presumably have to be paid from special appropriations to the agency, or from funds otherwise available to the Secretary of the Interior. We have no objection to this result but believe the committee should be aware of this feature of the bills.

A final point pertains to the degree of flexibility afforded the Secretary of Interior in determining that data will be adversely affected. The finding under section 3(a) of the bill on the part of other Federal agencies relates to significant data. However, the determination on the part of the Secretary of the Interior would not, under the bills as drafted, as we read them, allow the Secretary any discretion in determining whether the data is of sufficient significance to justify his undertaking a survey and investigation.

Especially in situations where historical data may be affected, we feel that this seeming lack of discretion in the Secretary may unnecessarily present problems of delay, particularly in view of the broad description of persons upon whose notification the Secretary must take action. Some modification of the existing language is needed so as to permit the Secretary discretion in terms of the significance of the data to be surveyed and we so recommend.

This concludes my prepared remarks. I would be happy to answer any questions the committee may have.

Mr. TAYLOR. Thank you for your statement.

You have raised some points in line with our concerns yesterday. These are areas in which the bill may be really not intended to apply, or perhaps it is intended to apply, but maybe the purpose is to deal with the Federal projects.

The question in my mind is: If archeological materials are discovered on privately owned properties and removed by the Secretary of Interior or anyone else, who owns the findings. Do you have an answer to that?

Mr. BUTLER. I don't have any answer to that. I would be happy to look into it with our lawyers.

Mr. TAYLOR. I do not know of any laws that would keep the owner of the land from keeping anything found on his land.

Mr. BUTLER. Unless you provide him compensation.

Mr. TAYLOR. That is right. It can only be taken when compensation is paid like any other property.

Mr. BUTLER. I would assume so.

Mr. TAYLOR. Is it your opinion that the bill, as written, does not cover projects where revenue sharing is used?

Mr. BUTLER. That is our feeling, Mr. Chairman, that those projects are not considered for National Environmental Policy Act purposes, for example, to be Federal activities. They represent a transfer of revenue by the Federal Government and subsequent actions are, in fact, local and state actions.

Mr. TAYLOR. Would you prepare or have prepared by one of the attorneys with your department some specific amendments carrying out the recommendations that you made?

Mr. BUTLER. We would be happy to do so.

Mr. TAYLOR. And give them to our counsel so that we can consider them when we proceed to markup the bill.

Mr. BUTLER. We would be happy to do so.

[The information supplied follows:]

THE GENERAL COUNSEL OF HOUSING AND URBAN DEVELOPMENT,
Washington, D.C., September 10, 1973.

Subject: H.R. 296 and Related Bills for the Protection and Preservation of Archeological and Historical Data

Hon. ROY A. TAYLOR,

Chairman, Subcommittee on National Parks and Recreation, Committee on Interior and Insular Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for suggested language revising H.R. 296 and related bills to reflect the comments made in this Department's July 31 statement to the Subcommittee and our August 1 report on the bills. A copy of our statement and report are enclosed.¹

Our proposed amendments to H.R. 296 are set out below together with explanatory comments where appropriate.

1. *Sec. 1 (p. 2)*. In order to clarify the scope of the bill's coverage with respect to existing and proposed programs of this Department (See the first comment of our report and pages 3 and 4 of our statement) we would suggest that lines 14 through 16 be revised to read as follows:

"(2) any alteration of the terrain caused as a result of any Federal, federally assisted, or federally licensed project, activity or program, including projects or activities assisted with Federal loan guarantees or mortgage insurance. Nothing in this Act, however, shall be interpreted so as to apply to programs, projects or activities undertaken by States or localities with funds made available by the Federal Government through revenue sharing."

¹ Copy of statement is on p. 73, and report on p. 10.

However, it would be sufficient for our purposes if the Committee prefers to clarify the scope of coverage regarding revenue sharing activities and mortgage insurance and guarantee programs in the legislative history of the proposed legislation.

2. *Sec. 3(a) (p. 3)*. In order to make clear that Federal agencies may, where necessary, undertake survey and recovery work with funds, such as special appropriations, not appropriated for a Federal program or project (See pages 6 and 7 of our statement, and the sixth comment of our report), we would recommend inserting the following language immediately after "activity," in line 22: "or otherwise authorized for the purpose of this subsection;".

3. *Sec. 3(b) (p. 4)*. In order to avoid a possible duplication of effort on the part of the Secretary of the Interior and other Federal agencies (See the fourth comment of our report) we would recommend that the following words be inserted immediately after "such agency" in line 1:

"not undertaking on its own activities pursuant to clause (2) of subsection (a)."

and that a comma be inserted immediately after "authority" in line 2.

4. *Sec. 3(b) (p. 4)*. In order to allow the Secretary some discretion in determining whether or not data is of sufficient significance to justify his undertaking a survey and investigation (See pages 7 and 8 of our statement), we recommend that the words "is significant and" be inserted immediately after "such data" in line 6.

5. *Sec. 3(b) (p. 4)*. To permit the exercise of necessary discretion in situations where the existence of data is not discovered or made known until after a project is fully approved and construction has or is about to be commenced, or in emergency situations such as floods (See pages 3, 4, and 5 of our statement), we would recommend inserting the following sentence after the words "public interest" in line 13:

"In the case of any Federal, federally assisted, or federally licensed project, activity, or program which has been fully approved by the responsible agency and on which construction has, or is about to be commenced, work required to be performed pursuant to this subsection shall be undertaken only to the extent that the head of the responsible agency shall determine practicable. No work shall be required pursuant to this section which, in the determination of the head of the responsible Federal agency, would impede Federal or federally assisted projects or activities undertaken in connection with emergency situations, including projects or activities undertaken in anticipation of or immediately after a natural disaster."

6. *Sec. 3(b) (p. 4)*. The basis on which the one percent limitation on transferable funds is to be computed would be clarified, at least with respect to the type of programs administered by this Department, if the words "approved for" were substituted for inserted immediately after "appropriated for" in line 20. (See the sixth comment of our report.)

7. *Sec. 3(b) (p. 5)*. As noted in both our statement (See pages 5 and 6) and report (See the fifth comment), we are unclear as to how a transfer of funds to the Secretary of the Interior would affect cost sharing programs of this Department. We feel that our concerns in this regard could be resolved by adopting the suggestion on pages 4 and 5 of the July 30 statement of the Federal Highway Administration with respect to proposed statutory language (the second sentence of the proviso under H.R. 1880) and its recommended interpretation.

8. *Sec. 3(d) (p. 5)*. As we stated in our report (third comment), this Department feels that it should be made clear that the determination as to the practicability of undertaking survey and recovery work in the case of already authorized projects should be made by the responsible Federal agency. Accordingly, we would recommend that the words "as determined by the head of the responsible agency," should be inserted immediately after "practicable" in line 16.

We hope that the above suggestions may be helpful to the Subcommittee. We would be happy to provide you with any explanations or additional information you may wish.

Sincerely,

ROBERT P. ELLIOTT,
for JAMES L. MITCHELL.

Mr. TAYLOR. Mr. Skubitz.
Mr. SKUBITZ. No questions.
Mr. TAYLOR. Mr. deLugo.

Mr. deLUGO. No questions.

Mr. TAYLOR. Thank you, very much.

Mr. BUTLER. Thank you, sir.

Mr. TAYLOR. Our next witness is Mr. Robert L. Stephenson, director and State archeologist, University of South Carolina.

STATEMENT OF DR. ROBERT L. STEPHENSON, DIRECTOR, INSTITUTE OF ARCHEOLOGY AND ANTHROPOLOGY, UNIVERSITY OF SOUTH CAROLINA, AND SOUTH CAROLINA STATE ARCHEOLOGIST

Dr. STEPHENSON. If I may have my statement entered in the record.

Mr. TAYLOR. Without objection, your entire statement will be placed in the record at this point.

Dr. STEPHENSON. Thank you, sir.

[The entire statement of Dr. Robert L. Stephenson follows:]

STATEMENT OF DR. ROBERT L. STEPHENSON, DIRECTOR, INSTITUTE OF ARCHEOLOGY AND ANTHROPOLOGY, UNIVERSITY OF SOUTH CAROLINA, AND SOUTH CAROLINA STATE ARCHEOLOGIST

Mr. Chairman and Members of the Subcommittee: I deeply appreciate the opportunity to testify in support of H.R. 296 and identical bills. As a practicing archeologist for some 35 years, having done active research in twelve states in six major geographic regions of the United States, and now as State Archeologist in South Carolina I am vitally concerned with this legislation. Most of my professional research has been devoted to the salvage of the fragments of archeological remains that have been threatened with destruction by the advance of modern civilization. For twenty years I was with the Smithsonian Institution in its program of archeological salvage in the various river basins in Texas and in the Missouri Basin and, for three years, in the entire nation-wide Inter-agency Archeological Salvage Program—the River Basin Surveys. For most of these 35 years I have devoted my professional efforts to the kind of archeological research with which this bill is concerned. Today I am here representing the amateur Archeological Society of South Carolina, the people of South Carolina, and the professional archeologists of the Southeastern Archeological Conference.

Early in this century the Congress of the United States clearly spelled out the mandate of the people to preserve our national heritage when it passed the Federal Antiquities Act of 1906. This mandate has been repeatedly recognized by subsequent legislation designed to implement the preservation of our historic and prehistoric resources. Each of these acts covers some specific aspect of the preservation such as in reservoirs, along highway rights of way, etc. The need now is for legislation that covers all aspects of preservation in whatever kind of construction may threaten the antiquities.

There can be no question of the national value of the preservation of the record of America's past. Yet each year, with increased population and accelerating industrial and economic expansion, our nation endangers more and more of the rapidly dwindling, non-renewable resources of our national heritage. H.R. 296 will provide a means of preserving these antiquities, not just in reservoirs or along highways but everywhere that they are threatened by federally sponsored developments. This bill will also serve to implement other acts already in effect.

It will be a real aid to meeting the requirements of the Environmental Policy Act of 1969 which makes it mandatory for a construction agency to show the impact of its project on the environment *including archeological environment*. Necessary information would be generated through contracts and agreements with private, local, state, and Federal agencies coordinated by the National Park Service. This would be done at minimal cost to the project and with maximum benefit to our national heritage, providing favorable public relations for the projects involved.

A huge Federal area such as the Nevada Test Site would have an inexpensive and effective means of preserving its threatened antiquities for the first time, with the comparatively small cost deriving from the cost of the test site projects themselves. Similarly an airport enlargement in Columbia, South Carolina or a Corps of Engineers' canal development on the Santee River in South Carolina

could efficiently provide the small funding, through an already established research agency, sufficient to salvage the campsites and villages of Indians of 1,000 to 5,000 years ago that are endangered by the construction.

The most significant aspect of this legislation is that it places financial responsibility for salvage of archeological resources directly upon the agencies (federal, state, local, or private) that are causing the threat to the archeological sites. This achieves a fully equitable sharing of this responsibility among those who are disturbing the antiquities. It also tremendously increases the research output in an economical, systematic program applying equally to all areas of the country and to all types of construction.

This is ultimately going to cost more than the present methods of funding salvage archeology. Those additional costs will be built into the project costs as the construction project is planned and will only be developed as a salvage need actually arises. At present salvage needs must be anticipated before they arise and cost projections can only be anticipated estimates. Such estimates can never be, even under the most ideal circumstances, realistic enough to accomplish even the minimal goals of the salvage of our heritage. Under the provisions of H.R. 296 the research result per dollar expended will be increased several fold and, what is more important than costs, the American heritage has a chance to be preserved.

Mr. Chairman, I join the people of South Carolina who are concerned about their heritage, and the community of archeologists and historians throughout the Southeastern United States in urging the passage of H.R. 296 as the soundest antiquities legislation of recent years.

Dr. STEPHENSON. Mr. Chairman, I would like to address my remarks this morning to some of the questions that were raised yesterday, and perhaps some that will be raised.

I have had some experience with both the Federal agency side of the antiquity work and with the State agency side. How they worked very closely with the National Park Service when I was in the Smithsonian Institution for some years and on the Federal side and then, now, I am working for the State of South Carolina and have the viewpoint of the State agency side that would be working in this kind of project.

I think the matter of the small jobs and the technical assistants and educational projects that were discussed yesterday might well be taken care of with a minimal funding limitation of \$25,000 or some similar figure. These projects would be, I am sure, not of much concern to any of the State archeologists unless there is something of a particular significance or a special significance in that particular area.

There might be a person building a house, getting a housing development loan on a small piece of property and the total thing would not amount to \$25,000, but there might be the early colonial potters' wares and the kiln on the sight on that property, something of historical significance as the potters' wares in Charleston of the 1711 period, and this would not be possible to take care of under 1 percent of something under \$25,000. We are talking about \$250. The archeologist cannot do anything for that. So, we would fund otherwise and elsewhere would have to be funded. Now, this would be up to, as I see it the archeologist on the grounds to provide some way of doing this through the National Park Service with their regular funding or through his own agency or some other way. It could not be part of this solely for all practical purposes.

I think the archeologists are not really concerned with these small projects and the man who is going to build and get a small loan to build this home. He is however, on these loan projects concerned with the large developer. Now, Housing and Urban Development is involved with a large development project near Augusta, Ga. On the South

Carolina side of the river there is a place where they are going to develop this housing project. It is the site of Old Savannah Town and Fort Moore of the 1700 period, 1700 to 1750, one of the really crucial historical and prehistorical sites in our State of South Carolina.

Now, in this instance, the archeologist most emphatically is concerned with HUD and its responsibilities in providing some way of having this developer perform his obligations. Normal farming practices were mentioned yesterday. How do we handle the farmer that just every spring is plowing his back forty?

This, again, is of very little concern to us for the most part. Again, the deep plowing and extensive agricultural changing of the surface of the ground is of major concern, especially when it goes into a large commercial plowing enterprise, where you are talking about 5,000 to 10,000 acres, and even in some small instances again like the small housing development that violates a significant historical archeological site.

The small farmer may have an occasion where he is plowing a field that destroys a very significant site, and I cite an example of this. In central South Carolina where the Saluda is, an old town, a prehistoric Indian site of the Mississippian period of 500 to 600 years ago, the small temple mound has been leveled by the farmer plowing not over 80 acres, and here is a significant archeological site that has been destroyed; this is going on now.

This kind of thing, it would seem to me, should be taken care of.

Mr. TAYLOR. How are we going to get language in the bill that would take care of situations that you say should be taken care of and not prevent home building, digging the ground?

Dr. STEPHENSON. I think, the thing does not have to be in the language of the bill. That is the point I am making, that the archeologist has to handle these small things himself, because in the language of the bill, if we are going up to 1 percent of the cost involved, we are not talking about any kind of money that is of any use, \$250 or less. So, it does not have to be in the language of the bill.

Mr. TAYLOR. You mentioned your case near Vienna, where a developer is leveling a lot of ground that has valuables, and you indicated that we needed some authority to preserve these.

Should the bill cover private development of this type?

Dr. STEPHENSON. Yes, sir, Mr. Chairman, in my opinion it should. When that \$25,000 base figure—that does not involve the vast multitude of the small developers, but it does involve the large developers.

Mr. TAYLOR. How do you acquire the \$25,000?

I mean, what is the \$25,000 limit? Is it \$25,000 cost of excavation?

Dr. STEPHENSON. No, sir, the \$25,000 project.

Mr. TAYLOR. All right.

Every man that builds a house nowadays is going to be above \$25,000.

Dr. STEPHENSON. I suggested \$25,000 or some similar figure.

Mr. TAYLOR. That would apply to every home built.

You mean, your home is going to run about \$25,000?

Dr. STEPHENSON. The loan might not be on that.

Mr. TAYLOR. The loan amounts nowadays, in most areas, would be above \$25,000.

Dr. STEPHENSON. Well, some apropos figure that could be arrived at.

Mr. TAYLOR. So, I see that we may run into some unexpected and unnecessary trouble in this case.

Dr. STEPHENSON. There is one other factor that I might point out.

There are not all that many archeologists. Now, the archeologist is certainly not going to be moving the farmer's back forty to find something to do. We have a very limited number of archeologists, and we cannot really even take care of the big projects adequately with the staff that we have. We are developing staffs but we cannot—we do not have enough archeologists to be in this badgering situation of pestering the small farmer and the small developer.

Mr. SKUBITZ. Would the gentleman yield?

Mr. TAYLOR. Yes.

Mr. SKUBITZ. A problem bothered me yesterday. Are we being asked to develop a field to lead to a very active drive to encourage students into archeology? This legislation seems to suggest a Government program to begin offering scholarships to attract students. One percent of the cost is going into the fund for archeological work. The rest to encourage the program.

The second point relates to what Chairman Taylor discussed.

Suppose you are buying a \$50,000 house. How would you expect to get to settlement? Have you ever been to a settlement? First of all, there is a 6-percent brokerage charge, so that out of \$50,000, \$3,000 goes to the broker; and then there is a \$500 charge for title insurance and another \$500 for archeological studies, and about that time, I can see a march on Washington and on us.

Dr. STEPHENSON. This is not a mandatory thing; this is only applying in the instance where there is something of concern to be involved, and this is a rare instance.

Mr. SKUBITZ. You don't think there could be abuse?

Dr. STEPHENSON. I cannot see any possibility of abuse of this with the number of archeologists that we have to do the jobs. We are trying to do our—spend our efforts in the places that will be of most value and of most use to us and provide the most data on the story of men and development of pre-history and history in North America. We are trying to get the biggest jobs done first. It will be a long, long time before—if ever—never will there be enough archeologists to be concerned about these small projects.

Mr. TAYLOR. If I am going to build a house now in an area where there might be valuables, who is going to stop me in my operations; who is going to determine whether or not a survey should be made?

Dr. STEPHENSON. I think, in my opinion, the responsibility of the archeologists who bring this to the attention of the agency involved.

Mr. TAYLOR. Now, by the archeologists, do you refer to some State official?

Dr. STEPHENSON. I am referring to whatever archeologists there are in that particular State or that particular area, whether it is the State archeologists, the man at the State museum or the historical society, or whatever archeologist in that particular State has concern and involvement with that particular area.

In the instance of South Carolina, it would be me and my staff.

Mr. TAYLOR. Well, I see a possible constitutional question arising. If I want to develop my own property and I get a letter from you telling me I have to hold up and wait till you explore the potential valua-

bles there—then a question arises as to whether or not you can take a man's property rights to that extent, without compensating him.

Dr. STEPHENSON. No, sir, you cannot, and the sequence, as I would envision it, would be that I would not write you as the property owner; I might go to you and talk to you about it and say you have a valuable archeological site or significant archeological site, but my proper procedure would be to go right to the Secretary of the Interior and say that it has come to my attention that such-and-such a property is being developed and on that property there is a significant archeological site and that leaves it with the Secretary, as I read the bill. It would leave it then with the Secretary to pursue it from there.

Mr. TAYLOR. But, still there is the question as to his constitutional authority to stop me in developing my own property. He is taking a property right away from me; he is holding me up for a year, and it is costing me a sizable amount of money.

Dr. STEPHENSON. This would be assuming that if you have no Federal involvement in that, this man would have a word to say about it.

Mr. TAYLOR. I may have some kind of Government loan.

Dr. STEPHENSON. Well, if you do, it would seem to me, you would be required to exercise what I would think of as an obligation to history and to the cultural development to do something to provide some way of this being done.

Mr. TAYLOR. As a matter of fact, in most cases, you would get cooperation.

Dr. STEPHENSON. Yes, sir.

Mr. TAYLOR. Without a statute bringing private properties under it.

Dr. STEPHENSON. Yes, sir.

Mr. TAYLOR. It is only on occasion, where you have a real concern that cannot be solved without the property being under this law. In most cases, you would get cooperation from the developer and the owner.

Dr. STEPHENSON. Yes, sir.

Even in the case of Fort Moore, where the developer doesn't want to put any more money than is necessary, we have gone to the developer there and he has been most cooperative and helpful.

Mr. TAYLOR. Well, thank you very much, Dr. Stephenson.

Our next witness is Robert Williams, director, Division of Archives, History, and Records Management, State of Florida.

STATEMENT OF ROBERT WILLIAMS, DIRECTOR, DIVISION OF ARCHIVES, HISTORY AND RECORDS MANAGEMENT, STATE OF FLORIDA

Mr. WILLIAMS. Thank you, Mr. Chairman.

If I may ask that my statement be incorporated into the record at this point.

Mr. TAYLOR. Yes, your statement will be incorporated in its entirety into the record at this point.

[The complete statement of Mr. Williams follows:]

STATEMENT OF ROBERT WILLIAMS, DIRECTOR, DIVISION OF ARCHIVES, HISTORY AND RECORDS MANAGEMENT, SECRETARY OF STATE, TALLAHASSEE, FLA.

Mr. Chairman, and members of the committee, I would like to take this opportunity to speak in favor of the proposed amendment to the Reservoir Salvage Act of 1960. I am the Director of the Division of Archives, History, and Records Management, under the Florida Department of State. I am also President of the National Conference of State Preservation Officers who are charged with the administration of the Historic Preservation Act of 1966. The following comments do not necessarily represent the official position of the Conference members, but I feel that these viewpoints are shared by most, if not all the membership.

As Director of the Division of Archives, History, and Records Management, I am responsible for the preservation of Florida's Historic heritage. Our enabling legislation, passed in 1967, directs us to "locate, acquire, protect, preserve, and promote the location, acquisition, and preservation of historic sites and properties, buildings, artifacts, treasure trove, and objects of antiquity which have scientific or historical value or are of interest to the public . . ." The various pieces of Federal legislation dealing with the goals of historic preservation, have greatly facilitated the fulfillment of our legislative mandate. Of particular importance to our historic preservation program are the Reservoir Salvage Act of 1960, the Historic Preservation Act of 1966, the National Environmental Policy Act of 1969, and the Bureau of the Budget Circular A-95, which was designed to aid in the implementation of the provisions of the Demonstration Cities and Metropolitan Development Act of 1966 and the Intergovernmental Cooperation Act of 1968. Circular A-95 provided for the establishment of state clearinghouses to coordinate project reviews at the state level, involving various types of Federal assistance. The combined effect of these Acts has been one of positive good for our historic preservation program. In addition, the Presidential Executive Order 11593 and various Federal Agency policy and procedure memoranda dealing with the preservation of archaeological and historical data, have provided us with a key for a viable historic preservation program.

From my vantage point, it is quite obvious that these Federal measures have enhanced the preservation potential of our cultural resources. As a result, we have established very good working relationships with a number of Federal agencies. A partial listing of these agencies include the U.S. Forest Service, the National Park Service, Bureau of Wildlife and Sports Fisheries, Bureau of Land Management, Bureau of Outdoor Recreation, National Aeronautics and Space Administration, and the U.S. Army Corps of Engineers. Non-Federal cooperation has also increased as a result of the Federal legislation, particularly under the provisions of the National Environmental Policy Act of 1969. This Act specifically delineates cultural resources as an integral part of the physical environment, and calls for an assessment of project effects upon these resources. Herein lies the weak link in the overall effectiveness of the Federal legislation, designed to protect and curate our dwindling cultural resources.

Most, if not all Federal Agencies with the capability and authority to initiate projects that might result in adverse effects upon our cultural environment, are more than willing to cooperate with any activity that will mitigate these adverse effects. The problem lies in the fact that some Federal Agencies lack the necessary authorization to expend the funds needed to insure the preservation of the physical elements of our common cultural heritage. The U.S. Army Corps of Engineers, for example, falls under this category. In Florida, we are frequently involved with Corps-initiated projects that affect archeological and/or historical sites, objects, and information. These projects range from beach nourishment, to maintenance dredging, to inland navigation systems. They have consistently aided the preservation activities of my agency by conducting Magnetometer surveys of project areas, which occasionally result in the location of submerged shipwrecks, etc. The problem is that if a shipwreck should be located within a project area, the Corps can not, at present, expend it's funds for the necessary research required to preserve the associated cultural data. The proposed

amendment will provide the expenditure authorization now lacking for some Federal Agencies, such as the U.S. Army Corps of Engineers. This will allow these agencies to fully comply with the Congressional intent of previously passed Federal legislation and resultant directives affecting historic preservation and the cultural environment.

Congress has consistently been in the vanguard of preserving our rich cultural heritage, reaching back as early as 1906. This farsighted wisdom has succeeded in preserving many elements of our early history and prehistory for the present and future citizens of this Nation. The result has been a greater appreciation for the totality of events that have contributed to the varied and dynamic fabric of American culture. The remaining physical elements of our cultural heritage provide a constant visual reminder of the sacrifices rendered in establishing the strong foundation inherent in the spirit of America. I urge you to look favorably upon this proposed amendment, and to remember the value of a strong and stable cultural foundation. We are rapidly approaching our Nation's 200th Birthday, and our sense of historic worth is especially acute. It is possible and desirable to forge a strong and economically responsible country while sheltering and nourishing the roots of our cultural vitality.

Mr. WILLIAMS. I would like to say that I am speaking for the officers in the 50 States and five territories who have the responsibility to administer the historic preservation program under Public Law 89-665. I speak also for the State of Florida.

Within the context of the hearing and of the bills before the committee, with the Chair's indulgence, I would like to speak also as a businessman and farmer, and certainly not as a professional. I am not an archeologist. I have the responsibility now to administer the State agency that has the responsibility for archeology, but I think that this gives me perhaps a little bit of insight as to some of the problems here that may not be available to the professional or just to the Government.

Although I am a former member of the Florida Legislature and have that chance to see it from the side of the State as well, I would like to congratulate this committee and the Congress for all the things it has already done to preserve the patrimony of this Nation, beginning in 1906, again in 1936, again in 1960, when the bill we seek to amend now was passed, in 1966, with the Natural Historic Preservation Act, into 1966, with the National Environmental Protection Act, the Nation has announced its policy on the preservation of our cultural resources, and it is a good one. The Congress has been responsible, and this committee has been active in promoting this policy, and we appreciate it.

I think that all of the States do. Now that we have this policy, there is an area where there is a weakness, and I think that this bill with the proper amendments will fill a great deal of that void. It is getting the job done. I use as an example, the situation that presently is existing in the State of Florida. The Congress, in its wisdom, gave authorization to the corporation to elevate the level of Lake Okechobee, the largest body of water in Florida, by 2 feet. This is a project that was needed. The farmers, the State officials, the Federal officials, the Congress itself, said that this is something that should be done, to inundate 30,000 acres of land that has not been inundated before.

It is not a dam in the sense of the word of the normal thinking of it as a dam, but in this area, there are probably significant sites nobody knows about. We know that Fort Center is in this area, and this is probably going to have an adverse effect on Fort Center itself.

I worked with the corps and I have worked with the Central Southern Florida Control District under the Environmental Protection Act, and all of the provisions of the policy already in existence. It is going to be possible to get a survey; it is going to be possible to find out what the cultural resources in that area are, but when that is done, I am hoping we do not find anything, because I do not know what we would do if we did. I do not know who would have the responsibility and probably more important, the money to do anything about it, if we found something in that area.

This bill, in my opinion, would help to correct that void. It would also, in my opinion, speed up projects instead of slowing them down. I have heard some people express a concern for this bill having the effect of slowing down projects. I do not discount the possibility that in some cases, improperly administered, it might, but in most cases, in the case of this particular project, as an example, it would speed it up, because I never had a chance to comment on this until the provisions of the 1969 law, when they became operative, yet, I knew about it for 3 years. There were hearings, the hearings here in Congress; there were hearings in the State, but no consideration was given to the cultural resources.

There was no way to get into this picture until the Environmental Act statement came to my desk. Now, if this bill had been in effect and we had it 3 years ago, there would be no possibility, in my opinion, for this type of consideration for the cultural resources located there to become any kind of deterrent to completion of the project.

I have to say to you, that without it, it might be that it will result in no delay.

The other thing that I use as an example is the farmer. I was born and raised on a farm—every morning at 4—and I have been associated with farming all my life in a small farming area, or, I should say, an area in the panhandle of west Florida. I reside in the first soil conservation district ever created in Florida and I have supported it. I have been an active participant in it, and I do not know of any activity carried out under this program since 1935, that with the proper amendment to the bill for the 25, 50, or whatever means agreed on, would have concerned any archeologist in Florida. But right now, there is a project in that area where corporate farmers from out of the State, have purchased in excess of 5,000 acres of what we used to think was the swamp of Lake Okeechobee, and we use to think it was the environment, that it just would not be bothered.

But, with the capability of the machinery of today, that whole face of the earth is being changed. The surface of the earth is being completely altered, not only small farm, not in a small area, but in excess of 5,000 acres.

Now, in our opinion, this bill should permit some kind of provision that would allow for the cultural resources there to be found and evaluated and without taking away any of the constitutional rights of the private properties then in favor. I think it can be done. It may be that the Department of the Interior itself, should have to appropriate appropriations for that kind of work, but there should be some way. I would hate to see the provisions for the private property struck from the bill, because there are too many places where large

areas and a great deal of land and your reservoirs are still in private ownership.

Mr. TAYLOR. Unless we were getting some kind of Federal or Federal financial help.

Mr. WILLIAMS. Right.

Mr. TAYLOR. I mean, if that man that you were talking about, if he has the money to do the job without asking for assistance, he is under the bill now.

Mr. WILLIAMS. In this case, they are getting some assistance. I do not think, and I am sure that the bill does not have any instructive relief or anything of that sort, and I do not know of anybody that contemplates going in there and telling the man he has to stop or going in there and saying that you have to give up some of your property or some of your rights, but a provision to make it so that communication and a dialog with some positive action resulting could be done, and I think should be done.

Mr. TAYLOR. Does that complete your statement?

Mr. WILLIAMS. I have just one other final statement that I would like to make, and that is, that it seems to me that this is a crucial year. This bill has been before the Congress for some time and has properly had extensive hearings, as it should have, and I thank the committee and congratulate them for it. But in the opinion of myself, and I think most of my colleagues in the State, if not all of them, we feel that this year is the year when we must do whatever it is that we need to do with this bill and pass it.

Mr. TAYLOR. Well, we are hoping that that can be accomplished.

Mr. WILLIAMS. Right.

Mr. TAYLOR. Thank you for your statement.

Our next witness is Dr. Charles P. Cleland, Society for Historical Archeology.

STATEMENT OF DR. CHARLES E. CLELAND, PROFESSOR AND CURATOR OF ANTHROPOLOGY, MICHIGAN STATE UNIVERSITY, AND PRESIDENT, SOCIETY FOR HISTORICAL ARCHEOLOGY

Dr. CLELAND. Mr. Chairman, I hope that my written statement can be made part of the record.

Mr. TAYLOR. It will be put into the record at this point.

[The entire statement of Dr. Charles E. Cleland follows:]

STATEMENT OF DR. CHARLES E. CLELAND, PROFESSOR AND CURATOR OF ANTHROPOLOGY, MICHIGAN STATE UNIVERSITY, AND PRESIDENT OF THE SOCIETY FOR HISTORICAL ARCHAEOLOGY

Mr. Chairman and members of the committee, I am pleased to be here to offer my testimony in support of H.R. 296 and to provide whatever assistance I can in your consideration of this legislation. The views which I offer reflect the collective opinions of members of several organizations which have a direct interest in the preservation of our Nation's cultural heritage. From my own state, I speak for the Michigan Archaeological Society and the Conference on Michigan Archaeology, organizations which represent amateur and professional archaeological interests in Michigan respectively. Nationally, I bring the views of the Society for Historical Archaeology, a large organization of persons devoted to the study and preservation of archaeological sites occupied during the period of written history, which I have the honor of serving as its current president. All of these organizations, with their several thousands of members have been, and will remain staunch advocates of the concepts incorporated in H.R. 296.

In reviewing the testimony voiced before this committee in its study of H.R. 735 during the last session of Congress, I was impressed by the uniform agreement among witnesses from various affected Federal agencies, the archaeological community, and members of the committee that new and stronger legislation is needed for the adequate preservation of historical and archaeological information. Certainly the accelerating rate of the destruction of our non-renewable archaeological resources adds a sense of urgency to this cause.

As professional archaeologists, and as citizens with a direct and intense interest in our Nation's past, my friends and colleagues in Michigan and throughout the Nation watch in utter frustration the continuing depletion of our archaeological resources. The source and depth of this frustration results from the disparity between theory and practice, between good intentions and neglect. The Federal Government has long since claimed antiquities on Federally owned land for the benefit of the people through the wise enactment of the Federal Antiquities Act of 1906 and the National Historic Sites Act of 1935. The conservation of such antiquities has been furthered by a number of subsequent acts providing for the salvage of sites and information which might be destroyed by a few specific types of Federal construction programs. Some additional protection has been provided for a few of our most significant archaeological and historic sites through the enactment of the National Historic Preservation Act of 1966. Despite the fact that the sites which contain the prehistoric and historic heritage of our people have been claimed for the people and despite the fact that current legislation encourage the study and preservation of these sites, we see them destroyed on almost a daily basis. Although billions of Federal dollars are used annually in the projects which obliterate our prehistoric and historic cultural resources and although the Federal and state officials who administer these projects are often genuinely concerned with their preservation, neither they nor the archaeologist are provided with adequate legal or financial resources to act in the interest of the people.

Since you have already heard examples of site destruction under the inadequate provisions of existing law from other states, I will not go into specific detail with examples from Michigan. I can assure you, however, that these cited examples are not exceptions within a viable program but are rather indications of the need for more comprehensive legislation. We believe that H.R. 296 will answer our needs.

Without further comment on the current situation, let me turn to the several problems which have been raised concerning H.R. 296. There seem to be four major points of difficulty:

- (1) The problem of determining the "responsible agency"—specifically in reference to that agency which could provide funds of up to 1 per cent for salvage work;
- (2) The question of a time limit so that important Federal projects would not be delayed;
- (3) The problem of determining the applicability of the law to the types of Federal projects covered by the proposed legislation; and
- (4) Questions about the complexity of interagency fund transfer.

Regarding the first problem with a perspective of one concerned with the destruction of specific archaeological sites, I believe that "responsible agency" means that agency which provides the financial means to move earth and therefore to destroy sites. The responsibility of such action must lie with the agency which provides the direct or indirect means.

With reference to the second problem, practical experience in working with the government of my own state convinces me that the answer to the problem of archaeologists impeding or delaying public works projects lies not in setting time limits but in providing channels for the prior discussion of archaeological resources in project planning. Certainly our concern is not to impede progress but to *plan* for progress. In Michigan I have been involved with Federal, state, and private projects which require earth-moving construction. Since archaeologists have been informed about these projects by the Michigan Department of Natural Resources from the initial planning phase, we have been able to open discussions with the concerned agencies or industries regarding possible damage to sites years ahead of actual construction. I know of no project which has been delayed in my state since these channels were opened several years ago, and I see no reason to believe such problems would develop under the provisions of H.R. 296. In fact, this bill would go a long way toward preventing confrontations and delays.

Again, I must rely on experience to address the problem of "applicability" of H.R. 296. Clearly, a functional bill of this type requires the broadest ap-

plicability; in trying to save information from sites, we are concerned with those sites which are deemed significant according to the best judgement of professionals. We must be able to make such judgements on the basis of the scientific and cultural value of the site, not on its extent nor on the size of the project which threatens the site. The intentional broad wording of H.R. 296 in regard to "applicability" may appear to be fraught with administrative difficulty. Indeed, this could be the case; however, the fact that the responsibility of informing Federal agencies concerning the possibility of site destruction rests, not with the administrators of these agencies, but with the archaeological community. The burden of Federal administration is reasonably light; the responsibility of local archaeological interest is appropriately heavy.

Finally, we come to the problems which have been raised concerning inter-agency fund transfer—this seems to me to be an unworthy objection. Certainly, the financial arrangements involved in the legislation before us pales besides the enormously complex transactions which take place between agencies of the Federal government on a daily basis. If further demonstration is needed that the transfer proposals of H.R. 296 are workable, we need only to refer to funding transfers for archaeology which currently are operable between the various budgeted units of the Army Corps of Engineers and the Department of Interior.

In conclusion, let me turn to the several new proposals incorporated in H.R. 296 which recommend its worth to my colleagues in Michigan and to the membership of the Society for Historical Archaeology. First, this bill significantly expands national interest in salvaging archaeological and historical information from sites threatened by any Federal, Federally assisted, or Federally licensed project. Secondly, the responsibility for the discovery and salvage of archaeological information is shifted from Federal administrators to informed members of the local archaeological community—those most conversant with the local terrain and sites. The third point of vital concern is the provision which makes adequate funds available to assist in preserving the Nation's cultural resources. Finally, this bill permits the development of channels of communication between the archaeological community and various agencies of the Federal Government regarding archaeological problems. Such channels provide both the agencies and the archaeologists with the legal means to fulfill their responsibility to the people.

The measures incorporated in H.R. 296 are those minimal provisions which we need to handle the urgent archaeological problems which confront us. Our hope is that the progress which will change the landscape of this Nation in the future will be truly progressive. Such will be the case, if our plans for the future preserve some measure of our past. We have long since recognized the wisdom of this principle—we must now have the means to implement it.

Dr. CLELAND. I have a few additional comments that I would like to make and I will try to hold back my philosophical impulses and make them brief.

First of all, I am pleased with the general agreement that has been voiced by the Federal agencies on the need to improve legislation to salvage information from prehistoric and historic archeological sites.

This, I note, has been consistent this year and in the hearings in the last session of Congress.

Let me observe that archeologists as a professional group, have had a great deal of experience in dealing with the conservation of resources. We have worked under Federal legislation for half a century, and we have been working with various Federal agencies for many decades. The relationship which we have established with the National Park Service, the Army Corps of Engineers, Housing and Urban Development, and the Department of Transportation have been congenial, workable, but not entirely adequate.

Over the years, archeologists have brought professional judgment to bear with the benefits of preserving vestiges of the past that have conflicted with the necessity to construct facilities for future use. Our long record will show that in this task we have not been objectors of

construction, but have been citizens seeking a prudent and feasible alternative.

In keeping with our good relationship that we have built with the many Federal agencies, and to enhance our capacity to continue to serve the public for the preservation of their cultural heritage, we now ask for legal and financial resources necessary to realistically deal with these problems.

In our best professional judgment, based upon our problems in excavating sites and in our considerable experience in dealing with Federal agencies who are responsible for these sites we support and recommend the concept incorporated in H.R. 296. We seek broad applicability, acceptability, because the sites we seek to salvage are threatened by a broad range of Federal projects. We seek additional financial support, because the expanded Federal construction, federally assisted construction and federally licensed construction increases the rights at which these sites are destroyed, and at the same time, annually decrease our capacity to salvage these resources.

In asking Congress for these two basic changes on the Federal legislation, we have sought to maintain the professional responsibility for archeological resources in professional hands. It is this sense of responsibility that my colleagues in Michigan and in Society for Historical Archeology recommend H.R. 296.

That concludes my statement, Mr. Chairman. If there are any questions that I may try to answer, I will be most happy.

Mr. TAYLOR. Mr. de Lugo.

Mr. DE LUGO. No questions.

Mr. TAYLOR. I haven't any questions either. We thank you for your testimony.

Our next witness is Dr. Charles R. McGimsey III, director, Arkansas Archeological Survey, University of Arkansas; and president-elect, the Society for American Archeology.

STATEMENT OF DR. CHARLES R. MCGIMSEY III, DIRECTOR, ARKANSAS ARCHEOLOGICAL SURVEY, UNIVERSITY OF ARKANSAS, AND PRESIDENT-ELECT, SOCIETY FOR AMERICAN ARCHEOLOGY

Dr. MCGIMSEY. I would like to request that my formal statement become a part of the official record.

Mr. TAYLOR. A copy of all the statements of all the witnesses will be placed in the record when their names are called, and then they may comment on them as they see fit.

[The complete statement of Dr. McGimsey follows:]

STATEMENT OF DR. CHARLES R. MCGIMSEY III, DIRECTOR, ARKANSAS ARCHEOLOGICAL SURVEY, UNIVERSITY OF ARKANSAS, AND, AS PRESIDENT-ELECT, REPRESENTING THE SOCIETY FOR AMERICAN ARCHEOLOGY

This Nation presently is faced with a major crisis with respect to its archeological resources. Our heritage from the past lies buried in the ground where it has accumulated for thousands of years. For the great majority of that period, this resource lay largely undisturbed. Four hundred years of interaction (A.D. 1500-1900) between the native American cultures who were responsible for the country's more ancient past and the European-derived cultures upon which much of our present culture rests, saw the dissemination of the native Americans and the near-total destruction of much of their culture. The hundred years between A.D. 1900 and the year 2000 will see also the near-total destruction of the

physical remains of the past of BOTH the Indian and our own cultures without any adequate record having been made, unless corrective action is taken now.

The last 25 years have seen the rate of land alteration, all of which destroys or adversely affects our archeological resources, increase at a staggering rate; the next 25 years will see this rate of destruction multiply many fold. While not every inch of ground will have been altered, a large proportion of it will have been, and there is no way to predict what portion will remain undisturbed; certainly there no longer will remain a large enough portion of the total range of history to enable archeologists of future generations to interpret adequately the past. It is for this reason that we are faced with the last opportunity to preserve, to recover, to protect, and to understand any meaningful portion of this Nation's long history. If we do not meet this need adequately, we will have deprived all future generations of any possibility of knowing and benefiting from the past, and without this knowledge, the future will be infinitely poorer. If this disaster is to be averted, archeologists, and the Federal, state, and private agencies through which they operate, must develop new approaches to the problem of recovering and protecting our archeological resources. We cannot delay. Our children will not be able to preserve the past for their children, unless we preserve it for them.

I believe the bill presently under consideration (H.R. 296) will be a major step toward Federal assurance that the past will have a future.

This legislation really began several years ago when Dr. Corbett, Chief Archeologist of the National Park Service, and several archeologists from Missouri and Arkansas got together informally to discuss the problem of destruction of sites by land-leveling. This resulted in a few small cooperative agreements between the National Park Service and Missouri and Arkansas to investigate the nature and extent of the problem. The extent of the problem, when we discovered it, shook us to the core. In Arkansas, for example, we discovered that only 20,000 acres had been leveled in all the years prior to 1953, the year in which the Federal cost-sharing program began. In the 14 years between then and 1967, the year of our survey, the Soil Conservation Service, which handles this program, stated that 783,879 acres had been leveled. There are, of course, other factors than Federal participation responsible for this increased leveling activity, such as the ready availability since World War II of heavy equipment, and a shift to irrigation farming in Eastern Arkansas, but there would seem to be little reason to question that there is an almost one to one correlation between Federal cost-sharing, and this vastly accelerated land-leveling activity, with the concomitant vastly accelerated destruction of archeological data.

In the Mississippi Alluvial Valley, the most popular location for Indian sites were the natural levees and other small eminences. These are precisely the places that are first leveled for purposes of irrigation, for ice farming, or often simply "to get rid of that high spot". Leveling of a natural levee serves effectively to obliterate the average Indian site located upon that levee. Even the larger sites are not immune; I stood by for a day and watched a team of three land planes almost completely destroy a Mississippian period village several acres in extent and dating from around A.D. 1400 and underlain by a Woodland site which was probably occupied around A.D. 1000. One pass of an earth mover was seen to completely cross section horizontally an extended burial; a few minutes later, the next pass obliterated the remainder. There were similar experiences with entire house patterns, and fire basins. With proper planning and funding the important information contained in this site could have been recovered without delaying or preventing the leveling.

Our experiences with land-leveling in Arkansas and Missouri caused Dr. Carl Chapman, Director of American Archeology at the University of Missouri, Hester Davis, Arkansas State Archeologist, and Dr. J. B. Griffin, Director of the University of Michigan Museum of Anthropology, and myself to inquire further. A series of conferences with the archeologist actively involved with research up and down the Mississippi Alluvial Valley, soon revealed that the problem was not associated solely with Missouri and Arkansas, nor was it one solely related to land leveling. Strip mining, drainage ditches, many agricultural practices, urban sprawl, and other factors, all played their part, and nearly all were assisted in some manner by Federal programs.

From this our inquiry was extended nationwide and it rapidly became apparent that the problem was a national, not a state or regional one. For that reason it was felt that there was an urgent need to develop a solution on the national level. One element of this attempt was the development of a brochure which could be made available to the public to acquaint them with the problem,

its urgency, and the fact that there was something that each person could do about it. To date 50,000 copies of this brochure, *Steward of the Past*, have been distributed nationwide.

The second approach was consultation with Congressmen and Senators, particularly Senator Moss and his staff, and Congressman Bennett and his staff, but with a great many others as well, on the design and development of a legislative approach to the solution of this problem. An amendment to the 1960 Reservoir Salvage Act was drafted. Archeologists then consulted with the Federal agencies who would be principally involved, and these agencies commented officially on the legislation introduced into the 91st Congress. A modified version of the legislation, one which took into account all of these comments was introduced into the 92nd and 93rd Congress and is what we are considering here today.

Provision must be made for Federal agencies directly involved in programs resulting in archeological destruction to be able to provide a level of funding adequate to recover or protect those resources, a level directly scaled to the nature of the program, and the extent of the destruction. This is precisely what the proposed amendment makes possible.

During the discussion of this legislation at the House Subcommittee on Parks and Recreation hearing, held during the 92nd Congress on Sept. 11 and 12, 1972, the Department of the Interior, at the request of Congressman Kyl, prepared an amendment to the legislation which would restrict application of the legislation when the undertaking was small unless specific finding of archeological or related resources were present. We would prefer that H.R. 296 stand as presently written but if the Subcommittee in its judgment determines that such a limitation is necessary, our professional opinion is that an amendment such as that drafted by the Department of the Interior would create no serious difficulties.

I believe every step has been taken to assure that this is a good, workable piece of legislation; one that meets a very definite need, and will contribute to a marked degree to the alleviation of that need. I strongly urge and recommend its passage.

Dr. McGIMSEY. There is a reference in that statement to a booklet that is being passed out now. I would like that to be made a part of the record.

Mr. TAYLOR. Without objection, the booklet will be placed in the file.

Dr. McGIMSEY. Fine. I would like to mention two things briefly. I was involved with this legislation from the beginning, and as you mentioned yesterday in your opening statement, there are basically two sets of bills before the committee, one represented by 296 and 2607, which I mentioned because it was introduced by Congressman Mills of Arkansas, and then the second set represented by H.R. 538.

The legislation which we are considering today was initially introduced by Congress during the latter days of the 91st session. As a result of that initial introduction, agency reports were requested and comments were received from all the agencies involved. As a result of these agency comments, the bill, which was reintroduced into the 92d and 93d Congress was amended to take into consideration these agency comments. As best as I can tell, the set of bills represented by H.R. 538 parallels the initial bill as it was introduced into the 91st Congress, whereas 296 and H.R. 1880 by Congressman Saylor, take into account the initial agency comments and suggestions. So, we would like to suggest that departure be taken from 296 and 1880 rather than the 538, which would require just additional amendments, we believe, to take into account the agency comments and suggestions.

In that sense, we are in agreement basically with the revision of the bill that appears in Congressman Saylor's H.R. 1880. There has been an understandable concern expressed by the committee about the effect

of this legislation on these small projects and with perhaps, undue burdening of Federal agencies and others with regard to the number of projects that may be involved.

I think this seems basically in part an assumption that legislation automatically applies to every project, and that each landowner would be required to become involved or that every agency would have to act with regard to all of its projects. I do not think this is the case. In fact, I know this is not the case. The provisions of the act become applicable only when an appropriate archeological, historical agency notifies the Federal Agency responsible that significant archeological resources are to be effected, and secondly, even though they have not been notified, the Federal agency is the final arbiter as to whether anything can, in the best public interest, be done.

Taking into account the nature of the project, the resources to be affected, the funding available, the timing—that is a factor—and on the basis of all of these elements, the Federal agency then determines in its judgment whether anything should be done. There is no possibility under this provision whether anything should be done. There is no possibility under this provision—unlike some Federal legislation, which enables a project to be stopped—this could only be done if it were so determined as necessary in the best judgment of the Federal agency. A citizen, an archeologist, or a landowner, under this bill, may not bring action to cause a project to be halted.

Mr. TAYLOR. Let us take a specific case.

I get a commitment for a small business loan for a business building and I am ready to excavate the land. You are the archeologist in the area and you are of the opinion that there are some historical values there. Now, what will be the steps or procedures followed.

Dr. McGIMSEY. Assuming that you were getting Federal assistance from some Federal agency—

Mr. TAYLOR. I have a commitment which I have already received from the Small Business Administration.

Dr. McGIMSEY. Initially, I would contact the Federal agency and explain the nature of the archeological resources and explain to them what would be involved in mitigating the impact of the project in terms of time, funds, and so, on, and secondly, I would then sit down with you and explain the nature of the situation and request and urge your assistance and cooperation and understanding in this.

One of the vital elements of this whole legislation is that for the first time it will enable us to sit down with the owners and the Federal agencies responsible for these actions and discuss with them how we can take action to prevent, on a realistic basis, because now they are in a position of being authorized to take some action. We sit down and discuss it with them now, but they say we wish that we could do something to help you, but there is nothing that we can do and this is very frustrating, both to them and to us.

To continue with your question, if they feel that there is nothing that they can do in terms of funding, the second alternative would be reached. I think that is to contact the Secretary of the Interior and to see if he felt that it was of sufficient value to make funding available for it. If a project was initiated, the Federal agency would notify the Secretary of the Interior that it was acting on this. This could be simply in the form of sending a copy of the contract that they have

entered into with the archeological agency; that is all that would be involved. It would not be unduly burdensome, I believe.

Mr. TAYLOR. Under the circumstances, that I gave, the Small Business Administration would not have any authority to try to withdraw the loan?

Dr. McGIMSEY. No, sir.

Mr. TAYLOR. We haven't that provision in the bill that would give them authority.

Dr. McGIMSEY. No, sir.

Mr. TAYLOR. So, they have made a commitment to me, and I am uncooperative, and I am in a hurry.

What can be done under 296 if they are to stop me?

Dr. McGIMSEY. If it was an extremely important resource, we could contact the Secretary of the Interior, and if he was in agreement, he could then negotiate—assuming that the Secretary had funding—could negotiate with the landowner.

If this was on private property, you would have to negotiate directly with the landowner and I do not believe that you could force the landowner even then. If the landowner said that you could come to do the work with your own money, this would be possible.

He could not force the landowner to allow him on the land.

Mr. TAYLOR. If there are real valuables, there is a chance that the Secretary of the Interior could move in directly and arrange with me to slow up long enough to give him a chance to recover the valuables.

Dr. McGIMSEY. Yes, sir.

Mr. TAYLOR. So, if I am uncooperative and have an arrangement for a bulldozer to start tomorrow, under this bill there is nothing that he can do to stop it.

Dr. McGIMSEY. I do not believe it would be legally possible to incorporate it, legally, from the archeological point of view it would be nice.

Mr. TAYLOR. But it does give additional opportunity to preserve.

Dr. McGIMSEY. It does give the opportunity to work with them. As previous witnesses have said, we can prevent any holdup by being a part of the planning process right in the very beginning.

Mr. TAYLOR. And it does not take any property rights away from any individual.

Mr. McGIMSEY. No, sir, in no way.

Mr. TAYLOR. Well, I think that is the best analysis of the situation that we have heard.

Dr. McGIMSEY. Thank you, sir.

Mr. TAYLOR. Proceed.

Did you finish your statement?

Dr. McGIMSEY. Yes, sir.

Mr. TAYLOR. Does any one else have any questions?

Well, thank you, Dr. McGimsey, very much.

Our next witness is G. F. Grabert, archeologist.

Dr. Grabert is not here. His statement will be included in the record at this point.

[The entire statement of Dr. Grabert, archeologist, follows:]

STATEMENT OF GARLAND F. GRABERT, PH. D., BELLINGHAM, WASH.

Whereas growth of communities, construction, new land uses and other agents are destroying archaeological and historical sites at an ever-increasing rate in

this Nation, and these archaeological and historic sites are an irreplaceable resource, I am in favor of legislation designed to protect and to properly and scientifically interpret these resources for all citizens.

Some segments of the general public have in recent years turned to overt and covert looting of the dwindling number of archaeological remains in this country. Under the guise of salvage they have satisfied their acquisitive tendencies. Usually, the information they glean is lost, or is almost entirely useless to a thorough interpretive effort—in fact information so gathered tends to foster misunderstandings. Furthermore, unwitting or uncaring destruction of archaeological resources in construction, industry, recreational property development, etc., has made it a near-certainty that in a few dozen years archaeological sites in more settled areas will no longer exist, with much of their wealth of information irretrievably lost.

In the interest of the general public, education and understanding of the antecedent developments in American culture a more stringent and inclusive control of archaeological resources is not only desirable, but a practical necessity.

Because of these concerns, I wish to add my approval of H.R. 296 and its related proposals.

Mr. TAYLOR. Our next witness is Dr. Richard D. Daugherty, Archeological Research Center.

STATEMENT OF DR. RICHARD D. DAUGHERTY, DIRECTOR, WASHINGTON ARCHEOLOGICAL RESEARCH CENTER

Dr. DAUGHERTY. Mr. Chairman, I have submitted a statement, and I simply want to address myself to a few remarks on some of the questions that have been raised.

[The entire statement of Dr. Daugherty follows:]

STATEMENT OF DR. RICHARD D. DAUGHERTY, DIRECTOR OF THE WASHINGTON ARCHAEOLOGICAL RESEARCH CENTER, AND PROFESSOR OF ANTHROPOLOGY, WASHINGTON STATE UNIVERSITY, PULLMAN, WASH.

My name is Richard D. Daugherty. I have been doing salvage archaeology for twenty-four years, primarily in the Pacific Northwest, but I also was field director of an expedition to Egypt and Sudan to salvage the antiquities behind the high Aswan Dam. In 1967, I was appointed by President Lyndon Johnson to the Advisory Council on Historic Preservation when it was first established.

I wish to offer the following comments on H.R. 296 and related bills. Our nation is facing a genuine crisis with reference to its cultural heritage. In my brief quarter of a century of archaeological salvage in the Pacific Northwest, I have witnessed the change from vast open lands and a single major hydroelectric project, the Grand Coulee Dam, to the present situation of great reclamation projects and major dams every thirty to forty miles along the Columbia and Snake Rivers. In the beginning, the archaeological resources seemed inexhaustible, but today all but a few sites at the upstream end of the reservoirs have been lost.

Man's modification of the landscape by whatever means or for whatever purpose is destructive to the remains of the past. Obviously, this nation is not going to stop construction projects, agriculture, road building or urban expansion because its cultural heritage is endangered. It is a problem of reasonable men and women representing all of the interested parties and agencies, working out a reasonable solution to a problem of national concern.

Each year, countless tourists board ships and airplanes to go to Europe to see the archaeological sites, historic villages, and famous buildings that the various nations so proudly protect and display. Unfortunately, this is not the case in the United States, where destruction has taken precedence over preservation, and where we have traditionally looked to Europe for all that is precious in historic terms, when our own nation abounds in historic and prehistoric properties far more precious to our culture.

What is needed is a strong but reasonable program which will permit us to save what we can and salvage what we must. The bill being considered presents, in its present form, the basis for such a program. I urge its favorable consideration.

Dr. DAUGHERTY. I have been practicing and working with the Corps of Engineers, and the question about delays has been brought up.

In no case, in our State, has any construction agency ever been delayed in construction because of archeological remains, and this was mentioned earlier. I think that this legislation would improve the situation, because the real problem is getting in there early enough and the earlier we can get there with funding, obviously, the easier it is going to be to get the job begun and done.

Second, the statement was just made about the legislation having to do with the mandatory nature of this. As I said, this is a completely permissible legislation, permissible legislation that has no mandatory things in it. The question was raised about ownership of material. Now, an archeologist gets into this all the time. Obviously, the owner of the private land has the ownership of the material excavated. This is something that is already worked out between the archeologist and, in fact, I do not know of any case where an owner has said that he wants this and you cannot have it, when you excavate there. They are more than cooperative in most cases to put it in a university or museum.

Usually, they are recognized for having provided this material.

So that, there is one final statement that has not been made, and that is with respect to the American Indian peoples. They were in the United States, nonliterate peoples for the most part, in fact, almost exclusively, so depending on how you look at it—but the situation is that there is no other way to recover the culture, history of these people, except through archeology and it is extremely important.

In my experience in dealing with the Makah people up in our area, the archeological excavation that we have been doing has had a tremendous impact on them. It has raised their status with their peers and it has improved their economic situation. It improved their viability with the public, and it has been a completely changed situation. I think that it is extremely important to these people, and I urge that this legislation be passed.

That is all I have to contribute.

Mr. TAYLOR. You state that this is permissive legislation. You are referring to it as it applies to property loans, are you not?

Dr. DAUGHERTY. It is permissive in the sense, as Dr. McGimsey just pointed out, that it is up to the agency to interpret it.

Nobody is forced into doing anything. It permits an agency to get involved but they are not pushed. Am I understanding they are not forced to do anything. They have to make the determination once they are informed of the archeological materials, as to the time factor, the money available and all sorts of things like that. They are encouraged, obviously, to assist in the salvage of these things in any way that they can. The administrator has to ultimately come to the command decision as to whether they can provide any assistance.

Mr. TAYLOR. Well, the present law, as applicable to reservoirs, is not permissive. It sets up a procedure that you shall follow when valuables are discovered.

Dr. DAUGHERTY. But, it doesn't provide the funding necessary to do this.

For a specific example, where we have been working with the Corps of Engineers on a dam along the Snake River, the local official with the Corps of Engineers wishes that there was legislation that would

put them on an archeology basis because they would like to be directly involved with the archeology and that would be a very smooth operation for them. We come to them with a problem, and they say, look, it is not so much a matter of funding as we are not able to help you under the existing situation. This is the type of thing that would permit them, if we can convince them that this was important to assist.

I think that it is very worthwhile work.

Mr. TAYLOR. In line with the statement made by Dr. McGimsey, from the standpoint of the owner of the property, I reach the conclusion that the legislation is permissive. It does not make him do anything, but it sets up procedures where he may be encouraged to be cooperative and it gives the Secretary of the Interior the opportunity to come in and use money and do a good job, if he can arrange it.

Dr. DAUGHERTY. Right.

Mr. TAYLOR. But as to Federal projects, as such what procedures shall be followed by the agency to protect the buyers?

Dr. DAUGHERTY. In terms of funding, I think, it is permissive. It may fund up to 1 percent. It does not say that they must fund up to 1 percent. Isn't that the way the bill is—it was in that sense that I was talking about.

Mr. TAYLOR. Yes, sir.

Dr. DAUGHERTY. I think in the law of our land the relationship with the private land owner is something that is strictly something that has to be arranged between the archeologist and the land owner. We cannot enforce any kind of legislation that would tell him what to do with his land.

Mr. TAYLOR. Are there any questions?

The gentleman from Pennsylvania.

Mr. SAYLOR. Dr. Daugherty, let me first thank you for your statement.

In the years that you have been working in the Pacific Northwest, can you give us some examples of the things that you have discovered that were not known before?

The reason I ask this question is that I am sure, by the time we get this bill to the floor, somebody is going to come out and say, well, every Indian village is the same. If you have examined one Indian village, you have examined them all.

Can you point out some examples from your experience where you have discovered things in the new sites that you have gone to?

Dr. DAUGHERTY. Let me give you two examples, very quickly. There is one within the past few years, along the Snake River at a rock shelter. We found on that site that it was occupied for 10,000 years and has had some skeleton remains, and some have yet to be found. The importance of trying to determine what the early physical type American Indian is has always intrigued us. We have found on that site a number of skeletons that date back—and fragments of skeletons—dating back to around 10,000 years, which is a very important discovery from the standpoint of not only origin but the physiology of the American Indian.

What I am working on now is an Indian village that was hit by a mud slide, and there are at least six houses buried, preserving almost everything that was in there intact. In other words, we just do not find the stones and bones of the past culture, but we find the artwork,

the clothing, the looms, the whaling harpoons, and the bows and arrows, not just the arrowheads. In one house we found approaching 17,000 specimens; and one 2-meter square, 50 baskets. Now, these kinds of things are extremely important and the archeologist, I assure you, is not interested in digging up sites, because there is a site there. He simply does not have the time. He is not out to duplicate things that he has done in the past. He has to make a judgment. If you have a reservoir and there are a hundred sites on that reservoir, you have to make a judgment as to which of those you want to dig, and you will probably dig—at the present time, we are getting less than 10 percent. We hope to improve that considerably. But, we are still not going to be digging a hundred archeological sites in a reservoir, just because they are there.

Mr. SAYLOR. In other words, from the knowledge that you are able to amass from the work in your area, the next time you go into a reservoir site, you would be able then to eliminate the less likely spots and to look at the ones that would seem to have the greatest promise, is that correct?

Dr. DAUGHERTY. What we do try, essentially, is to get a sample of the various sites that exist as well as the sample of the site through time periods. So, we have control over the archeology field, plus we do not want just villages, caves, shelters, the same sites. We like to sample these things so that we have a fairly full picture of the culture, the history, and this is the approach that is taken. Just digging the site to be digging the site is not something that is attractive to the archeologist.

Mr. SAYLOR. Now, in regard to the first example that you gave us, where you discovered the remains—partial remains—of Indians, of 10,000 years ago, does this confirm the belief of most of the archeologists that I have talked to, that the Indian originally came down there from Canada and Alaska across the straits?

Dr. DAUGHERTY. I think that that general view is held by most archeologists. I would not say that this is intended to confirm it. We found that the people of that time period looked essentially the same as they did at the beginning of the historic period; we could find no significant physical differences. They were fully modern physical types, but nothing that would help us, unfortunately, on that question that you raised.

Mr. SAYLOR. Thank you, Dr. Daugherty.

Mr. TAYLOR. The gentleman from California.

Mr. KETCHUM. No questions.

Mr. TAYLOR. Well, thank you.

Our next witness is Dr. Carl H. Chapman, Missouri Archaeological Society.

STATEMENT OF DR. CARL H. CHAPMAN, DIRECTOR OF ARCHAEOLOGY, RESEARCH ACTIVITIES, MISSOURI ARCHAEOLOGICAL SOCIETY

Dr. CHAPMAN. I would like to have my statement placed in the record, please.

Mr. TAYLOR. The statement will be placed in the record.

[The complete statement of Dr. Chapman follows:]

STATEMENT OF DR. CARL H. CHAPMAN, DIRECTOR OF ARCHAEOLOGY, RESEARCH ACTIVITIES, PROFESSOR OF ANTHROPOLOGY, UNIVERSITY OF MISSOURI—COLUMBIA, AND SECRETARY OF THE MISSOURI ARCHAEOLOGICAL SOCIETY

Mr. Chairman, I represent a great number of professional archeologists, amateur archaeologists and interested citizens throughout the United States that feel that passage of House Resolution 296 would be of great benefit to the welfare of the Nation. As a member of the Steering Committee of the Public Archaeology Committee of the Society for American Archaeology and chairman of its legislative subcommittee, and the Steering Committee of the Mississippi Alluvial Valley Archaeological Program I have been in close contact with 550 of my colleagues in all parts of the United States the past four years and have found unanimous support from them for this legislation. Furthermore, I represent the Missouri Archaeological Society of which I am Secretary. The Society membership is mostly from Missouri, made up of amateur and professional archaeologists and citizens interested in the past. Members are also from forty-seven states and the District of Columbia.

In view of the facts that the cultural heritage of these United States of America are being damaged or destroyed by federal projects and activities at an alarming rate, and that these cultural and historical resources are non-renewable and irreplaceable, it is urgent that steps be taken immediately to mitigate the onslaught on these resources. Quick passage of H.R. 296 in its present form would be a great step toward saving this cultural-historical heritage for future generations.

I have been involved in archaeological research for 39 years and for the past 26 years most of my work has been the salvage of information from archaeological and historical sites which were threatened with destruction by federal projects. In nearly every case the level of funding for the work was too little and the time that the funds were available was too short. Thousands of sites were lost under the backwaters of dams in Missouri alone—and without a spade being placed in them, or sufficient knowledge obtained about them to establish their value for the future. Most of the work had to be done within reservoir areas to be flooded by dams. This was the only place where such work could be funded under the present legislation, the Act of June 27, 1960 (74 Stat. 220) which H.R. 296 amends. Many other thousands of sites were lost during the same time period by projects and activities of federal agencies other than the Corps of Engineers—without recourse—for there was no authorization by Congress for funding the necessary work to save the information from them by the agencies involved in their destruction. The passage of H.R. 296 would go a long way toward alleviating the situation by allowing all federal agencies which have projects, programs or activities which would damage or destroy our important evidences of the past to participate in the saving of that precious information and material. Furthermore H.R. 296 would become the means by which the archaeological community and federal agencies could communicate and could plan together the best way of saving a reasonable amount of our cultural heritage for future generations. We cannot save everything from the past, nor do we want to do so, but we must save enough to be able to interpret and explain the few monuments from the past which will have been preserved in our national, state and local parks and preserves.

House Resolution 296 would aid development of national manpower and expertise resources in archaeology and related areas through state and local programs. The passage of H.R. 296 would facilitate the development of local and state programs to be useful pools of expertise and manpower that could be called upon by Federal agencies for needed data in program planning. The local or state agency in turn through its cooperation with Federal agencies would be able to continue a balanced program to help save our cultural heritage throughout the nation. The advantage of building up local and state programs is that they would have on their staffs experienced individuals with expertise adapted to that locality or region. Contracts to the local or state programs by Federal agencies would be helpful in building up facilities as well as staff and would result in reducing the cost of obtaining the data through greater efficiency in operation and through part of the cost being absorbed by the local program.

Once a local program is in operation it is less costly to expand or alter its activities than it is to set up a new program needing new facilities. Furthermore, a

continuing program can hold a staff of experts who are knowledgeable about the area involved.

An example is the American Archaeology program at the University of Missouri which more than twenty years ago oriented its research to aid the National Park Service in the River Basin Archaeological Salvage program. Through contracts with the National Park Service the American Archaeology division of the University was able to increase its facilities such as vehicles, laboratories and special equipment as well as add to its permanent staff. Furthermore, through matching the costs of the research in the River Basin Surveys, the cost of the overall River Basin Program in Missouri to the Federal Government was reduced by half. The passage of H.R. 296 would make possible the development of similar programs elsewhere and assure the continuation of an effective program in Missouri.

Another very important aspect of H.R. 296 is the allowance of funding for analysis and interpretation of the data obtained from the investigations of sites, and the publication of the results. Archaeological and historical salvage of the information from important sites is of little value unless it is processed, analyzed and interpreted by the experts obtaining the data. Tons of material and information obtained by the WPA archaeological projects during the 1930's and early 1940's are useless to the archaeological community and to the public domain because funds were neither available to analyze and interpret the data nor to publish it. The same can be said of much of the work produced through the reservoir salvage program during the past twenty years. For example, storage space must be used at the University of Missouri to maintain several thousand boxes of materials obtained in reservoir areas in Missouri. Contracts with the National Park Service did not furnish sufficient funding to do more than conduct fieldwork and a minimum of analysis and interpretation, and no funds could be used for publication. We cannot afford to continue to do a partial job of the retrieval of information about the past. The archaeological community must be kept abreast of new findings in order to be able to do the best in analysis and interpretation. The public domain should not continue to be cheated by not having available to them the results of archaeological-historical investigations in published form.

I believe that H.R. 296 is extremely important legislation which is urgently needed. I have worked closely with my colleagues, numerous members of Congress, federal and state agency representatives and interested citizens during the past several years to aid in perfecting this legislation so that it will be workable and will allow the archaeological-historical community and the various agencies to work together to save a minimum of our cultural heritage while it is still possible. H.R. 296 as law should allow us to save a reasonable amount of our cultural heritage so that those who follow us will be able to understand the remnants of the past which have been preserved in our national and state parks and monuments.

Dr. CHAPMAN. Since I seem to be the anchor man here on the witnesses, there are a number of things that I would like to speak to and would like to summarize. I think the points that we feel as professionals need to be summarized concerning the bill.

There are some adjustments that we feel need to be made, and I think, in listening to the hearing here, that we have to come to the conclusion that these should be in the record.

I would first like to speak to the possible abuse of the bill, which has been brought up by several different Members of Congress and some of the agencies. I would like to point out that the archaeological community, all the people that are here for example, representing the archeological community are public servants. We have worked with the public, we work in public institutions and we are very much aware that we cannot go out and initiate the citizens of our State by attempting to get them to do things that they can neither afford to do or want to do. I think all of us have worked closely with the public. We have worked with people on private lands, and we have, I feel, in most instances, been able to work out a reasonable conclusion, or at least have worked out a reasonable

compromise with these people to save as much from our past as possible.

I do not think that there are any archeologists that would attempt to force either the agencies or the private individuals to work with them on saving the archeological remains from a particular site. I do, however, think that the bill H.R. 296 and 1880 would aid considerably in allowing us to communicate both with the agencies and with the private citizens when there are things that we feel that they are in need of saving for the public domain.

Now, I have worked closely with my colleagues during the past 4 years and with Members of the Congress, with the legislative counsel, with my own university counsel and with people in the agencies attempting to write or have written here by the Congress, a piece of legislation that would allow all the agencies to participate in the saving of the past.

Now, this has been brought up as to how the bill might work. There is nothing in the bill that I see that would force any agencies or any individuals to participate. The bill does authorize the agencies to expend some funds for participation, but I don't see any way that the bill would stop the agency from going ahead and destroying a site, unless it came under one of the other preservation bills, for this bill only is an authorization bill for the agencies to participate. The only agency that is forced to do anything is the Department of the Interior. It must make surveys when it is brought to their attention that there are archeological valuables that should be considered. But even though they must make these surveys my own past experience points out to me that in many instances, where this particular part of the law is in the existing legislation, the Secretary, though he was supposed to make a survey in one of the reservoir areas, could not do so because he did not have sufficient funds to permit the survey to take place. If there is not funding for it, I see no way that the Secretary of the Interior can be forced to make a survey of these areas, and so that even this, in a sense, is dependent upon the funding that the bill would allow rather than its forcing any agency to do anything. It seems to allow them to participate with the archeological community in saving a portion of the past.

Now, I would like to point out that we have what I consider—and I think most of my colleagues consider—a real crisis before us in this Nation as far as obtaining a reasonable picture of our past history.

Without this bill, I see no way that we can possibly take care of the vast destruction that is taking place across the United States today. We have developed plans that can move an archeological site within a few minutes time. If we do not have the opportunity to communicate and work with the Federal agencies that are expending the billions of dollars that move the terrain and threaten the destruction of our archeological and historical resources, then I see no way that we are going to be able to save enough of this for the future to be able to explain what has taken place here and in various parts of the United States.

Therefore, I think the bill is one that is a necessary means of getting out this problem and helping solve it. We are not going to be able to save everything of our past nor do we want to, but we do need the opportunity to be able to work with the agencies, to preserve what is a reasonable picture of the past. I think, Mr. Saylor brought up the

question as to why bother saving more Indian sites if we have saved one.

I would like to point out that people that preceded us here in these United States adapted to various physiogeographic features, and that in different parts of the United States there were different adaptations and these are important things to know even in our present planning, because we gain to learn through our archeology something about the reasons for having to adapt in certain ways, that the people that have experimented here in the past with the utilization of land that we now have fallen heir to, and we need to know about these experiments for us to know how to treat the land ourselves.

The archeologist can aid in obtaining this information. So, take my State for example. We have the Ozark Mountains. This is quite different from the Alluvial Valley, and we have a different adaptation here. The same thing can be said for the northern part of the State where we have a prairie that has been glaciated, and we have different cultural developments that extend over thousands of years. We need the information from the experiments that these people have made here and their adaptations to give us knowledge for the future.

Now, as far as the present bill, the act that is being amended, being effective, I noted in the hearings that the Department of Interior representatives pointed out that they had been quite successful with the old bill in obtaining information in the reservoir areas.

Well, I would like to point out that in the 35 years that I have worked to salvage information from the reservoir areas in Missouri, that always we have obtained funds to late and they have also been too little and we have not been able to get in there in time to save what I would consider a reasonable amount from any of these reservoir areas.

Let me give you one example, the Table Rock Reservation in Southwest Missouri which was a rather large one, and which Congress saw fit to make a special appropriation for through the Department of the Interior, where we had better funding than any other reservoir, and where we were able to locate 900 Indian sites. We could only test 80 of these, or 10 percent of these, and only 8 were thoroughly investigated.

Although we have a sketchy history of what happened in the Southwestern part of the State through this work, we still have more gaps in our knowledge than we have information and this, I think, if you would run it through all the various reservoirs that are planned in Missouri today—and there is a reservoir planned on nearly every stream, we have a great number of streams in the State of—you would find that if we continued to go on the same basis as we have in the past, that we will not get a minimum of information from these reservoir areas.

Now, this is just the reservoir areas, and this bill H.R. 296 and H.R. 1880 would take care of this situation, because it would allow us to go to the Corps of Engineers. We already have talked to them, and, I think, they are looking forward to being able to aid on saving this past history, which we have. So, I feel that this is a very important consideration.

Now, 296 and 1880 would correct the situation that we have had in the past of racing ahead of backwaters of dams and only getting a bare minimum of information.

Now, one of the other things that we have run into during this 35-year period, when we were trying to devote most of our efforts to the reservoirs, at the same time we had to see some of our very important sites being destroyed by other Federal agencies and with no recourse. There was no way we could go to them to get funding for this, except the highway, the Department of Transportation, and we did go to them to save some of our sites, but the other agencies are not allowed or were not authorized to expend any of their funds. Of course the bills before you do give this authorization.

Now, part of my statement that you have before you, which is in the record, points up the fact that in Missouri, we have been able to develop a better use of our manpower in the archeological field and obtain expertise on our staff at the University of Missouri to carry out effective and relatively effective programs, and through this, we have people who are experts on the local area.

There are people on my staff that know the area well enough that they can make selections of the most important sites that would be destroyed. If we had to depend on bringing someone in from an area of, say, the Southwest, that was not familiar with the archeology of Missouri, it would take time for them to build up the expertise to make these judgments, and, I think, that with the H.R. 296, other States will be able to build up expertise that they can hope that they can have staffs that will be expert in their localities and States and will actually be able to save the past quickly and efficiently and to select those most important things, rather than having to experiment to find out just what they are.

Now, one of the very important aspects of this proposed new legislation, which I also mentioned in my report, is that H.R. 296 will allow funds to be used for analysis, interpretation and publication. Without the analysis and the interpretation and the publication by the archeologists that are doing the work, much of the information is actually lost. It is too bad that too much of our archeological data at the present time, which has been recovered, lies unuseable because there have not been funds to analyze, interpret, and to publish this data so that it is available to colleagues in the field and to the general public.

So, this particular aspect, I think, is extremely important, because we need to get this information out as fast as possible and not only to our colleagues but to the general lay-public who are very interest in the past and want to learn about it. They should not be cheated by not having this available to them.

I would like to say a few things about the legislation for clarification of its intent and its provisions. Since I have listened closely here to the various comments, I feel—and have worked with the bill from its inception—I feel that I can actually make some clarifying comments. As I believe I have already pointed out, this legislation does not bind any agency nor any private individual into anything that they cannot afford. It does do one thing; it will force the archeologists to make the decisions on what are the most important things to say.

Mr. TAYLOR. We had a witness from the Department of Agriculture who was concerned about the effect on soil conservation projects, on small dams and so forth.

Dr. CHAPMAN. I see no problem here. The only problem will be whether or not the agency wants to work with the archeological pro-

fession to salvage anything, save any information that might be brought to their attention. I see no way that this would stop them in their projects, if they felt that they either could not afford to, due to the fact that there was not enough money in appropriation for the projects, or if they felt that they just did not want to get involved. There is nothing in this legislation.

Mr. TAYLOR. Or if a property owner was not cooperative, because oftentimes they are working on private property.

Dr. CHAPMAN. Yes; in fact, all the work that I have done in the reservoir areas has been on private property, and the same thing along the highways. These are on private property, and I have always had to make arrangements with the private individual to do the work. There have been a few instances when the individual felt that he did not want to have me there on the land, but there have been a few and there are other things that needed to be taken, so we bypassed these.

Most individuals are happy to cooperate with you because of the fact that they are interested in these things themselves. In fact, in some instances, they want you to come and work on their land even when it is not an important site, and you feel that you need to spend your time elsewhere and it is difficult sometimes to tell them, "Well, we are going to have to let this go down the drain because we have something more important over here," because the individual feels, because it is on his land, it must be an important site.

But, I think this is a challenge that the profession is eager to meet to really face up to what are the most important resources that we can save here in the short time that we feel that we have left to save them, and I am looking forward to it. It will be a problem, but, on the other side, I know full well there is no way that we can save everything, nor do we want to. We do need to save at least a minimum for the future, and this bill, I think, will give us the opportunity to work with the agencies, people in preserving at least a minimum of this past information for the future.

Now, in saying that it cannot be worked out with either the agency or the private landowner, I see nothing in the bill that demands this. So, that when we talk about it being permissive legislation, I would like to call it authorizing legislation. That is what it does. It is to authorize the expenditure on some finds in cases where it can be worked out with either the archeological profession or with the Department of the Interior.

Now, let me give you a little example of something that occurred in my State just a few years ago. I was out working on a site that I never expected to work out, but it was called to my attention by an officer of my archeological society, the Missouri Archeological Society, that there was a find of some form of prehistoric elephant.

Well, now, what he did was to report this to another professor on my staff, and he in turn got in touch with me because I happened to be the only one that was not obligated to doing any archeological work at the moment. So, I organized a group to go and see what we could do about it, and when I got there, I found that it was a mastodon buried under the windblown deposits, and the striking thing was that there was charcoal in and among the bones. So, we contacted the contractor, and I pointed out to him that it might be a very important find. We might possibly show the association of the mastodon with man in

Missouri for the first time, and, so, the contractor said, well, fine, use my bulldozer operator to take off this over burden, if you would like. We do need to get ahead on this road. The contracts were already written and I wouldn't want to be stopped.

I said, well, I don't wish to stop you at all.

Well, as it turned out, as we got down to where we could uncover it a bit more, we found a tool associated and this excited the contractors very much. The owners of the contracting firms, the general contractors, said, we will give you as much time as needed and all the help you need. We will go around you. So, it was a case of our work being here with these bigger machines working on both sides of us. Finally, it left us sitting up here about 7 feet high above the rest of the territory, and they did delay their project a short time, but they were quite eager to do it, and they were the ones that did it. This was a State road. It would not have been the case where we could have obtained funds through the bill, but, I think it illustrates a point of what can be done even in an emergency.

If we had the bill here to use as a talking point issue, we do not even need it, but, I think, that if we have it as a talking point, this would give us a better opportunity to work with these contractors. Most of them are quite willing to help out. This is not the first time that this has happened.

Now, this one thing that was very important here, we did establish that there was an association of men with the mastodon in Missouri for the first time, and, furthermore, if our State geologist is correct in his interpretation, the dating of this find will go back several thousand years, earlier than any we have had previously. He estimates that it will date around 17,000 years ago and if this is so, this is a rather startling find. We will find out for sure as we date the remains.

Mr. TAYLOR. The gentleman from Pennsylvania has a question.

Mr. SAYLOR. I would like to ask a few questions.

Does my memory serve me correctly that when Cambridge or Oxford University did their research in the lower shores of the Mediterranean, particularly in Egypt, that they were financed completely by the British Government, is that correct?

I think the first archeological research that I remember in my lifetime when they were discovering the tombs of the Pharaohs. I think that that was financed completely by the British Government.

Dr. CHAPMAN. I know that the British Government has financed archeological work, but in that particular instance, I am not familiar enough with it to answer your question.

Mr. SAYLOR. Then, the first time I recall American universities getting involved in it is when Harvard and the University of Pennsylvania got together and went to old Athens, and where many of the modern techniques of piecing together, of sifting out the things were first used and discovered.

Do you know who financed that? I think it was basically private financing and I know those reports have all been published.

Dr. CHAPMAN. I know that our Federal Government has financed work in the Aswan Dam and also in the present time in Israel. One of my colleagues, Sol Wineberg, I believe, is getting financed through the Federal Government to do archeology there. So, we have many instances where our own Federal Government has financed archeological expeditions.

Mr. SAYLOR. But all of the information that was discovered as far as was concerned, and in general, all that information has been published—all of the information, I know, with regard to Athens has been published because I have read some of the items. I think that the point you have brought out, is important that it doesn't do much good to discover it unless and somebody prints them so they are available to other people.

Dr. CHAPMAN. Of course, we have published quite a bit concerning the archeology that has been produced behind reservoirs in Missouri, but there is a backlog of material that we have stored in boxes, hundreds of these that we have not been able to have the funding to do the analysis, the interpretation and, in some instances we have manuscripts—one that I know of is over 800 pages long. I have some myself from the Tablerock that still lies unpublished, because we just do not have the funding in the private sector to put it out.

Mr. SAYLOR. All right, now the question I have, in view of the fact that many of your reservoirs in the Missouri Basin are flood reservoirs, are you able to go into the flooded land after the dams have been built, and what is the effect of the flooding of those by the water backing up the reservoir?

Dr. CHAPMAN. Quite often along the shoreline you get some tremendous washing that destroys the site along the shoreline of the lake, or as the lake is receding, that is the flood pool is receding, sites that are along the edge of the lake, due to wind and wave, are completely destroyed, in many instances. So, there is a need to continue to have some funding where a dam is built to continue to salvage some of the archeological sites that are important and being effected by wave and wind action.

Mr. SAYLOR. Thank you.

Mr. TAYLOR. Are there any other questions?

Mr. SKUBITZ. No.

Mr. TAYLOR. Mr. Ketchum?

Mr. KETCHUM. Thank you, Doctor, in reading some of the material, I assume that came from the university—

Dr. CHAPMAN. Yes.

Mr. KETCHUM. One statement of the bill bothers me, and that is an appropriation. Is it just that they are hereby authorized to be appropriated, such sums as may be needed.

That is a pretty broad term, I think, and I do admit to arriving late, but I have not heard any estimates of the funding level that you or your compatriots might feel is necessary in this bill.

Dr. CHAPMAN. Yes, this has come up in the Department of the Interior, in the agency report, and they have discussed this particular point, and I think, as far as our archeological community is concerned, that there should be a ceiling put on the 1 percent, that is transferred to the Interior Department.

Mr. KETCHUM. One percent of what?

Dr. CHAPMAN. One percent of the project or activities or program funds that would be effecting or destroying the archeological resources there.

Mr. KETCHUM. In other words, if a dam were estimated to be \$600 million, 1 percent of that would be for funding archeological work?

Dr. CHAPMAN. It could be, but, normally, it wouldn't be that much.

In other words, this is a ceiling already placed on it, but we feel also that there should be a ceiling placed on the overall funds to assure Congress and your constituency that expenditures will be reasonable and for the public good.

We would defer to the Department of the Interior who have figures on this as to what they feel would be a reasonable ceiling that could be placed on it.

Mr. KETCHUM. I want to clarify that I have no real objections to the bill, but I doubt very much whether I would vote for it unless there was a dollar amount placed in it.

Dr. CHAPMAN. We would hope that you would put a ceiling on this and that you would confer with the Department of the Interior, and also, I think, a time limitation for such a ceiling would be desirable as the bill is concerned for an exact amount for 3 years that would give us time to see what experience we have had with the bill and its workability, and we would like very much for the committee to consider both a ceiling and time limitation.

Mr. KETCHUM. You are speaking of a time limit on the bill, and that brings to my mind another question.

What sort of time limit would you place on archeological activities? Let's say that a dam is proposed and the hypothetical situation, it is your understanding or you know that there is a proposed site in that flood plain that is going to be over. What sort of time limit would you then place upon the agency to stop construction, for example, or halt construction?

Dr. CHAPMAN. I would say this, that what we would like to do is not to be halting construction or even attempting to. We want to get away from the problems that we have had in the past where we are having to rush in at the last minute and try to salvage some information after construction is underway.

This bill would allow us to go to the agency and to get into the planning stages, and to give us enough time to get the job done. We are going to have to see our resources go down the drain in these projects that are already underway. I do think that occasionally we can save some of them, but I think that the only way that the profession can really begin to save a reasonable amount of our past is to work with the agencies right at the beginning stage, and this will give them the time and the chance—if we can conduct surveys and find out what is here before they go ahead and finish plans, we can advise them as to what is there, and if there is something worth saving, they can get it in this request for appropriations to cover this.

Mr. KETCHUM. Well, that does not seem to be unreasonable as far as I am personally concerned.

One thing does concern me in your little brochure, and that is the statement on the first page at the bottom of the page, and it is one that every legislator has been so used to hearing, "We cannot postpone our responsibilities. We cannot wait until it is more convenient or until there might be more funds to make appropriations for this. There is no more time."

This statement is repeated in almost every piece of legislation that we hear. Obviously, you are interested in archeology, someone else in the national parks, someone else in a big social program and that flat statement—it doesn't make any difference whether we can afford

it or not, we have to do it right now and the determination has to rest with us, and this is the kind of statement that always bothers me, because the individual that makes them, taking all these things into consideration, never says this is a No. 1 priority, or we really should be doing this—and I quite agree—and here is the alternative, here is the plan over here where we feel that is of national importance. So, we can take money from here and put it over here. Those are the kinds of decisions, at least for me, that I need your help and the help of the people that are interested rather than just making flat statements, we need the money because this Nation, in my opinion, has made the determinations based on this kind of statement for the past 30 years, and that is where we find ourselves right now.

Mr. TAYLOR. Would the gentleman yield?

Mr. KETCHUM. Yes.

Mr. TAYLOR. We have an energy crisis, a food crisis, and an inflation crisis, what the gentleman is worried about now is that we have a time crisis.

Mr. KETCHUM. Right.

Dr. CHAPMAN. If I may speak on that particular thing, I believe some of the agencies mentioned that we were expending somewhere in the neighborhood of \$60 billion each year in the United States on projects that do disturb the terrain. Now, all this \$60 billion, what we are talking about here is something on maybe \$8 million for the entire United States.

Mr. KETCHUM. Which is an infinitesimal figure, but I just call to your attention that just last Thursday, the House of Representatives passed a \$3.8 billion foreign aid bill and this committee has to fight like hell to get \$20 million to build a State park.

Dr. CHAPMAN. We realize this. Of course, as you say, perhaps it is because we are so closely connected with this area that we feel so strongly about it, but I have worked on this, for example, for 35 years, and I have devoted my own private moneys, energy, and so on for saving this information for the future. My feeling is that I am a public servant and I am dedicated to doing this work. All that I am asking, and what my colleagues are asking is for an opportunity to be able to do a more effective job than we are doing right now. This does not mean that we are not going to stop.

Mr. KETCHUM. Please understand that I am not admonishing you, I am admonishing many other people. At other times questions and demands are made for funding, disregarding all other funding problems that face the State, local, and Federal Government.

Dr. CHAPMAN. But we are not disregarding this, because the bill is so construed that the agencies that are doing the funding of the construction or other activities that destroy or damage our heritage from the past are allowed to expend a little bit of these funds to save a minimum. Now, this is tied to the project, the activities, and it is not mandatory. I would not be involved in attempting to have the Congress make a bill or write a bill that would be mandatory. This is one, however, that would allow these agencies to participate in saving some of our heritage from the past.

Mr. KETCHUM. Believe me, I am not objecting to the bill, but I am trying to point out that the statement in that book bothers me because other people read this and say, by golly, they are right, this is what we

are going to do. This is a minor point, really, but it occurs in everything that we do around here, every project is so important it has to happen.

We have listened to two projects. One State had the guts to come up and put their money where their mouth was. The next one said, we have to preserve this very important area of Texas, and we have a lovely resolution from the State about what a great project it was, but we didn't say—at least, I didn't say—anything to the State by saying here is the money.

Dr. CHAPMAN. Well, let me say this, if I may—

Mr. KETCHUM. I like the bill.

Dr. CHAPMAN. May I have one last comment?

The people of the United States are becoming aware of the fact that we are looking at a lot of the cultural heritage and a lot of the past, and I think they are willing to pay for it. In my own instance in the State of Missouri, I could not get anything but a match grant from the National Endowment Humanities to save a very important site in southwest Missouri. So, the people in the community there got together and came up with the rest of the money to match that grant in order to save this important Indian site, saved in their community and, I think, that from my experience with my Missouri Archeological Society, for example, which has some 1,500 members across the United States, these people come forth with funds. They are not rich at all, but when an emergency arises, they want to do something about it. They want to save as much as possible. So, I think that this is fairly common throughout the Government.

Mr. KETCHUM. Thank you, very much.

I yield back.

Mr. TAYLOR. Well, thank you, Dr. Chapman. You and the other witnesses this morning have accomplished a good deal in removing some of my concerns and fears, especially as this legislation affects private property.

You state that you regard yourselves as public servants. I regard myself as one too, but sometimes I get letters from the constituents who don't agree.

Thank you for your statement. The witnesses have been persuasive. You have been in agreement, almost surprisingly so. In some of the projects that we have here, that is not the case. We will consider very, very carefully, your testimony, and we will think in terms of time.

Hopefully, we will get action this year. By action—I mean, I hope we can get the bill into the President's hands.

That ends this hearing, but we do have another little matter that we want to discuss with the committee. Those who were interested in this hearing only can leave if they desire.

[The subcommittee proceeded to other matters at 11:45 a.m.]

APPENDIX

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., July 27, 1973.

HON. JAMES A. HALEY,
Chairman, Interior and Insular Affairs, U.S. House of Representatives, Longworth House Office Building, Washington, D.C.

DEAR CHAIRMAN HALEY: Enclosed please find a letter copy from my constituent, Mr. James L. Wilson, director of parks, Missouri State Park Board, Jefferson City, Mo.

I would greatly appreciate your consideration of the support expressed by Mr. Wilson's letter.

With all good wishes, I am
Sincerely yours,

JERRY LITTON,
Member of Congress.

Enclosure.

MISSOURI STATE PARK BOARD,
Jefferson City, Mo., July 16, 1973.

MR. LEE McELVAIN,
Interior and Insular Affairs Committee, Longworth House Office Building, Washington, D.C.

DEAR MR. McELVAIN: The Missouri State Park Board is concerned about the protection of Missouri's prehistoric and historic archaeological heritage, and therefore desires that its statement concerning the Archaeological Salvage Bill (H.R. 3584) be distributed during the forthcoming congressional debate. Your assistance in this matter is appreciated.

Sincerely,

MISSOURI STATE PARK BOARD.

The Missouri State Park Board supports H.R. 3584 (Archaeological Salvage Bill) and recommends its passage.

The Missouri State Park Board is frequently called upon to evaluate Environmental Impact Statements and too often we must make incomplete or inadequate response due to the lack of an adequate area survey.

The Archaeological Salvage Bill will authorize funds to be made available for survey and salvage excavations in the area to be developed.

The National Historic Preservation Act (P.L. 89-665) will also benefit through this proposed legislation. Provisions of the proposed bill, in addition to funds for excavation in the case of archaeological sites, will authorize measured drawings or the relocation of historic places. With the approval of H.R. 3584 there will be another alternative to destruction, condemnation, or abandonment on federally funded projects. This expanded latitude will ultimately lead to further cooperation between preservationists and federal or federally funded agencies.

The benefits of this legislation are the protection of our heritage, therefore for these reasons I fully endorse the Archaeological Salvage Bill (H.R. 3584) and urge its passage.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., August 30, 1973.

HON. ROY A. TAYLOR,
*Chairman of the Subcommittee on Parks and Recreation,
Rayburn House Office Building,
Washington, D.C.*

DEAR MR. CHAIRMAN: Enclosed is an excellent statement that I received from a good friend and constituent, Dr. Earl H. Swanson, who is the museum director at Idaho State University, in support of H.R. 3583.

I had earlier informed Dr. Swanson of the hearings which your subcommittee was to conduct on this bill. Because he was out of the country Dr. Swanson was prevented from submitting a statement earlier. I hope that the hearing record is still open so that you can possibly have this informative and constructive statement included in the record. I know that it would be very helpful to each member of the subcommittee.

I thank you for your assistance with this matter.

Best personal regards.

Sincerely yours,

ORVAL HANSEN,
Member of Congress.

AUGUST 22, 1973.

HON. ORVAL HANSEN,
*Cannon Building,
Washington, D.C.*

DEAR SIR: I wish to testify in support of House Bill H.R. 3583. I am interested in this bill because it represents an important step in conserving finite archaeological resources which are disappearing at a frightening rate. I am Professor of Anthropology and Museum Director at Idaho State University. I have B.A., M.A., and Ph.D. degrees from Carleton College, the University of Arizona, and the University of Washington respectively. I was for two years (1954-56) a Fulbright scholar in geochronology at the Institute of Archaeology, University of London. I have field experience in several parts of western North America. In particular I have worked in almost all portions of the Columbia River Drainage basin, in Washington and Idaho and parts of Oregon since 1952. I carried out extensive exploratory surveys of eastern Washington, parts of British Columbia, and Oregon in 1952 and of central and south Idaho in 1958. I have also directed major archaeological excavations in Washington and Idaho in other years and am at the present engaged in supervision of the research program of the University Museum at Idaho State University.

It is fair to say that 90% of the antiquities of the Columbia River have been lost or destroyed by the construction of hydroelectric dams. It is hard to estimate how many antiquities have been lost by land development and reclamation operations under the direction of the Bureau of Land Management, but seeding, cultivation, and irrigation operations have certainly affected large surface areas of the arid West. Soil Conservation Service dams, Forest Service roads, mining operations on public land highway construction, and public housing developments have certainly contributed in a growing way to the destruction of prehistoric antiquities. In Idaho we are fortunate to have a sound arrangement with the Idaho Department of Highways and the Bureau of Public Roads for the identification and recovery of archaeological remains threatened by any form of highway construction which uses Federal funds. This is not true of other Federal agencies which govern most of the land surface of Idaho. Although special contracts have from time to time been issued to the Museum to permit examination and rescue of threatened antiquities by each of these agencies, there is no regular program for protection of antiquities on Federal lands.

Part of the problem lies in recognizing that future generations, as well as the present generation, have an investment in knowing about human history and about the world in which prehistoric man lived. It is now possible to demonstrate that prehistoric hunting and fishing and gathering peoples' ways of living have a structure and function which match that of the natural setting. We need to know about these relations for ecological, as well as for historic or esthetic or general cultural reasons. The continued alteration or destruction of the natural setting by vigorous development programs under Federal sponsorship has been and will continue to be responsible for the destruction of numerous antiquities.

We must have adequate priorities and sufficient money to conserve and to protect where possible antiquities threatened with destruction.

It is possible to cite examples of construction proposed in Idaho where the cost of 1% of program allowance is a reasonable figure within which it is possible to plan excavations which are now thought to be satisfactory. In no case do the figures given below represent total rescue or recovery of threatened antiquities. They do represent more than 10% sample which once characterized emergency archaeology. The figures for American Falls are based on adequate reconnaissance. A proposed High Mountain Sheep Reservoir was given preliminary reconnaissance in 1955 and has been followed by two partial survey trips in the 1960's, but has not yet been properly surveyed. The Guffey-Swan Falls Project was carefully surveyed in 1958 and in 1971. No reconnaissance represents a listing of all the antiquities simply because many are concealed by the nature of geologic deposits which enclose them. However, these estimates for excavation are based on the reconnaissance work and I think that these are fair estimates of financial requirements. If anything, they are conservative rather than exorbitant.

The proposed American Falls Dam would destroy some irreplaceable natural vegetation and scientific resources which we estimate would require over \$200,000 to excavate. The Bureau of Reclamation accepted a figure of \$50,000. A replacement dam 13 feet higher than the present would cost \$32,000,000. A .001 figure would allow \$32,000 for salvage. A .01 of program figure would presumably allow \$320,000. The Museum has opposed any raising of the American Falls Dam, but the present estimates and the allowance possible under the amendment appear to fit the circumstances.

The High Mountain Sheep Dam might cost over \$100,000,000 and would flood 80-90 miles of the deepest, most remote part of Hells Canyon of the Snake River. A conservative estimate for archaeology requires \$250,000-\$500,000 but the resources in Hells Canyon and requirements for field work might send the estimate near 1 million dollars, a figure allowable under the .01 allowance in H.R. 3583.

The Swan Falls in Guffey Reservoir area may be affected by an Idaho Power Company complex worth \$45,000,000. There are about 100-120 now known sites in a 36 mile long canyon of the Snake. We have estimated \$262,000 for archaeology including removal of prehistoric art works in the floor of the canyon, some of which are spectacular and worth removal. The 1971 survey recommended \$191,408 alone for archaeological excavations of prehistoric sites. Either figure is within the \$450,000 which might be allocated under H.R. 3583.

In each case we are primarily concerned with having the greatest amount of time in which to work. Archaeological research is slow and painstaking so that we need time to think through the information recovered and to select the next steps for rescuing antiquities from destruction in any given reservoir. The figures given above are based on three to five years of work in each reservoir. So much is changing by way of new techniques that many localities should be protected for future work when better research standards may be available.

I urge approval of this bill and its 1% of program provision to guarantee as nearly as possible reasonable support for the rescue of archaeological resources in America. It is a bill which has potential scientific value and will certainly represent a civilized step to future generations looking back at those of us now responsible for conserving non-renewable resources.

DR. EARL H. SWANSON,
Museum Director, Idaho State University.

STATEMENT OF MACK S. PRICHARD, STATE ARCHAEOLOGIST,
TENNESSEE CONSERVATION DEPARTMENT

Mr. Chairman and members of the Committee. I thank you for the opportunity to testify in support of H.R. 296. In Tennessee we have an archaeological crisis. With prehistoric remains found at nearly every stream junction, we have some sites of great significance. But we have already lost the biggest archaeological concentration along our major rivers and every day more are destroyed by the "population" juggernaut.

The homeland of the overhill Cherokee is under siege from the TVA Tellico Dam. A highway heads for the McMahan Mound with its probable relation to Mexican cultures. If we are to ever excavate the origins of our first Ameri-

cans we must dig with greater effort. With the current growth, in two more decades we will be reduced to "beer can archaeology."

This committee is well aware of the mounting loss to our scenic and historic heritage. However the archaeological evidence is more easily eliminated. "Just cornfields," "so much dirt," "what indian mounds?" are site epithets you can discourage by passage of H.R. 296. They aren't making any more indian mounds but this legislation can make government responsible for saving what we have.

Without adequate funds our archaeological effort cannot keep pace. Less than 3% of known sites may be excavated on many reservoir salvage projects. Let me cite some examples from our state. In Tims Ford Projects 41 sites were found but a new culture variant was flooded with only preliminary testing. Twenty-seven sites were flooded by Percy Priest Dam but only one was excavated. The new Cordell Hull Dam flooded 16 known sites after one excavation, but many outstanding sites went unreported. One site was blown up by the President at the dam dedication. When asked for assistance before these sites went under, the Corps of Engineers was cooperative, but replied they had no authorization to fund this work. They said this is the responsibility of the National Park Service. When contacted the NPC was sympathetic, but their funds were all committed. We wished for this legislation last year.

At Memphis, construction of a new federal building unearthed a great cache of civil war bayonets. Without authorization, however, I salvaged only one from a dump truck driver. The rest were pumped into fill in the Mississippi River. Years before during the W.P.A., excavations at Watts Bar Reservoir, millions of articles were found in 204 sites. Sadly, we still need to process and publish on most of this material since funds weren't available for its work at the time.

One of the best features of H.R. 296 is that it does not repeat this W.P.A. mistake and provides such funds for research and publishing. Another important aspect in my opinion is that this legislation is broadly defined to encompass all federal agencies. There should be no loopholes if this becomes our national policy. This act should make it possible to schedule project investigations so as not to delay construction. It hasn't been pleasant to work a few feet ahead of an anxious bulldozer.

Without an adequate federal program our state has established a new division of archaeology. We're spending nearly a million dollars to acquire a dozen of our best archaeological sites. We cannot buy them all, however, and are most anxious for the benefits of H.R. 296. This legislation is the answer of our archaeological crisis and I hope its details may be reconciled in time for passage this year. This act will enable the excavation of insights and information of a people that would otherwise be lost. From the values of ages past maybe we will learn to cherish mother earth as naturally as the redman before we ruined her altogether.

THE ARCHEOLOGICAL SOCIETY OF CONNECTICUT,
New Haven, Conn., August 3, 1973.

Hon. ROY A. TAYLOR,

Chairman, Subcommittee on National Parks and Recreation, Committee on Interior and Insular Affairs, U.S. House of Representatives, Washington, D.C.

DEAR MR. TAYLOR: It has recently come to our attention that hearings on H.R. 296 and related bills are now, or soon will be, in progress. We would like to go on record as heartily endorsing the passage of such legislation. Although the 1960 law has been of inestimable value to salvage archaeology, it is obvious that archaeological sites exist in places other than potential reservoirs.

A bill which would broaden the scope of the 1960 legislation to include Federal or federally assisted construction projects would be of considerable value. Passage of such a bill would also greatly enhance our efforts to obtain similar legislation on the State level.

In summary, speaking as the duly elected representative of the Archaeological Society of Connecticut, I would enthusiastically support passage of this measure.

Sincerely,

FREDERIO WARNER, *President.*

SIERRA CLUB,
San Francisco, July 30, 1973.

HON. ROY A. TAYLOR,

Chairman, Subcommittee on National Parks and Recreation, House Interior and Insular Affairs Committee, House Office Building, Washington, D.C.

DEAR CHAIRMAN TAYLOR: In lieu of testifying I am writing on behalf of the 140,000 members of the Sierra Club in support of H.R. 296 concerning the preservation of archaeological and historical data on which your subcommittee is presently conducting hearings. I would appreciate your including this letter in the hearing record.

Conservationists have long shared archaeologists' concern for the preservation of archaeological and historical data, and the Sierra Club is pleased your committee is considering a measure on this subject. The Club's Board of Directors adopted the following resolution on this subject at its May 5-6, 1973 meeting:

"The Sierra Club supports the Moss-Bennett Archaeology Salvage Bill (H.R. 296 and S. 514) which is designed to extend the provisions of the Dam Sites Act (P.L. 86, June 27, 1960) to all other federal programs which endanger or destroy historic and prehistoric archaeological sites."

The Dam Sites Act has made it possible to save vast amounts of information about the past which would otherwise have been lost when dams were built. But on many other federal projects this heritage is still being irretrievably lost. H.R. 296 would encourage the design of projects to avoid destroying sites, and this bill would provide for proper investigation where preservation is impossible prior to commencing construction of this sort of project.

Again, we commend your committee's consideration of this needed legislation, and we hope you will expedite its enactment.

Yours truly,

MICHAEL McCLOSKEY,
Executive Director

STATEMENT OF STEPHEN WILLIAMS, DIRECTOR, PEABODY MUSEUM OF ARCHEOLOGY AND ETHNOLOGY

I am writing as a professional archaeologist to express my deep concern that your subcommittee report favorably upon H.R. 296, the archaeology salvage bill which will be reviewed at hearings to be held by your committee on the 30th and 31st of this month.

This bill and related legislation seeks to accomplish a vitally important goal—the protection and preservation of historical and archaeological material which form so great a part of our nation's heritage. Because of the absence of such legislation, vast amounts of very important historical and archaeological data has not been uncovered or has been destroyed. Now, with the favorable passage of this legislation, we have the opportunity to see that such material is preserved in the future—for which we will all be richer.

The benefits of the legislation to preserve historical and archaeological data does not apply just to people in this or that part of the country: it applies to all Americans, because it is our national heritage that is in question.

I urge favorable action on H.R. 296.

STATEMENT OF VICTOR P. HOOP, TENNESSEE ARCHAEOLOGICAL SOCIETY

I am writing to urge your support of an upcoming Senate bill. Bill H.R. 296 outlines a program for the recovery, salvage, and preservation of significant prehistoric, historic, and archaeological remains.

The origin and cultural history of the native Americans is known primarily from the archeological record. The nation that subjugated the American Indian is now in the name of progress, rapidly destroying their history. The American Indian depended upon the river systems for water, food, and transportation. Consequently most of the villages they occupied were located along these rivers. Therefore the most damaging to our archaeological heritage are the dams and the resulting impounded waters on our primary and secondary rivers.

Many of the major archaeological sites are already inundated. It is estimated that within the next forty to fifty years, virtually all significant archaeological sites will be destroyed and/or inundated by various federal, state, community, and private construction projects. Passage of the upcoming bill will insure the salvage of these resources before destruction.

Thank you for your time and consideration.

STATEMENT OF THOMAS A. WITTY, KANSAS STATE HISTORICAL SOCIETY

You will undoubtedly be getting many statements detailing the ever increasing amount of destruction of the materials and evidence of past human endeavors in this country. This includes both prehistoric and historic Indian populations as well as the Colonial and American cultures. Therefore briefly I will concentrate my comments upon our local area.

The past interest of the federal government in the preservation of our antiquities is indicated by such legislation as the Historic Sites Act of 1935 and the more recent National Preservation Act of 1966. Since 1946 federal money through the National Park Service has saved large amounts of data and specimens from destruction in the Reservoir Salvage Program. That work was carried out by federally employed archaeologists as well as non-federal institutions with matching services to make the available monies stretch farther.

The success of that program from a local viewpoint has made possible in the past thirteen years the recognition of at least six previously undiscovered prehistoric cultures in Kansas. These would cover a range of some 5000 years of time. However during that same period we visited or heard of perhaps just as many sites, some of unique nature, which were being destroyed in watershed programs, land levelling projects, etc. Those projects were sponsored by such agencies as the Department of Agriculture. In the early 1960's a very extensive and potentially important Hopewellian village complex, circa 200 A.D., was totally destroyed at Fort Leavenworth in the construction of a base housing project by the Department of Defense. In most cases we were able to contact the federal personnel on these projects who were cooperative but without funds for us to hire crews and the time needed to recover the material. No salvage could be done and the sites were stripped away.

This Bill therefore is not a new concept but a refinement of past legislation. The precedent exists in the limited program of salvage and preservation of evidence and materials from the federal reservoir areas. That program has demonstrated that such programing can accomplish a great deal. This proposed legislation will expand the program to other federal activities which also destroy irreplaceable materials and information. It is frustrating to receive funds to save a site in a proposed reservoir area while perhaps a few miles away an even more important site is being obliterated by a federal housing project.

State agencies and institutions can and have been doing recovery work on their own. But the staffs are usually handicapped by lack of the personnel in the numbers needed for extensive programs. In 1971 my staff saved materials from an 800 year old earthlodge site in north central Kansas that was being land levelled in a federally sponsored program. We were successful and the results very rewarding. However at that same time we heard of four other sites which were destroyed in the southwest part of the state by similar activities. In many ways it's like being at the Chicago fire with one fire truck.

This proposed legislation by Rep. Charles Bennett should make possible more efficient, thorough and sensible preservation and salvage activities.

DEPARTMENT OF NATURAL RESOURCES,
Atlanta, Ga., July 5, 1973.

HON. ROY A. TAYLOR,

U.S. House of Representatives, Interior and Insular Affairs Committee, Longworth House Office Building, Washington, D.C.

DEAR CONGRESSMAN TAYLOR: Senate Bill 514, which sets up procedures for the preservation of historical and archaeological data that might be destroyed by construction of Federal projects, is of great importance to the Georgia Department of Natural Resources. In a time of increasing concern about our surroundings, we should not forget that such data is a valuable part of our total environ-

ment. Too often the remnants of our historical heritage are crushed and pushed aside by the advance of "progress." I fully support this bill and encourage you to work for its passage. Please call on me if I can be of assistance.

Thank you very much for your cooperation.

Sincerely,

JOE D. TANNER, *Commissioner.*

THE NEVADA STATE MUSEUM,
Carson City, Nev., July 20, 1973.

Hon. ROY A. TAYLOR,
House Committee on Interior and Insular Affairs, Parks and Recreation Subcommittee, Longworth House Office Building, Washington, D.C.

DEAR CHAIRMAN TAYLOR: I am taking time from my duties as Curator of Anthropology to request your support for H.R. 296. I do so as an individual, and in my capacity as archaeologist for the State of Nevada. H.R. 296, as you know is the Moss-Bennett legislation, passed by the Senate.

One of the most important public considerations deriving from Senate hearings of the Watergate affair is apparent from viewing public telecasts of those proceedings. No matter how far removed the executive branch of federal government becomes, we, the people, shall have able representatives in Congress to voice our needs, hopes, and aspirations.

Not unlike several other western states, much of Nevada, about 87%, is under the jurisdiction of the federal government, particularly such agencies as the Bureau of Land Management, and the U.S. Forest Service. On the operational level, the individual Forest Ranger, or the B.L.M.'s Area Unit Manager, must make decisions which directly affect such non-renewable resources as the archaeological values. In my experience, these persons usually have adequate to superior training in handling and managing renewable resources, but usually need some professional input to recognize, conserve, and manage the fragile legacy of the past present in their jurisdictions. H.R. 296 would do much to insure the preservation of such values on public land by providing needed funds, not now budgeted by such agencies. No amount of training given to these people, and we have had several such programs in Nevada, can replace the experience, judgment, and expertise needed to interpret these values. As a Curator at a museum whose annual visitation rate equals or exceeds the population of the entire state. I know that the public is demanding not less, but more interpretations of the exciting course of human history.

I would hope that you and your colleagues would act favorably to make H.R. 296 the law of the land.

Sincerely yours,

DONALD R. TUOHY,
Curator of Anthropology.

MICHIGAN ARCHAEOLOGICAL SOCIETY,
Fenton, Mich., July 20, 1973.

Hon. ROY A. TAYLOR,
Subcommittee on National Parks and Recreation, Committee on Interior and Insular Affairs, Washington, D.C.

DEAR REPRESENTATIVE TAYLOR: As president of the Michigan Archaeological Society, I am writing on the eve of the scheduled hearings on H.R. 296 to let you know that this legislation has the full support of our membership.

The Michigan Archaeological Society is composed of people who have an advocational interest in Michigan archaeology. We have been encouraging the study of Michigan's historic and prehistoric past since 1924 and published the journal *The Michigan Archaeologist*. As citizens, we are distressed by the rapid disappearance of archaeological sites as a result of earth-moving construction. It is most disturbing to us when our sites are destroyed by Federal projects that use our tax dollars.

It is our understanding that H.R. 296 provides up to one percent of funds appropriated for Federal projects to be used for archaeological salvage. We also understand that the bill covers the salvage of archaeological sites which might be endangered by *all* Federal projects. The latter provision is very important to Michigan, because the destruction of our sites has not resulted from construction of huge reservoirs, as in other states. Our problem is definitely with smaller Federal projects. To the members of the Michigan Archaeological Society, the provisions mentioned above are those which are really important in a archaeo-

logical salvage bill. It is our hope that your committee will approve this bill as it is currently written.

We believe that the archaeological sites of our State are resources which should be guarded with the same zeal as the natural resources which are protected for the benefit of the people. The Michigan Archaeological Society stands ready to help the State's professional archaeologists in their efforts to preserve the past. We would hope that your committee will help by giving your support to H.R. 296.

Sincerely,

DONALD SIMONS, *President.*

ST. MARY'S COUNTY, MD., July 19, 1973.

HON. ROY A. TAYLOR,

Chairman, Subcommittee on National Parks and Recreation, Committee on Interior and Insular Affairs, U.S. House of Representatives, Washington, D.C.

DEAR SIR: This letter is in reference to House of Representatives Bill No. 296. I personally feel that this legislation should be put into law as soon as possible as everyday endangers another piece of our history.

No other nation in the world has had the chance of preservation as we do. Here we have the opportunity to preserve and rescue for posterity our almost complete heritage. It is both fitting and proper that we do this.

If there is any way I can be of assistance in this matter please do not hesitate to notify me.

Sincerely,

MICHAEL E. HUMPHRIES,
County Archeologist.

THE UNIVERSITY OF OKLAHOMA,
Norman, Okla., July 20, 1973.

HON. ROY A. TAYLOR,

Chairman, Subcommittee on National Parks and Recreation, Committee on Interior and Insular Affairs, U.S. House of Representatives, Washington, D.C.

DEAR CHAIRMAN TAYLOR: As Director of the Oklahoma Archeological Survey I am writing to urge support for passage of H.R. 296 (the archeological survey and salvage bill introduced by Representative Bennett. For over 5 years I have been forced to watch as various federal agencies, particularly the Corps of Engineers and the Soil Conservation Service, have undertaken projects which destroyed Oklahoma's irreplaceable archeological resources. Except for limited funds available from the National Park Service, we in Oklahoma have had little means to salvage or preserve even the most important of these adversely affected, archeological sites. The agencies responsible for such destruction have provided little to no financial assistance to us to see that their projects had minimum effect on these resources. When asked for financial aid, these agencies have consistently fallen back on the claim that they had no authorization to spend their monies on archeological surveys or salvage. Passage of H.R. 296 will partially rectify this inability.

H.R. 296 is permissive legislation. Its strength lies in the fact that it will rely on the professional community in each state to prove the need for archeological surveys and/or salvage. Once proven, the pertinent federal agencies can at least have some flexibility in their participation to see that the cultural heritage of this nation is responsibly evaluated and preserved.

Please, won't you attend your Parks and Recreation Subcommittee hearings on July 30-31 and help see that H.R. 296 is passed? Thank you.

Sincerely,

DON G. WYCKOFF, *State Archeologist.*

SOCIETY FOR CALIFORNIA ARCHAEOLOGY,
ENVIRONMENTAL POLICY COMMITTEE,
Santa Rosa, Calif., July 19, 1973.

HON. ROY A. TAYLOR,

Chairman, Subcommittee on National Parks and Recreation, Committee on Interior and Insular Affairs, Longworth House Office Building, Washington, D.C.

DEAR REPRESENTATIVE TAYLOR: In support of H.R. 296 and related bills to be considered by your Subcommittee on July 30 and 31, we would like to submit the following comments:

H.R. 296 is urgently needed not only for the basic purpose of protecting archaeological resources, but to introduce some order into the ways in which federal agencies are dealing with such resources under terms of existing laws and policies (e.g., the National Environmental Policy Act and Executive Order 11593). For example, our Committee has recently been working with the staff of the U.S. Soil Conservation Service in California to develop ways of locating, evaluating, and protecting archeological resources in the course of P.L. 566 projects and other SCS activities. The staff is entirely willing to cooperate, it appears that it would be very easy to build archaeological evaluations into the planning machinery in such a way as to get on top of potential problems before they develop, but until the SCS receives specific authority to use project funds for such evaluations, our collective hands are tied. Neither the National Park Service nor the state archaeological community has the wherewithal to survey SCS projects, especially within the time-frame required for project planning. The SCS planners recognize that under terms of the NEPA and EO 11593 they need full archaeological evaluation data, and that obtaining such data would not cost much and would have them from conflicts and costly down-time later in their projects, but the only efficient way to get the data appears to be to conduct the surveys and other studies in the course of project planning, using project funds. This efficient approach is denied the SCS, and us, by the inadequacy of current law and policy. The same situation is replicated, with various special twists, in virtually every other federal agency with which we have dealt. H.R. 296 would clear up this kind of problem and make everybody's job easier. We hope your Subcommittee will report favorably on this important legislation.

Sincerely yours,

THOMAS F. KING, *Chairman.*

STATEMENT OF CHESTER KING, PRESIDENT, SOCIETY FOR CALIFORNIA
ARCHAEOLOGY

H.R. 296 provides for increased protection of archaeological data. Archaeologists in California are witnessing the destruction of a significant portion of California's archaeological resources. Federally sponsored projects are at the present time among those responsible for the loss of archaeological data. Some recent cases of which I have knowledge include losses through runway construction at Point Mugu Naval Air Station, refuse disposal in the San Bernardino National Forest and development activities in the Los Padres National Forest.

Federally assisted projects in California range from Highway construction to field leveling and housing development. All of these activities have resulted in losses of archaeological data. Present salvage programs involving federally assisted projects are often insufficient because of 1) lack of adequate funding; 2) an inability to obtain the services of highly trained archaeologists at the time when archaeological salvage needs to be done; and 3) the absence of provisions for the adequate assessment of archaeological data in project areas sufficiently in advance of construction.

The Society for California Archaeology is dedicated to the preservation of the remains of California's prehistoric heritage and urges support for the passage of H.R. 296.

MISSOURI STATE PARK BOARD,
Jefferson City, Mo., July 16, 1973.

Mr. LEE McELVAIN,
*Interior and Insular Affairs Committee,
Longworth House Office Building,
Washington, D.C.*

DEAR MR. McELVAIN: The Missouri State Park Board is concerned about the protection of Missouri's prehistoric and historic archaeological heritage, and therefore desires that its statement concerning the Archaeological Salvage Bill (H.R. 3584) be distributed during the forthcoming congressional debate. Your assistance in this matter is appreciated.

Sincerely,

JAMES L. WILSON,
Director of Parks.

The Missouri State Park Board supports H.R. 3584 (Archaeological Salvage Bill) and recommends its passage.

The Missouri State Park Board is frequently called upon to evaluate Environmental Impact Statements and too often we must make incomplete or inadequate response due to the lack of an adequate area survey. The Archaeological Salvage Bill will authorize funds to be made available for survey and salvage excavations in the area to be developed.

The National Historic Preservation Act (P.L. 89-665) will also benefit through this proposed legislation. Provisions of the proposed bill, in addition to funds for excavation in the case of archeological sites, will authorize measured drawings or the relocation of historic places. With the approval of H.R. 3584 there will be another alternative to destruction, condemnation, or abandonment on federally funded projects. This expanded latitude will ultimately lead to further cooperation between preservationists and federal or federally funded agencies.

The benefits of this legislation are the protection of our heritage, therefore for these reasons I fully endorse the Archaeological Salvage Bill (H.R. 3584) and urge its passage.

MAINE ARCHAEOLOGICAL SOCIETY,
Stillwater, Maine.

Representative ROY A. TAYLOR,
Chairman, Committee on Interior and Insular Affairs, Subcommittee on National Parks and Recreation, U.S. House of Representatives, Washington, D.C.

The members of our Society are in favor of these bills and urge your consideration. We are too rapidly losing our historic and prehistoric sites. When known sites are threatened often money and manpower is not available for excavation or even salvage. Unknown sites are wiped out for lack of a proper archaeological survey before the work begins.

Many amateurs and professionals are devoting their own time on surveys and salvage but this is too little and too late. The burden of protecting our sites should, at least moneywise, fall on the fund that is supporting the operation that threatens the site.

With government recognition of the problem and with financial support many contractors will be more willing to report sites when they strike. As it now stands many operators will cover up, both figuratively and literally, anything they may find for fear of delays and harassment. These fears are not unfounded for it has happened. With proper preliminary surveys and available manpower this hazard to the contractor can be greatly reduced.

If we must always be moving our countryside from one place to another then the passage of these bills will reduce the chance of total destruction of our heritage.

Respectfully submitted.

ROBERT G. MACKAY, *Secretary.*

CAHOKIA ARCHAEOLOGICAL SOCIETY,
Belleville, Ill., July 9, 1973.

Hon. ROY A. TAYLOR,
Chairman, Subcommittee on National Parks and Recreation, Committee on Interior and Insular Affairs, U.S. House of Representatives, Washington, D.C.

DEAR SIR: On behalf of the Cahokia Archaeological Society, Chapter of the Illinois Association for the Advancement of Archaeology, I am most anxious that the revised Moss-Bennett Bill, H.R. 296 (and other related bills) having to do with the preservation and protection of our historical and archaeological resources, be favorably reported out of your hearings on July 30, 31, and ask that you encourage passage of the bill in the House.

Sincerely,

ALBERT S. MEYER, *President.*

MOUND CITY ARCHAEOLOGICAL SOCIETY,
Clayton, Mo., July 17, 1973.

Hon. ROY A. TAYLOR,
Chairman, Subcommittee on National Parks and Recreation, Committee on Interior and Insular Affairs, Longworth House Office Building, U.S. House of Representatives, Washington, D.C.

HONORABLE SIR: The Mound City Archaeological Society respectfully urges passage of H.R. 296. The Society is composed of voters in the St. Louis area who are deeply concerned by the past rapid destruction, often without trace, in many cases, was financed directly or in part by Federal Agencies. It is their fear that unless some action, such as is provided for in this bill, is taken promptly, very little of our prehistorical heritage will be left for our children or our children's children.

Provision has already been made by past legislation for protection or salvage of scientific prehistorical, historical or archaeological data, when endangered by Federally financed construction of roads or reservoirs. It seems logical to us that the same principal should also be applied to all Federal agencies which may endanger our prehistorical or historical heritage.

Respectfully yours,

LEONARD W. BLAKE, *President.*
LORRAINE C. CATES, *Secretary.*

THE OHIO HISTORICAL SOCIETY,
Columbus, Ohio, July 16, 1973.

Hon. ROY A. TAYLOR,
Chairman, Subcommittee on National Parks and Recreation, Committee on Interior and Insular Affairs, House of Representatives, Washington, D.C.

DEAR MR. TAYLOR: I am writing in behalf of H.R. 296 that provides protection for archaeological and historical data threatened with destruction by federally funded or authorized projects.

The Ohio Historical Society has, for the past eleven years, worked closely and successfully with the National Park Service to salvage numerous archaeological sites in Ohio reservoir areas. However, at the same time, other sites of archaeological and historical value have been destroyed by other types of projects because we did not have adequate funds, personnel, or lead time to undertake suitable investigations. The provisions of H.R. 296 will alleviate this situation by providing a broader financial basis for archaeological and historical salvage and by enabling archaeologists to plan their investigations far enough in advance so they can obtain more scientific data with greater efficiency.

Archaeological and historical sites and data are natural resources just as are water, minerals, and funds. In addition, they are non-renewable evidences of our own past and that of other cultures. If something is not done soon to protect them, they can all be destroyed by our modern "progress." The passage of H.R. 296 as soon as possible can provide the means to reverse this process of destruction.

Sincerely,

DANIEL R. PORTER, *Director.*

STATEMENT OF JESSE D. JENNINGS, REPRESENTING GREAT BASIN ANTHROPOLOGICAL CONFERENCE

Honorable Chairman and Committee Members, first allow me to express my appreciation for the opportunity of again presenting testimony at these hearings. I am here as the designated representative of the Great Basin Anthropological Conference, an organization of western anthropologists including archaeologists, with membership in all western states and the western Canadian provinces. I also represent the Utah Museum of Natural History, of which I am a curator of Anthropology, and the state-wide Archaeological Society of Utah, of which I am

a member. I am also Professor of Anthropology at the University of Utah. These credentials, I hope, are sufficient to identify me as both a conservationist and professional scholar.

Many months ago it was also my pleasure to advise Utah Senator Frank Moss of the Bennett Bill, pointing out a similar bill in the Senate would be an appropriate one for Senator Moss to introduce, a bill entirely compatible with his position on conservation issues of national significance.

My involvement with salvage archaeology goes back to the late 30's when I was employed, for nine months, as a supervisor of excavations for the recovery of archaeological materials back of the Chicamauga Dam upriver from Chattanooga, Tennessee. After World War II, I was designated by the National Park Service to coordinate the work of the government agencies and private institutions engaged in the salvaging of archaeological remains over the entire Missouri Valley when the huge dams, that created the existing lakes on that river, were being constructed. After coming to Utah, I directed the salvage operations within the Upper Colorado Basin for the University of Utah behind the Glen Canyon, Flaming Gorge and Fontenelle dams for the period 1956-63 under a series of continuing contracts with the United States National Park Service. Intermittently over the past 20 years I have conducted what are now called environmental impact studies for the U.S. Forest Service, U.S. Bureau of Reclamation and the Soil Conservation Service where water control or road construction was contemplated. For the Utah State Highway Department I have directed archaeological salvage operations for thirteen years.

With the exception of the Glen Canyon project and the Utah Highway Department, each of the salvage operations with which I have been connected were inadequately funded, so that there were too few excavation parties and too little time to salvage an adequate sample of the prehistoric remains jeopardized by the flooding of vast stretches of fertile river valleys, where prehistoric sites abound, before the dams were filled and the material lost forever. There was sufficient lead time in the case of the Upper Colorado River Basin studies.

Because of the lack of funds, I personally saw in other areas archaeologists working on important prehistoric sites after the dam gates were closed and the rising waters were lapping at the edges of the site. Many sites, particularly those behind the Oahe Dam in South Dakota, went under water without there ever having been a sample cut. Some of these sites were several acres in extent.

Many, if not all, such tragic losses could have been avoided had there been adequate money and adequate lead time. You note that I link lead time with money. The point is that if monies were available for the archaeological work from the moment of decision to erect a dam, construct a road or extend an airport, there would be time for the appropriate state or private institution to mount an investigative study (that is, a survey), followed by excavation of the more important sites. It is impossible to overemphasize the necessity for salvage work in view of the incredible demands for land being made by land development operations for both agriculture and city sprawl, road construction, airport expansion, and many other kinds of federal construction activity, to say nothing of the private sector. In order to save a representative sample of our dwindling prehistoric resources the passage of this bill is imperative. Perhaps I should also point out that the study of North American prehistory, which carries us back in time some 15 to 20,000 years, is essentially a study of the American Indian and his history, and his adventures in conquering the New World.

The importance of these studies for the Indians themselves is also considerable. As is well known, Indians today are just beginning again to stand up for themselves, take pride in being the First Americans. They are themselves much more interested in their history than they have been in the recent past. Therefore, aside from any intrinsic value to the world of knowledge and scholarship these data may have, the study of American prehistoric remains provides great time depth for the continued appreciation and public understanding of the First Americans.

In addition, and this value probably appeals to laymen most, the wondrous achievements of the prehistoric Indians in art, architecture, irrigation projects and the like remain a perpetual source of esthetic enjoyment and admiration for the American people as the objects are displayed in museums around the nation (and indeed around the world). The popularity of the many archaeological preserves such as Mesa Verde National Park, Bandelier National Monument, Casa Grande National Monument, Ocmulgee National Monument, and many, many others, underlines the satisfaction moderns derive from prehistoric Indian handiwork.

STATEMENT OF DR. H. G. JONES, DIRECTOR, NORTH CAROLINA DIVISION OF
ARCHIVES AND HISTORY

Others—among them professional archaeologists who have labored with meager resources for decades—will testify to the need for passage of H.R. 296 or a related bill from the standpoint of continued loss of our nation's archaeological resources. My comments relate solely to the experience of one state—North Carolina.

Except for isolated and sporadic efforts, essentially the only continuing program of prehistoric archaeology in North Carolina in the past has been that of the Research Laboratories of Anthropology at the University of North Carolina at Chapel Hill. There Dr. Joffre L. Coe has devoted a distinguished career—virtually a one-man mission—to locating, investigating, and where possible salvaging artifacts from archaeological remains. In the period before the mass construction of dams, interstate highways, and mammoth real estate developments, these efforts were noteworthy and perhaps adequate. But in recent years when the federal government—either through direct construction or through licensing of projects—has become a leading destroyer of these resources, the task of surveying, investigating, and salvaging has reached such proportions that irreparable harm is being done on a frightening scale. New means must be devised to acquire information before the disturbance of the soil destroys it forever.

These new means must involve all competent agencies and institutions, for the task is greater than one or even a few can accomplish. H.R. 296 would establish a procedure by which the involved agency may itself or through the Secretary of the Interior make such arrangements as may be necessary to ascertain the effect of an undertaking upon archaeological resources, and upon finding an adverse effect, make such arrangements as may be desirable to assure a reasonable effort salvage information and/or artifacts that otherwise would be lost through the undertaking. Specifically the Secretary would be authorized to "enter into contracts or make cooperative agreements with any Federal or State agency, any educational or scientific organization, or any institution, corporation, association, or qualified individual" in carrying out such activities. Thus the increasing human resources within each state can be tapped in this program which holds out the promise of greater efforts on the part of all levels of governments and competent institutions and individuals.

Aware of its own failure to give proper recognition to the problem in the past the North Carolina Division of Archives and History was directed by the 1973 General Assembly to expand its archaeological program and to work cooperatively with professionals in state institutions toward correcting the deficiencies of the past. Thus passage this year of H.R. 296, with a purpose similar to that in our new state legislation, would come at a propitious time.

STATE OF CALIFORNIA—RESOURCES AGENCY,
ARCHEOLOGICAL TASK FORCE,
Sacramento, July 20, 1973.

Hon. ROY A. TAYLOR,
*Chairman, Subcommittee on National Parks and Recreation, Committee on
Interior and Insular Affairs, U.S. House of Representatives, Washington,
D.C.*

DEAR CONGRESSMAN TAYLOR: I wish to express my vigorous support for H.R. 296 (The Archeological Salvage Bill), upon which hearings before your Committee have been scheduled for July 30th and 31st.

As the Vice Chairman of the California Archaeological Task Force, it has been my task during this past year to compile data regarding the loss of archaeological Task Force, it has been my task during this past year to compile data regarding the loss of archaeological resources in this State. It was discovered that approximately 700 unique archaeological sites or features are being destroyed each year on the Federal lands in California. And virtually all of this attrition occurs without proper archaeological recording.

H.R. 296 is not a complete panacea for America's archaeological ills but it is a great step in the right direction. Speaking only for California, H.R. 296 would significantly diminish the present high rate of archeological site eradication on lands administered by the B.L.M., Department of Defense, Forest Service, Bureau of Reclamation, and other Federal agencies.

Our Task Force counts among its members California Indians, educators, businessmen, archaeologists, historians, and governmental employees. We urge your Committee to expeditiously support and pass this crucial bill for the preservation of the Nation's archaeological resources.

Very sincerely yours,

MICHAEL J. MORATTO, Ph. D.,
Vice Chairman

STATE OF MICHIGAN,
DEPARTMENT OF NATURAL RESOURCES,
Lansing, Mich., July 18, 1973.

Hon. ROY A. TAYLOR,
House Office Building,
Washington, D.C.

DEAR REPRESENTATIVE TAYLOR: The rapid rate of destruction of archaeological sites has become of increasing concern to the people of the State of Michigan. The preservation of the physical reminders of our heritage should and must include those sites associated with the culture of the persons who inhabited this country before the arrival of the Europeans. Legislation lending assistance to the effort to protect these sites is urgently needed.

In this connection, I would like to urge support of H.R. 296 which amends and broadens a 1960 bill having to do with archaeological salvage at proposed reservoir sites. This is the type of broad legislation that is needed to adequately protect and preserve archaeological sites which, of course, occur in a wide variety of locations. The procedure outlined in H.R. 296 for financing archaeological research and salvage on sites subject to publicly financed earth-disturbing activities is sufficiently flexible, as it must be, to be effective.

Passage of this legislation would represent a long step forward in the widespread and growing movement to protect the tangible reminders of the heritage of this country.

Sincerely,

SAMUEL A. MILSTEIN,
Chief, Bureau of Recreation,
and State Historic Preservation Officer.

CALIFORNIA DEPARTMENT OF TRANSPORTATION,
Bishop, Calif., July 17, 1973.

Hon. ROY A. TAYLOR,
Chairman, House Committee on Interior and Insular Affairs, Parks and Recreation Subcommittee, Longworth House Office Building, Washington, D.C.

DEAR MR. TAYLOR: Re your hearings on H.R. 296 "Archeology Salvage Act".

Please know that we fully support this Bill and trust your Committee will Report favorably.

Sixty seven years ago our Federal Government passed the "Antiquities Act". It was good but since then Federal supportive legislation has been remiss or lacking in not keeping up with the times.

Reporting this Moss-Bennett Bill favorably will be to your Committees' credit.

Respectfully,

ROLLIN O. ENFIELD,
Archeologist.

ANTELOPE VALLEY ARCHAEOLOGICAL SOCIETY, INC.,
Lancaster, Calif., July 20, 1973.

Hon. ROY A. TAYLOR,
Chairman, House Committee on Interior and Insular Affairs, Parks and Recreation Subcommittee, Longworth House Office Building, Washington, D.C.

Sirs: This organization, the Antelope Valley Archaeological Society, Inc., a hundred-member group of professional and avocational archaeologists, strongly supports enactment of H.R. 296, "Archaeology Salvage Act."

While archaeological sites continue to be destroyed locally through the agencies of construction, farming, and so forth, a continuing source of destruction occurs

on federal land despite policies to the contrary in the form of artifact collecting and land use programs which do not take archaeological considerations into account. Two appropriate local examples are extensive "pot-hunting" activities on the property of Edwards Air Force Base, California, which is heavily damaging delicate desert archaeological sites which tend to be limited to surface materials; and the clearing of several square miles of Bureau of Land Management territory in the form of bulldozed sections of desert surface spread across several hundred square miles of desert in the southern part of Indian Wells Valley, California, adjacent to the El Paso mountains. The latter may have eliminated several surface sites in a concentrated area of archaeological resources. The instituting agency is unknown to us but it has been suspected that it was the Air Force, in a program devoted to high-altitude photography.

It is our position that passage of H.R. 296 will help anticipate such depredations of a non-renewable natural resource in the future.

Sincerely,

WILLIAM F. COUEY, *Vice President.*

PORT HUENEME, CALIF., July 23, 1973.

Hon. ROY A. TAYLOR,

Chairman, House Committee on Interior and Insular Affairs, Parks and Recreation Subcommittee, Longworth House Office Building, Washington, D.C.

DEAR CHAIRMAN TAYLOR: I am definitely in favor of the passage of H.R. 296, "Archaeology Salvage Act."

As a field archaeologist (avocational), I devoted all my vacation and many weekends to archaeological site surveys and salvage with various professional archaeological salvage crews in the field in Southern California last year.

Again this year, I am devoting most of my time in the field again with various professional archaeological salvage crews. Most of these surveys and salvage operations, although they may be State or County related, there usually are Federal funds involved, i.e., highways, roads, reservoirs and/or flood control programs, involving the Bureau of Reclamation, Corps of Engineers, National Forest Service, Bureau of Land Management, etc.

As in all cases, there has been an insufficient amount of time, personnel and funds to work the sites thoroughly and diligently to the last vestige of information available in situ before total destruction and loss.

Since archaeological sites, whether prehistoric or historic, are not a renewable resource in this Nation of ours, it behooves us to save as many sites as possible for future scientific study. If the sites have to be completely destroyed or lost in the name of progress, then time, personnel and funds must be expanded to recover 100% of the data in each site that will be destroyed. At present, we are lucky if a true total of 5% data is recovered from each site destroyed.

The more data that can be obtained the better chances are for our survival as a people and Nation. So I urge you to make an all out effort to get the "Archaeology Salvage Act" H.R. 296 passed into law.

Sincerely,

LYLE A. KENNY.

HOUSTON ARCHEOLOGICAL SOCIETY,
Houston, Tex., July 25, 1973.

Hon. ROY A. TAYLOR,

Chairman, Subcommittee on National Parks and Recreation, U.S. House of Representatives, Washington, D.C.

DEAR SIR: In behalf of the Houston Archeological Society I wish to offer support of bills SI14, HR296 and supporting bills. The capability to use or transfer up to 1% of allocated funds for the preservation of archeological data on federally supported projects is a very small price to pay for information concerning our heritage that can only be extracted once and is gone forever unless recorded by well trained archeologists.

Sincerely,

DAVID E. SALZAR, *Chairman.*

UTAH STATE ANTIQUITIES COMMITTEE,
Ogden, Utah, July 24, 1973.

Hon. ROY A. TAYLOR,

Chairman, Subcommittee on National Parks and Recreation, Committee on Interior and Insular Affairs, U.S. House of Representatives, Washington, D.C.

DEAR REPRESENTATIVE TAYLOR: As a member of the Executive Committee of the Utah State Antiquities Committee, I am deeply concerned with the protection of America's cultural heritage. In my capacity as a professional archeologist, I have actively supported state and Federal legislation aimed at the preservation and interpretation of historic and prehistoric cultural resources. H.R. 296 is, in my opinion, one of the most significant pieces of legislation introduced in Congress for this purpose.

The rapid spread of urbanization and development in this country and its resultant modification of the environment increasingly threaten the total destruction of all remains of man's past. H.R. 296 and related bills would amend the 1960 law to broaden the scope of historic and prehistoric salvage and preservation activities to include all Federal or federally assisted or authorized construction projects which result in alteration of the land surface.

In past years, much extremely valuable scientific information has been lost due to lack of funds and available personnel at the critical time. H.R. 296, by authorizing the expenditure of necessary funds from the agency responsible for the potential destruction of cultural data, makes it possible to act promptly and to tie the level of support needed directly to the amount of destruction expected.

I fully support H.R. 296 and related bills such as S. 514 and hope they are speedily approved.

Sincerely yours,

EVAN I. DEBLOIS, Archeologist.

EL PASO ARCHAEOLOGICAL SOCIETY, INC.,
El Paso, Tex., July 24, 1973.

Hon. ROY A. TAYLOR,

Chairman, Subcommittee on National Parks and Recreation, Committee on Interior and Insular Affairs, U.S. House of Representatives, Washington, D.C.

DEAR CONGRESSMAN TAYLOR: The El Paso Archaeological Society fully supports HR 296 and related bills.

We hope that you and our other Representatives will give HR 296 your full support in committee hearings scheduled for July 30 and July 31 instant.

Very truly yours,

DR. THOMAS D. WESTFALL,
President.

BARRINGTON, ILL., July 23, 1973.

Hon. ROY A. TAYLOR,

Chairman, Subcommittee on National Parks and Recreation, Committee on Interior and Insular Affairs, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: The membership of the Chicago Archaeological Society supports H.R. 296 and related bills including S. 514 and urges the Committee on Interior and Insular Affairs and the Subcommittee on National Park and Recreation to use their support for the passage of these bills.

The Chicago Archaeological Society is an affiliate of the Chicago Academy of Sciences and is comprised of over 200 individuals concerned with the preservation of our heritage as it is unfolded in archaeological sites.

Respectfully,

(MRS.) NAIDYNE B. BRIDWELL,
Secretary.

THE ARCHAEOLOGICAL SOCIETY OF OHIO,
July 23, 1973.

Hon. ROY A. TAYLOR,

Chairman, Subcommittee on National Parks and Recreation, Committee on Interior and Insular Affairs, U.S. House of Representatives, Washington, D.C.

DEAR SIR: I have been greatly interested in archaeology and have been a member of The Archaeological Society of Ohio for many years, and I join our 1,500 members in urging the passage of H.R. 296.

It is my understanding this bill will amend the existing law to broaden the scope of activity to include archaeological salvage programs on all Federal and federally assisted or authorized construction projects which alter the terrain, such as airports, roads and public housing projects.

Your co-operation will be greatly appreciated.

Yours truly,

E. R. HUGHES, *President.*

TEXAS STATE HISTORICAL SURVEY COMMITTEE,
Austin, Tex., July 23, 1973.

Hon. ROY A. TAYLOR,
Chairman, Subcommittee on National Parks and Recreation, Committee on Interior and Insular Affairs, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I wish to take this opportunity to request that you and your subcommittee members take the following information into consideration when reviewing H.R. 296 and related bills designed to preserve historical and archeological data.

Here in Texas, as in other parts of the country, the destruction of our non-renewable cultural resources has reached crisis proportions. This is due in large part to the increasing number of federally planned and funded development projects such as reservoirs, highways, land clearing, stream channelization, industrial complexes and power plants, irrigated agriculture, etc. Such projects inevitably result in alteration of the terrain and, thereby, extensive damage or total destruction of archeological and historical sites containing thousands of years of valuable information concerning our cultural heritage.

I will cite only one of hundreds of examples known here in Texas—the recently completed Amistad Reservoir on the Rio Grande River. A field survey prior to construction of this project resulted in the location of over 300 important archeological and historical sites, including such things as:

1. Stratified silt terraces up to 40 feet in depth containing cultural strata deposited over a period of 10,000 years.
2. Some of the earliest known examples of Indian pictographs painted on the walls of dry shelters.
3. Railroad tunnels and construction camps dating to the period of the initial construction of the Southern Pacific transcontinental route built by Chinese labor brought from the West Coast.

Many of these sites have now been inundated and destroyed, and the data which they contained has been lost for all time.

I realize that projects such as Amistad are a necessary part of the development and progress of this country; however, I feel strongly that the impact of these projects upon our invaluable cultural resources must be ameliorated by the allocation of project funds for the study and investigation of the archaeological and historical sites which will be destroyed. H.R. 296 will help insure that our rich heritage is not needlessly destroyed. I urge your favorable consideration of this legislation.

Sincerely,

TRUETT LATIMER,
Executive Director.

SAN JOSE, CALIF., July 23, 1973.

Hon. ROY A. TAYLOR,
Chairman, House Committee on Interior and Insular Affairs, Parks and Recreation Subcommittee, 1324 Longworth House Office Building, Washington, D.C.

DEAR CONGRESSMAN TAYLOR: The attached petitions¹ bear 86 signatures of people who share the common concern that irreparable damage is being done, in the name of progress, to invaluable sources of scientific information and cultural heritage. Your subcommittee has hearings scheduled for July 30-31 on H.R. 296, a measure which can help to allay our concern if it is signed into law.

We ask no undue delay nor cancellation of any federally funded construction projects. While this might at times be desirable, it would not generally stand the test of reasonableness. What we seek is the establishment of a procedure which requires governmental agencies to give more consideration to the consequences

¹ The petitions have been placed in the committee files.

of construction activities they finance or license. We specifically want more attention given to the preservation of archaeological and historical data.

The passage of the Moss-Bennett legislation can create a *modus operandi* which should avoid repetition of incidents such as the flooding of the Marmes Rock-shelter Archaeological Site in Washington. Underground nuclear testing in the Aleutian Islands, TVA in the South, highway building, flood control, reservoir and canal construction—all have done their part to make countless sites inaccessible to scientists who have lost the opportunity to add to our knowledge of American prehistory.

We feel this course should not be continued while viable alternatives are available. We earnestly solicit your serious consideration of our petition and would appreciate a favorable report on H.R. 296.

Yours truly,

R. C. FREEMAN.

SAN BERNARDINO COUNTY MUSEUM,
Bloomington, Calif., July 23, 1973.

HON. ROY A. TAYLOR,
Chairman, House Committee on Interior and Insular Affairs, Parks and Recreation Subcommittee, Longworth House Office Building, Washington, D.C.

DEAR CONGRESSMAN TAYLOR: This letter is to urge passage of H.R. 296, the "Archaeology Salvage Act".

Archaeologists across the country are seeing chapter after chapter of our prehistoric record obliterated. Environmental Impact Studies are helping salvage operations to become an established part of "land development" projects, but these only permit recovering of a sample of the data. The sites are still obliterated. Once destroyed, this aspect of our heritage can never be restored.

This nation regrettably lacks laws such as those in other countries which protect prehistoric sites. H.R. 296 will assist in preserving at least a part of this heritage, in my opinion.

Sincerely,

RUTH D. SIMPSON,
County Archaeologist.

STATE UNIVERSITY OF NEW YORK AT BUFFALO,
DEPARTMENT OF ANTHROPOLOGY,
Buffalo, N.Y., July 23, 1973.

HON. ROY A. TAYLOR,
Chairman, Subcommittee on National Parks and Recreation, Committee on Interior and Insular Affairs, U.S. House of Representatives, Washington, D.C.

DEAR MR. TAYLOR: The New York Archaeological Council, representing the majority of professional archaeologists concerned with the present archaeological crisis in general, and archaeology in New York State in particular, strongly supports HR 296 and related bills, which will help preserve archaeological and historical data. This bill will implement the national policy to preserve our cultural heritage by providing mechanisms and permitting funding of projects which will mitigate irreplaceable losses.

We in New York State are especially concerned now since a large portion of our resources have already been depleted by urban expansion. Therefore, we are making every effort to preserve the rapidly dwindling remainder so that the archaeological and historical reconstruction of our area will be as complete as possible. Passage of HR 296 is essential now to aid in this effort. Federal policy supported by sound legislation should lead the way.

Sincerely yours,

MARIAN E. WHITE,
President, New York Archaeological Council.



